



These Terms and Conditions of Non-Merchandise Purchase, including the Appendices and other documents referred to herein, as set forth on Academy's vendor information site located at vendor.academy.com the "**Site**", applicable on the date of each Purchase Order (collectively, these "**Terms**"), shall govern the Purchase Orders submitted by Academy, Ltd. d/b/a Academy Sports + Outdoors, with its principal offices at 1800 North Mason Road, Katy, Texas 77449 USA, as the buyer ("**Academy**") or by any of its Affiliates (as defined below) (with each such entity that is a party to the Purchase Order being individually responsible for payment of its own invoices and performance of its obligations thereunder) to the vendor or supplier named in the Purchase Order ("**Vendor**") (each, a "**Party**" and collectively, the "**Parties**"). By accepting a Purchase Order issued by Academy and dated on or after the Effective Date, Vendor agrees that: (a) it has read, understands and agrees to be bound by these Terms and the terms of the Purchase Order and (b) the Goods and Services (not for resale in Academy's retail channels) delivered and/or performed sold by Vendor to Academy are subject to the Agreement identified in the Purchase Order.

1. **DEFINITIONS.** The capitalized terms used herein and not defined in context within these Terms shall have the meanings assigned to them below:

- 1.1 "**Change Order**" means a written amendment to the Purchase Order.
- 1.2 "**Confidential Information**" means all confidential or proprietary information concerning the Disclosing Party and/or its business, products, processes, or services disclosed or made available in connection with a Purchase Order and which at the time of disclosure either: (i) is marked as "Confidential" or "Proprietary"; (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the Disclosing Party; or (iii) should reasonably be understood to be confidential or proprietary information of the Disclosing Party given the nature of the information and the circumstances surrounding its disclosure; including any marketing strategies, technical information, Merchandise development information, Specifications, pricing information, personnel information and financial information acquired in the course of performance of a Purchase Order, trade secrets, ideas, methods, concepts, plans, research, reports, documentation, materials, work in process, technology, inventions, discoveries, creations, writings, graphics, drawings, sketches, product designs, styles, models, unpatented inventions, unpublished patent, trademark and copyright applications and other confidential intellectual property, and all third party information that a Party or its Affiliates is obligated to keep confidential.
- 1.3 "**Cyberattack**" means an attempt to damage, disrupt, circumvent, impair, corrupt, render unavailable, hold for ransom, gain unauthorized access to, or obtain fraudulent payment via a computer, computer network, or computer system, or the data stored therein. Cyberattack shall include, but shall not be limited to, instances of phishing, vishing, ransomware, malware, and denial of service attacks.
- 1.4 "**Cybersecurity**" means the protection of systems, networks and data to prevent Cyberattacks.



- 1.5 “**Goods**” means the goods, materials, products, and deliverables identified in the Purchase Order (not for resale in Academy’s retail channels).
- 1.6 “**Legal Requirements**” means all applicable laws, ordinances, regulations, rulings, orders, decrees, standards, requirements, requests, policies, instructions or directions of any Governmental Authority.
- 1.7 “**Purchase Order**” means the order document submitted by Academy and accepted by Vendor which governs the purchase of the Goods and/or Services.
- 1.8 “**Services**” means the services, activities, and functions set forth in in the Purchase Order (not for resale in Academy’s retail channels).
- 1.9 “**Specifications**” means any documentation or material furnished by one Party to the other Party describing or classifying the Goods and/or Services, their functionality or their handling.

2. TERM.

- 2.1 These Terms are effective as of the Effective Date set forth above and shall continue in full force and effect until they are superseded and replaced by amended or restated Terms posted on the [Site](#).
- 2.2 The Parties acknowledge and agree that these Terms may be modified by Academy from time to time by posting amended or restated Terms on the [Site](#) and that such amended or restated terms shall take effect on the Effective Date specified. The posting of amended or restated Terms on the [Site](#) shall constitute written notice to Vendor of the amended or restated Terms and such Terms shall be deemed effective on the date such amended or restated Terms are posted and shall govern any Purchase Orders submitted by Academy or its Affiliates on or after the Effective Date of such Terms.

3. PURCHASE ORDERS.

3.1 Binding Agreement and Priority.

- A. These Terms govern any Purchase Order submitted to Vendor by Academy or its Affiliates unless Vendor and Academy have entered into an applicable, separate written agreement signed by an authorized representative of Academy (an “**Signed Agreement**”).
- B. In the event that there is a Signed Agreement (such as a Master Procurement Agreement or Master Professional Services Agreement, etc.) between Academy and Vendor related to the Goods and/or Services under a Purchase Order, that Signed Agreement will supersede these Terms and will govern the Purchase Order.



- C. Absent an applicable Signed Agreement, these Terms, along with the provisions, if any, contained in the applicable Purchase Order, constitute the final, entire and exclusive agreement between the Parties.
- D. Any new terms or changes introduced in any quotation, order acknowledgment, invoice, click-wrap or click through agreement or other document other than a mutually executed written amendment to a Signed Agreement or Purchase Order which specifically references these Terms are void and of no force or effect. A Party's acknowledgement of receipt of such document, performance of services, payment or acceptance of payment shall not constitute agreement to any terms other than those set forth in a Signed Agreement and/or these Terms.

3.2 In the event of any inconsistency between:

- A. the terms and conditions set forth in these Terms and the terms and conditions set forth in other documents referred to herein, the terms and conditions in these Terms shall control;
- B. the terms or conditions set forth in a Purchase Order and these Terms, the terms and conditions of the Purchase Order shall control; and
- C. the terms and conditions set forth in these Terms and a Signed Agreement between Vendor and Academy, the Signed Agreement shall control.

3.3 Purchase Order Procedure.

- A. Vendor shall provide Goods and/or Services, and Academy shall pay for such Goods and/or Services, only in accordance with a valid Purchase Order. A valid Purchase Order is one which is issued in compliance with these Terms and/or a Signed Agreement.
- B. **Issuance, Acceptance, and Rejection of Purchase Orders.** Unless Vendor rejects the PO or contacts Academy with requested changes, the PO will be deemed accepted, and Vendor will deliver the ordered Goods and/or perform the Services in accordance with the terms of the Purchase Order.
- C. Unless otherwise agreed to by the Parties in writing, any changes made by Academy will be communicated via the Portal.

3.4 Unless otherwise specified, time is of the essence for all Purchase Orders. Vendor will ship and deliver in strict compliance with delivery date, delivery location, and other requirements specified in an Order.

3.5 Change Orders. Academy may modify or cancel the Purchase Order (in whole or in part) without liability and without cause for its convenience at any time by written notice to Vendor. Academy may at any time change delivery, transport or other



terms hereunder upon written notice to Vendor. If any such change causes a material change (up or down) in cost or time, the Parties will negotiate an equitable adjustment of price and/or terms which must be memorialized in a Change Order executed by an authorized representative of each Party. Any change or modification to an effective Purchase Order by Vendor shall be made pursuant to a Change Order executed by an authorized representative of each Party. Vendor waives any claim for adjustment which is not asserted in writing within thirty (30) days of Vendor's receipt of notice of the change.

3.6 Inspection; Acceptance of Goods and Services; Personnel

- A. All Goods and/or Services provided by Vendor pursuant to any Purchase Order are subject to inspection, testing, and approval by Academy before acceptance and any payment to Vendor is due. Academy may reject all or any portion of the Goods and/or Services at any time and for any reason.
- B. Rejected Goods will be returned to Vendor at Vendor's expense, or may be held by Academy for pick-up at Vendor's expense and risk. Academy expressly reserves the right to reject the Goods and/or Services, even after Academy's payment for the Goods and/or Services under the Purchase Order and payment by Academy shall not be deemed acceptance of the Goods and/or Services.
- C. If Academy, in its sole discretion, rejects the Services, Academy shall notify Vendor in writing. Following notification from Academy of any such rejection, Vendor shall promptly (in no event more than ten (10) days) correct the Services and resubmit them for further review and inspection by Academy. Academy shall thereafter inspect the revised Services and notify Vendor in writing of its acceptance or rejection thereof. If, as a result of such additional evaluation by Academy, it rejects any Services, then Academy may, at its option, (1) provide additional time to Vendor to correct the Service, (2) accept the non-conforming Services and receive an appropriate reduction in the fees that reflects the extent to which the Services conforms to the specifications set forth in the applicable documentation; or (c) reject the Services and receive a full refund of all fees paid in connection with same.
- D. Unless stated otherwise in an applicable Purchase Order or Signed Agreement, time is of the essence for all Goods and/or Services. Academy's acceptance of late delivery of Goods and/or Services does not waive its right to recover damages for late delivery of such Goods and/or Services.
- E. **Vendor Personnel on Academy Premises.** If Vendor provides any Services at any of Academy's premises (whether corporate office, distribution center, or retail store), Vendor shall: (1) appropriately screen all individuals performing such Services to insure the same are qualified and fit for the Services (including appropriate background and drug-screening



checks), (2) ensure that such Vendor personnel comply with Academy's visitor and/or contractor and safety and security policies, standards and procedures. Academy reserves the right to deny entry or access to its premises to any individual and may require Vendor to remove personnel from Academy's premises at any time and for any reason.

4. PACKAGING; SHIPPING; TITLE AND RISK OF LOSS

- 4.1 Packaging.** At no additional charge, Vendor shall package, label, handle, load and secure the Goods properly, in accordance with Specifications and in a manner that will prevent damage to the Goods during shipment, handling, and storage under reasonably foreseeable conditions. Vendor will comply with all Legal Requirements applicable to the packaging, labeling, storage, shipment, stocking, sale and resale of the Goods and shall conform to the requirements set forth herein.
- 4.2 Shipping.** All Orders will be designated FOB destination, freight prepaid by Vendor, unless Academy expressly agrees to another designation in the Purchase Order. Each shipment of Goods shall have documents clearly referencing the Goods shipped and Academy's Purchase Order number.
- 4.3 Title and Risk of Loss.** Vendor agrees that Academy incurs no liability and that the risk of loss shall not pass to Academy until legal title passes upon receipt and acceptance of the Goods in good condition by Academy or its authorized agent at Academy's designated final destination.

5. PRICING

- 5.1** The prices set forth in the Purchase Order include any and all expenses, charges and costs, including, but not limited to any and all charges for packing, hauling, storage, transportation to point of delivery, travel, insurance and taxes, if applicable. Nothing herein shall permit a price increase for Goods and/or Services specified in any Purchase Order unless made pursuant to a Change Order executed by an authorized representative of each Party.
- 5.2 Taxes.** The price set forth in the Purchase Order will reflect all applicable federal, state and/or local sales taxes, use taxes and transportation-related taxes on its invoices, collect such taxes from Academy and be solely responsible for the remittance of all such taxes to the proper taxing authorities. Vendor shall submit evidence as required by Academy that all such required taxes have been collected and paid. If Vendor fails to identify or charge any such taxes and the taxing authorities determine that such taxes are due, then Vendor shall be responsible for and shall pay such taxes to the appropriate taxing authority. Notwithstanding the foregoing, each Party shall be responsible for: (A) any real or personal property taxes on property it owns or leases; (B) employment taxes of its own employees; and (C) taxes based on its net income.
- 5.3** Academy shall not be liable to Vendor for any amounts in excess of the actual



prices contained within any Purchase Order, less applicable discounts and/or other valid deductions, and Academy shall not be responsible for interest or other charges, including but not limited to late payment charges.

6. INVOICING

- 6.1** Vendor shall submit all invoices to Academy electronically in the manner designated by Academy. Academy shall have no obligation to pay for any Goods and/or Services unless Vendor delivers a valid and correct invoice to Academy no later than ninety (90) after fulfillment of any Purchase Order. A valid invoice is an undisputed, itemized invoice for each Good and/or Service provided under each separate, valid Purchase Order. Unless otherwise agreed in an Order, all invoices will be paid within ninety (90) days after Academy's receipt of a valid and correct invoice.
- 6.2** Academy shall have the right at any time to set-off any amount owed by Vendor to Academy under a Purchase Order or any other agreements between the Parties from and against any amount due and owing by Academy to Vendor under a Purchase Order pursuant to these Terms.
- 6.3** Vendor acknowledges and agrees that Academy is not obligated to pay Vendor until Vendor submits all required documents and information (including a copy of its W-9, or other tax forms), as requested by Academy.

7. INSURANCE

- 7.1** During the term of the Purchase Order and for three (3) years after final delivery of all Goods and Services, Vendor shall, at its own cost and expense, procure and maintain in effect insurance in at least the following minimum insurance coverages and amounts: (A) Workers' compensation as required by applicable law; (B) employer's liability coverage of at least \$1,000,000; (C) Commercial General Liability Insurance including bodily injury, property damage, products, completed operations, independent contractors, contractual liability and premises operations of at least \$1,000,000 per occurrence, \$2,000,000 in the aggregate; (D) Umbrella or Excess Liability Insurance with a per occurrence limit of at least \$5,000,000; (E) Errors and Omissions insurance (if applicable to the Goods and Services) of at least \$5,000,000; (F) Crime and Fidelity insurance (if applicable to the Goods and Services) of at least \$2,000,000 in the aggregate; (G) Cyber Insurance (if applicable to the Goods and Services) of at least \$10,000,000; (H) Automobile Liability Insurance ((if applicable to the Goods and Services) covering owned, non-owned, hired and leased vehicles with limits of at least \$1,000,000 combined single limit.
- 7.2** Vendor's Commercial General Liability Insurance shall include an "Additional Insured – Vendors" Endorsement naming Academy Ltd. d/b/a Academy Sports + Outdoors and its parents, affiliates, and subsidiaries as an additional insured and requiring that Vendor's insurance be the primary and non-contributory policy with respect to any loss. Vendor's Commercial General Liability Insurance also shall



contain a "Waiver of Subrogation" Endorsement in favor of Academy Ltd. d/b/a Academy Sports + Outdoors and its parents, affiliates and subsidiaries. Any deductible applicable to the insurance shall be paid by Vendor.

- 7.3** Vendor agrees to deliver a current Certificate of Insurance to Academy, including renewals within a reasonable period of time before the expiration of the then-current coverage, showing the coverage required by these Terms as well as Academy's status as an additional insured. Failure of Academy to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Academy to identify a deficiency from evidence that is provided shall not be construed as a waiver of Vendor's obligation to maintain such insurance. Vendor's failure to maintain the insurance required shall constitute a material breach of these Terms and shall allow Academy to terminate any Purchase Order immediately with written notice. Academy may reasonably change these insurance requirements at any time, and Vendor agrees to comply with any new insurance requirements within thirty (30) days following written notice.
- 7.4** All insurance must be written by an insurance company with the United States as a covered territory, which is rated in the most recent edition of Best's Key Rating Guide or such other rating agency guide reasonably acceptable to Academy as the equivalent of A-VIII or better. Vendor and/or its insurer shall provide Academy with thirty (30) days prior written notice of non-renewal, cancellation, or other change in coverage which may impair or otherwise affect Academy's rights hereunder.
- 7.6** By requiring the insurance herein, Academy does not represent that such coverage and limits will necessarily be adequate to protect Academy. The coverage and limits set forth above do not limit Vendor's liability to Academy under these Terms or any Purchase Order.
- 7.7** If Vendor utilizes subcontractors to provide the Goods and/or Services, the subcontractors must also satisfy the insurance coverage requirements set forth in this Section. If a Vendor's subcontractor does not meet the coverage requirements of this Section, Vendor shall (A) ensure that the subcontractor supplements the deficient areas of coverage or (B) procure and maintain sufficient coverage to supplement any deficiency of the subcontractor's coverage; and further shall certify compliance with this Section to Academy.

8. REPRESENTATIONS, WARRANTIES AND GUARANTEES. Vendor warrants, represents, and guarantees to Academy each of the following:

- 8.1** Vendor (A) is a sophisticated commercial party capable of understanding all of these Terms; (B) has had the opportunity to review these Terms with its counsel; (C) has the full power and authority to enter and perform the Purchase Order pursuant to these Terms; (D) has completed all necessary action to duly authorize the execution, delivery and performance of the Purchase Order pursuant to these Terms; and (E) confirms that these Terms constitute a valid and binding obligation of Vendor;



- 8.2 By entering and performing a Purchase Order, Vendor will not breach any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which Vendor is a party or by which its assets or the Goods are bound;
- 8.3 Vendor and all Goods and/or Services conform and comply with all applicable federal, state, and local laws, statutes, codes, regulations, requirements, decrees, orders, judgments, injunctions, and all other government and/or regulatory directives, including but not limited to safety and health (collectively, "**Laws**") at all times of performance under these Terms;
- 8.4 Vendor shall at all times during the performance under these Terms comply with the provisions of Academy's Vendor Code of Conduct located at <http://vendor.academy.com>; and
- 8.5 All Goods and/or Services delivered pursuant to a Purchase Order (A) do not infringe any actual or alleged patent, design, trade name, trademark, copyright, intellectual property right, trade secret, or any other intellectual property right or entitlement of any third party; (B) will be of new, merchantable, and good quality materials, and good workmanship, fit for their intended purpose, and free from any and all defects; (C) strictly comply with quantity, quality, size, description, dimensions, operating performance, and other terms, Specifications; (D) are suitable for their intended purpose; (E) are in conformance with articles shown to Academy as a sample; (E) were not trans-shipped for the purpose of (1) evading quota or country or origin restrictions, (2) mislabeling, or (3) avoidance of applicable child, forced, or prison labor laws; and that (F) any software included in the Goods will conform to Academy's documentation and Specifications provided to Vendor and will be free from any harmful, malicious, self-replicating or disabling code, and that Vendor will immediately correct all defects therein upon notice. Without limiting Academy's remedies, and at Academy's option, defective or non-conforming Goods may be returned to Vendor for full credit or replacement at Vendor's expense.
- 8.6 All Services furnished under a Purchase Order shall be performed: (A) in a professional, good and workmanlike manner using reasonable care consistent with not less than the highest industry standards and in accordance with these Terms and the applicable Purchase Order; (B) by personnel of Vendor having a level of skill in the area commensurate with the requirements of the Services to be performed; and (C) in compliance with the Specifications, the applicable Purchase Order, and these Terms, including any time frames set forth therein.
- 8.7 To the extent that any warranties from the original manufacturers or other third party manufacturers, service providers or suppliers are still in effect with respect to the Goods, such warranties and all rights and remedies thereunder are hereby irrevocably assigned to Academy and all documents evidencing same will be included with the Goods; and Vendor will assist Academy in maintaining continuity of such warranties and shall take all reasonable steps to assist Academy in asserting and processing warranty claims directly with the manufacturers, service



providers or suppliers. Vendor further agrees to perform any obligations of the original manufacturer under the manufacturer's warranty to the extent such manufacturer authorizes Vendor to perform such warranty obligations.

- 8.8 Vendor has and shall maintain and enforce administrative, physical, logical, and other security measures to prevent designed to prevent outages and minimize impacts during any unavoidable service interruptions, including those resulting from Cyberattacks, that are consistent with the more stringent of the following: (a) generally accepted industry best practices; (b) the information security policies of Vendor; (c) the information security policies provided by Academy to Vendor and (d) laws and regulatory requirements applicable to the protection and use of Academy's data and Confidential Information.
- 8.9 Vendor has policies and procedures designed to detect, prevent and respond to Cyberattacks, including providing training to its employees with respect to Cybersecurity and monitoring compliance with its Cybersecurity policies and procedures. Further, Vendor agrees that it will keep its policies and procedures updated to address known Cyberattack vulnerabilities and will promptly notify Academy of any Cyberattack or Cybersecurity breach that may impact Academy or implicate Vendor's ability to comply with or perform its obligations under these Terms or a relevant Purchase Order.
- 8.10 These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Academy's discovery of the noncompliance of the Goods and/or Services with the foregoing warranties. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods and/or Services by Academy.

9. CONFIDENTIALITY.

- 9.1 During the term of a Purchase Order and thereafter, either Party (the "**Acquiring Party**") may have the opportunity to acquire and/or obtain access to confidential or proprietary information, whether orally or in physical form, of the other Party and its Affiliates, agents, customers and suppliers (collectively, the "**Disclosing Party**") through discussions with employees, agents and independent contractors of the Disclosing Party. Each Disclosing Party hereby retains its entire right, title and interest in and to all of its Confidential Information. Any disclosure by the Disclosing Party of Confidential Information hereunder shall not be construed as an assignment, grant, option, license or other transfer of any such right, title or interest whatsoever to the Acquiring Party or any of its representatives. The Acquiring Party shall not (A) disclose or permit the disclosure of the Confidential Information of the Disclosing Party to any employee, contractor, agent or other third party, unless such disclosure is required to perform its obligations under these Terms and such employee, contractor, agent or other third party is bound by obligations of confidentiality equivalent to those contained in these Terms, or (B) use the Confidential Information of the Disclosing Party for any purpose other than the performance of its obligations under these Terms (including, but not limited, to reverse engineer, disassemble, decompile or design around the Disclosing Party's proprietary services, products and/or confidential intellectual property), except

with the Disclosing Party's prior written consent. The Acquiring Party will take every reasonable precaution to protect the confidentiality of Confidential Information of the Disclosing Party and to prevent the unauthorized use or disclosure of the Confidential Information of the Disclosing Party, which in no event shall be less than the efforts exercised by the Acquiring Party with respect to its own confidential information of like kind or importance, and shall exercise due care in the enforcement of this obligation. The obligations of this **Section 9** will not apply to information which (1) is known to the Acquiring Party prior to the Effective Date, (2) is later obtained by the Acquiring Party from another source, (3) is in, or enters into, the public domain, in each case, without violation of these Terms or any other confidentiality or nondisclosure agreement or obligations, or (4) is required to be disclosed pursuant to the order of a court or regulatory agency acting within its authority; provided, that (x) the Acquiring Party provides prior written notice to the Disclosing Party of any such order and required disclosure of Confidential Information; (y) the Disclosing Party has a reasonable opportunity to object to the disclosure and to seek a protective order blocking the proposed disclosure or limiting the scope of the information disclosed; and (z) the Acquiring Party discloses only the information that is required by the order or the court or regulatory authority to be disclosed. The Acquiring Party shall take all actions reasonable and necessary to ensure that its employees and contractors are advised of, and bound by, the requirements of these Terms. The Acquiring Party's obligations under this **Section 9** shall survive the termination or expiration of any Purchase Order.

- 9.2 Publicity.** Vendor shall not make any disclosures concerning the commercial relationship between Vendor and Academy without Academy's prior written consent. In the event of a breach of this provision by Vendor, Academy shall have the right, at its option, to do one or more of the following: (A) issue a retraction in the name and on behalf of Vendor; (B) require Vendor to issue a retraction; or (C) terminate all or any part of a Purchase Order without further liability.

10. INTELLECTUAL PROPERTY.

- 10.1** Copyrights, service marks, logos, trademarks, word marks, symbols, emblems, designs, patents, or other intellectual property (collectively "**Marks**") belonging to a Party (the "**Mark Owner**") shall remain the property of the Mark Owner. Any and all rights in the Mark Owner's Marks under trademark or copyright law or other property rights shall inure to the benefit of and be the exclusive property of the Mark Owner. Except for the limited license, if any, granted to a Party (the "**Non-Owner**") by the Mark Owner under these Terms or any Purchase Order for the use of the Marks, the Non-Owner may not use the Mark Owner's Marks without prior written consent. Each Party agrees that nothing in these Terms shall give the Non-Owner any right, title or interest in the Mark Owner's Marks and nothing contained herein shall be construed as an assignment or grant from the Mark Owner to the Non-Owner of any right, title or interest in or to the other Mark Owner's Marks. Unless otherwise specified in a Purchase Order, upon termination or expiration, the Vendor must immediately cease all use of Academy's Marks.

- 10.2** Vendor agrees and acknowledges that all work product included in the Services

will be specifically commissioned as a “work made for hire” by Academy, as that term is defined 17 U.S.C. § 101 of the United States Copyright Act, and shall be the property of Academy, and shall not be used by Vendor on any other project unless expressly authorized in writing by Academy. If any Deliverables are determined not to be a work made for hire, Vendor hereby assigns to Academy all right, title and interest in and to such Deliverables. If Vendor has any rights to the work product that cannot be assigned to Academy, Vendor unconditionally and irrevocably waives the enforcement of such rights and irrevocably grants to Academy during the term of such rights an exclusive, irrevocable, perpetual, transferable, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to access, use, copy, distribute, perform, display and modify (“**Use**”) such work product, including the incorporation of such work product into goods and services provided by Academy to others.

11. INDEMNIFICATION

11.1. TO THE FULLEST EXTENT PERMITTED BY LAW, VENDOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS ACADEMY, ITS PARENTS, AFFILIATES, SUBSIDIARIES, OFFICERS, MANAGERS, PARTNERS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL ALLEGATIONS, CLAIMS, LAWSUITS, JUDGMENTS, LOSSES, CIVIL PENALTIES, LIABILITIES, DAMAGES, COSTS, AND EXPENSES, INCLUDING REASONABLE ATTORNEY’S FEES AND COURT COSTS, ARISING OUT OF OR RELATED TO (A) ANY DEFECT IN THE GOODS AND/OR SERVICES OR ANY PERSONAL INJURY (INCLUDING DEATH) OR DAMAGE TO PROPERTY RESULTING FROM THE GOODS AND/OR SERVICES, OR VENDOR’S OR ITS AGENTS’ ACTS OR OMISSIONS; (B) ANY NEGLIGENT OR GROSSLY NEGLIGENT ACTION, INACTION, OMISSION OR INTENTIONAL MISCONDUCT OF VENDOR IN ITS PERFORMANCE OF A PURCHASE ORDER; (C) VENDOR’S BREACH OF ANY REPRESENTATION, WARRANTY, TERM, COVENANT, OR OTHER OBLIGATION UNDER THESE TERMS, INCLUDING COMPLIANCE WITH ALL LAWS; (D) THE INFRINGEMENT UPON ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, OR OTHER THIRD-PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT; AND/OR (E) ANY AND ALL LIENS ARISING FROM VENDOR’S PERFORMANCE UNDER A PURCHASE ORDER.

11.2 Settlement. Vendor may not settle any claim without Academy’s written consent, unless such settlement:

- A. includes a release of all covered claims pending against Academy;
- B. contains no admission of liability or wrongdoing by Academy; and
- C. imposes no obligations upon Academy.

11.3 Survival of Indemnity Obligations. The indemnity obligations in these Terms shall survive the termination or expiration of a Purchase Order.



12. LIMITATIONS AND WAIVERS

- 12.1 LIMITATION OF LIABILITY. EXCEPT FOR DAMAGES THAT CANNOT BE DISCLAIMED UNDER APPLICABLE LAW, ACADEMY SHALL HAVE NO LIABILITY WHATSOEVER TO VENDOR OR ITS AFFILIATES FOR DAMAGES IN EXCESS OF THE AMOUNTS PAID BY ACADEMY FOR GOODS AND/OR SERVICES PURCHASED UNDER THE PURCHASE ORDERS. ACADEMY SHALL HAVE NO LIABILITY IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT (INCLUDING LOSS OF PROFITS AND LOSS OF GOODWILL), EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY SET FORTH IN THIS PROVISIONS.**
- 12.2 SURVIVAL. THIS SECTION AND ITS LIMITATIONS SHALL SURVIVE EXPIRATION OR TERMINATION OF A PURCHASE ORDER.**
- 12.3 EXPRESS NEGLIGENCE. THE INDEMNIFICATION, RELEASE, AND ASSUMPTION PROVISIONS PROVIDED IN THESE TERMS SHALL BE APPLICABLE WHETHER OR NOT THE LOSSES, COSTS, EXPENSES AND DAMAGES IN QUESTION AROSE OR ARE ALLEGED TO HAVE ARISEN SOLELY OR IN PART FROM THE ACTIVE, PASSIVE, OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, OR OTHER FAULT OF ANY INDEMNIFIED PARTY. VENDOR AND ACADEMY ACKNOWLEDGE THAT THIS STATEMENT COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS.**
- 12.4 STATUTE OF LIMITATIONS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE APPLICABLE STATUTE OF LIMITATIONS FOR ANY ACTION BY VENDOR AGAINST ACADEMY FOR ANY BREACH OF OR CLAIM RELATED TO A PURCHASE ORDER SHALL BE REDUCED TO TWO (2) YEARS AFTER ANY SUCH BREACH, ACTION, OMISSION, OR OTHER EVENT CONSTITUTING THE BASIS FOR SUCH CLAIM. IN NO EVENT, HOWEVER, SHALL THIS SECTION BE CONSTRUED TO EXTEND THE STATUTE OF LIMITATIONS APPLICABLE TO SUCH CLAIM OR TO REDUCE ANY STATUTE OF LIMITATION BELOW ANY MINIMUM PERIOD REQUIRED BY LAW.**
- 12.5 CONSUMER PROTECTION WAIVERS. VENDOR (A) WAIVES ALL PROVISIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT, AND (B) EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT (A) HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS ENABLING IT TO EVALUATE THE MERITS AND RISKS OF THE OBLIGATIONS CONTAINED IN THESE TERMS, AND (B) IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION RELATIVE TO ACADEMY.**



13. ASSIGNMENT; SUBCONTRACTORS

- 13.1** Academy may assign its rights and obligations under these Terms to a present or future parent, subsidiary, or affiliated entity, including a future successor or party acquiring all or part of the Party's business. Vendor shall not assign any of its rights or delegate any of its duties hereunder without the prior written consent of Academy. All other assignments, transfers, or delegations require written consent of both Parties. Any attempted assignment or transfer in contravention of this Section shall be void.
- 13.2** Subject to Section 15.1, these Terms shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns.
- 13.3 Subcontractors.** Prior to subcontracting any of its obligations under a Purchase Order (including to Affiliates of Vendor), Vendor shall notify Academy of the proposed subcontract (including the details regarding the subcontractor), and shall obtain Academy's approval of such subcontract. Prior to terminating or modifying any subcontract relating to the Goods and/or Services, Vendor shall notify Academy of the proposed termination or modification and shall obtain Academy's approval thereof. Vendor shall ensure that all subcontractors comply with the terms and conditions of these Terms and all applicable Laws (as defined in Section 8). No subcontracting shall release Vendor from its responsibility for its obligations under these Terms. Vendor shall be responsible for the acts and omissions of subcontractors and all payments to subcontractors. Upon Academy's request, Vendor shall cease to use any subcontractor providing the Goods and/or Services and shall promptly replace such subcontractor with a new subcontractor approved by Academy.

14. MISCELLANEOUS

- 14.1 Force Majeure.** Neither Party will be liable to the other Party for delays and/or defaults in its performance or commitments under a Purchase Order due to causes beyond its control and without its fault or negligence, including but not limited to acts of God or of the public enemy, fire or explosion, flood, earthquake, actions of the elements, war, riots, embargoes, quarantine, pandemics (including COVID-19), strikes, lockouts, disputes with workers or other labor disturbances, or acts or requests of any governmental authority. This includes any whole or partial discontinuance of or interference with Academy's business that is beyond the reasonable control of Academy. Academy may terminate any Purchase Order to a Force Majeure event continuing for longer than thirty (30) days.

14.2 Records and Audit

- A. Records. During the Term and for two (2) years thereafter, Vendor will maintain accurate books and records associated with the Services and the Deliverables, including without limitation, timesheets, work specifications, invoices, and receipts.

B. **Audit.** During the Term of a Purchase Order and for a period of two (2) years thereafter, Academy shall have the right, at its expense, either directly or through an independent accounting firm (an "**Auditor**"), to audit Vendor's (1) books and records for the purpose of verifying all amounts payable to or charged by Vendor hereunder, and (2) compliance with these Terms (an "**Audit**"). Audits shall take place during Vendor's normal business hours and shall be conducted in a manner that does not unreasonably interfere with Vendor's normal business operations. If any Audit conducted pursuant to this Section 14.2(B) uncovers any non-compliance with these Terms or any discrepancy between the audited records and any amounts paid to or charged by Vendor, Vendor shall promptly correct such non-compliance and shall promptly pay, as applicable, any and all amounts necessary to reconcile such discrepancy. Anything herein to the contrary notwithstanding, if an Audit conducted pursuant to this Section 14.2(B) uncovers an overpayment that is greater than five percent (5%) of the amount actually due during the period audited, then Vendor shall reimburse Academy for the actual costs of the audit.

- 14.3 Entire Agreement; Changes.** These Terms Agreement together with any documents incorporated by reference in a Purchase Order constitutes the entire agreement between the Parties with respect to the Goods and/or Services, and except with respect to Signed Agreements as defined in Section 3.1 supersedes any and all prior or contemporaneous agreements, understandings, negotiations, representations or proposals or any kind, whether written, oral or otherwise. Neither Party has relied upon any statements, representations or other communications that are not contained in these Terms. Academy objects to and rejects all additions, exceptions or changes to these Terms, whether contained in any printed form received from Vendor or elsewhere. These Terms may not be modified or amended except in writing executed by the duly authorized representatives of each Party.
- 14.4 Relationship of the Parties.** The relationship of Academy and Vendor under these Terms at of independent contractors and nothing herein or in any related document or representation shall be construed to create or imply any relationship of employment, agency, partnership, exclusivity, or any other relationship other than that of independent contractors. Academy and Vendor acknowledge and agree that each is engaged in a separate and independent business and neither shall state, represent, or imply any interest in or control over the business of the other.
- 14.5 Article and Section Headings.** The article and section headings appearing in these Terms are for the convenience of reference only and will not define or limit any of the items or provisions hereof.
- 14.6 Drafting.** The terms and conditions herein shall not be construed in favor of or against either Party hereto, but shall be construed as if both Parties prepared these Terms.



- 14.7 Severability.** If any part, term or provision of these Terms is declared unlawful or unenforceable, by judicial determination or otherwise, the remainder of these Terms shall remain in full force and effect.
- 14.8 Waiver.** All rights and remedies of the Parties shall be cumulative and none shall exclude any other right or remedy at law and/or equity and all rights or remedies may be exercised and enforced concurrently. The failure of either Party to enforce any provisions of these Terms, at any time or for any period of time, shall not constitute a waiver of such provision or the right of either Party thereafter to enforce such provision or any other provision of these Terms.
- 14.9 CHOICE OF LAW AND FORUM. THE LAWS OF THE STATE OF TEXAS GOVERN THESE TERMS AND ANY DISPUTES RELATED TO THESE TERMS WITHOUT REFERENCE TO PRINCIPLES OF CHOICE OR CONFLICTS OF LAW. EXCEPT WHERE INJUNCTIVE OR OTHER EQUITABLE RELIEF IS SOUGHT, THE PARTIES AGREE THAT, AS A CONDITION PRECEDENT TO ANY ACTION REGARDING DISPUTES ARISING UNDER THESE TERMS, SUCH DISPUTES SHALL FIRST BE SUBMITTED TO MEDIATION BEFORE A PROFESSIONAL MEDIATOR SELECTED BY THE PARTIES, AT A MUTUALLY AGREED TIME AND PLACE, AND WITH THE MEDIATOR'S FEES SPLIT EQUALLY BETWEEN THE PARTIES. IF MEDIATION IS UNSUCCESSFUL, THE PARTIES AGREE TO SUBMIT ALL DISPUTES TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS IN HARRIS COUNTY, TEXAS.**
- 14.10 Attorney's Fees.** Should any disputes between the Parties arise from or relate to these Terms, each Party shall pay and be responsible for its own attorney's fees and costs.