

## **SUPPLEMENTAL AGREEMENT**

**GOVMVMT Cooperative Purchasing Program**

**Contract Number: RFP 23-05**

**Lead Public Agency: University of North Florida**

**Contract Dates: 02/01/2023-01/28/2028**

**Renewal Option thru 01/21/2033**

This supplemental agreement is entered into as of the date last set forth below ("Effective Date") by and between The University of Central Florida Board of Trustees (UCF), headquartered in Orlando, FL and Consolidus LLC (Consolidus), an independent contractor located in Akron, OH.

UCF will receive all discount prices in accordance with the GOVMVMT Contract 23-05. Purchases made under this Supplemental Agreement ("Agreement") shall be subject to UCF's standard purchase terms found at <http://procurement.ucf.edu> ("Standard Terms") and the terms of this Agreement. In the event of a conflict between the Standard Terms and this Agreement, the Agreement shall control. The term of this supplemental agreement shall continue for the duration of Contract 23-05 unless written notice from either party is provided within six months of requested termination.

Consolidus intends to provide the services as described herein, including:

1. Develop and manage a web-based branded merchandise/promotional products online ordering portal, [www.AppStatePromos.com](http://www.AppStatePromos.com) (example), for the exclusive use of all UCF employees and authorized Student Organizations.
2. Integrate selected URL with UCF's Workday e-procurement system, offering full punchout capabilities.
3. Provide UCF with a dedicated support staff, to include a Program Manager, Graphic Designer, and Order Processor.
4. Perform the distribution of promotional items, branded apparel and products by receiving and fulfilling UCF approved orders.
5. Consolidus warrants that all products provided by Consolidus will be free from defects in materials and workmanship for a period of thirty (30) days. This warranty does not cover normal wear and tear, or problems caused by improper use. This warranty is expressly limited to the repair or replacement of the defective item, or the refund of the purchase price, and these are the sole remedies of this warranty.

In consideration of both parties, it is hereby agreed as follows:

1. UCF agrees to work in cooperation with Consolidus to introduce the online ordering portal and the services of Consolidus in a way that raises awareness among UCF employees/volunteers that includes the following:

- a. UCF agrees to send initial internal emails and notices to approved users introducing and communicating the Consolidus services available along with a digital brochure, provided by Consolidus and approved by UCF, at no cost to UCF, that describes the service, features, and benefits along with contact information for the Consolidus Program Manager and support staff teams.
  - b. UCF agrees to internally distribute materials provided by Consolidus and approved by UCF at no cost to UCF, for the purpose of introducing the service/system and to serve as an ongoing marketing campaign to approved users.
  - c. UCF agrees to collaborate with Consolidus to centrally send out communications on Consolidus' behalf no more than four times per year.
2. Payment terms shall be 2% 15, Net 30. Payments may be made via check or ACH transfer. Consolidus also accepts all types of credit cards.
3. UCF employees shall have a reasonable time (not to exceed 30 days) after delivery to inspect the goods delivered and return any non-conforming products. Non- conforming goods will be returned to Consolidus at Consolidus' expense. Rejected goods will be reworked and if Consolidus or it's vendors are at fault, all costs associated with the additional rework (if any) will be covered by Consolidus. Products with custom printing or logos cannot be returned and all such sales are final unless the products are defective.
4. **DEFAULT.** An "Event of Default" shall occur if: (i) either Party becomes insolvent or is a Party to any voluntary or involuntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects the affairs or property of either Party; (ii) either Party fails to materially perform or comply with the terms and conditions of this Agreement; (iii) any material representation or warranty made by either Party in this Agreement or in any document furnished to the other Party is incorrect in any material respect. If either Party commits an Event of Default and the Event of Default is not cured within fifteen (15) days of written notice specifying said Event of Default, the non-defaulting Party may, by giving notice, in writing, thereof to the defaulting Party, terminate this Agreement.
5. Either party may modify this agreement only with the prior written consent of the other party hereto.
6. The Parties shall hereby hold one another harmless for any and all claims and lawsuits of any kind or character, whether real or asserted, for either property damage or loss (including alleged damaged or loss to business and any resulting lost profits) and or personal injury, including death, to any and all persons, arising out of or in connection with this agreement, to the extent caused by the negligent acts or omissions or malfeasance of the other Party, its officers, agents, or employees. UCF's indemnification obligations shall be subject to the liability caps of Section 768.28, Florida Statutes and shall not constitute a waiver of sovereign

immunity.

7. Except as specifically provided in this agreement, each party expressly disclaims any representations or warranties in connection with this agreement, whether express, implied, statutory, or otherwise, including without limitation, warranties of merchantability, fitness for a particular purpose, non-infringement of third-party rights, title, any warranties arising out of a course of performance, dealing or trade usage, and their equivalents under the laws of any jurisdiction.
8. Neither UCF or Consolidus shall, during the term of this agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this agreement, without the prior written consent of the other party. This clause is not intended to restrict employees of either party from responding to employment advertisements and voluntarily applying for available employment at the other party's organization. Neither party shall be prohibited from advertising current job openings, listing job openings on the Internet, screening resumes, or conducting searches for employees for current job openings or hiring employees from the other party who apply to such openings.
9. Any notice required under this agreement shall be in writing, shall be sent to the address as set forth below in the signature lines, and may either be given by personal delivery or sent by regular mail. Notice shall be deemed to be received upon presentment to the other party or upon three (3) days after mailing.
10. This document represents the entire agreement between UCF & Consolidus.
11. The relationship between among the Parties established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to give any Party the power to direct and control the day-to-day activities of the other. No Party is an agent, representative or partner of the other parties. No Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Parties. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such relationship upon any Party.
12. In the event that any Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of any Act of God, strike, fire, flood, governmental acts, orders or restrictions, Internet system unavailability, system malfunctions or any other reason where failure to perform is beyond the reasonable control and not caused by the negligence of the non-performing Party (a "Force Majeure Event"), the Party who has been so affected shall give notice immediately to the other Parties and shall use its reasonable best efforts to resume performance. Failure to meet due dates resulting from a Force Majeure Event shall extend such due dates for a reasonable period. However, if the period of nonperformance exceeds thirty

(30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been affected may, by giving written notice, terminate this Agreement effective immediately upon such notice or at such later date as is therein specified.

13. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN. IN NO EVENT SHALL A PARTY BE LIABLE FOR SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF USE, DATA OR LOST PROFITS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THIS AGREEMENT, IN TORT OR OTHERWISE. In the event of termination by either party in accordance with any of the provisions of this Agreement, neither party shall be liable to the other, because of such termination, for compensation, reimbursement, or damages on account of the loss of prospective profits or anticipated sales or on account of expenditures, inventory, investments, leases, or commitments in connection with the business or goodwill of UCF or Consolidus. Termination shall not, however, relieve either party of any obligations incurred prior to the termination.
14. UCF and Consolidus hereby acknowledge that each of them may have access to confidential and proprietary information, which relates to the other party's business (the "Confidential Information"). Confidential Information shall include, but is not limited to, any confidential or proprietary information, knowledge, software, documents, drawings, sketches, models, designs, data, memoranda, tapes, records, material and/or know how whatsoever, provided by a party and marked as "Confidential" at the time of disclosure or, if disclosed in non-written form, identified as confidential when disclosed and summarized in a writing delivered to the receiving party within thirty (30) days of disclosure. For a period of three (3) years from the Effective Date, each party agrees to preserve and protect the confidentiality of the Confidential Information and not to disclose any applicable Confidential Information without the prior written consent of the other party; provided, however, that any party hereto may disclose to any other party any information which is: (i) already publicly known; (ii) discovered or created independently of any involvement with such party; (iii) was in the receiving party's possession prior to such disclosure; (iv) otherwise rightfully learned through a third party with no obligation of confidentiality; or (v) was required to be disclosed by applicable law or proper legal, governmental or other competent authority. Moreover, any party hereto may disclose any Confidential Information hereunder to such party's agents, attorneys and other representatives or any court or competent jurisdiction or any other party empowered hereunder as reasonably required to resolve any dispute between the parties hereto.
15. MISCELLANEOUS
- a. Assignment.** This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement, in whole or in part, without the express written consent of the other party or its successor in interest, as applicable.
- b. Public Announcements.** Neither Party shall issue or release any announcement, statement,



press release or other publicity or marketing materials relating to the Agreement or, unless expressly permitted under the Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other Party, which shall not be unreasonably delayed or withheld.

**c. Notices.** Any notices, requests, demands and other communications which are required or may be given under this Agreement must be in writing, may be sent in any commercially reasonable manner that provides proof of delivery (or refusal to accept delivery) to the address set forth below and will be considered to have been given when received, when delivery is refused or when the sender can otherwise demonstrate. A Party may change such Party's address by giving notice of the change to the other Party in accordance with this Section.

**d. Severability.** If any part of this Agreement that is not fundamental is found to be illegal or unenforceable, this will not affect the validity and enforceability of the remainder of the Agreement. Any such provision that is found to be illegal, invalid, or unenforceable shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16. **INDEPENDENT CONTRACTORS.** Neither party shall, for any purpose, be deemed to be an agent of the other party and the relationship between the parties shall only be that of independent contractors. Neither party shall have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.
17. **WAIVER.** If either party delays or fails to exercise any right or remedy under the Agreement, that party will not have waived that right or remedy or any other right or remedy on any other occasion.

**University of Central Florida Board of Consolidus, LLC**

**Trustees**

*Gerald Hector*

By: \_\_\_\_\_

Name: Signed: Friday, September 6, 2024

Title: \_\_\_\_\_

Address: 12424 Research Parkway, Suite 300  
Orlando, FL 32816

Date: \_\_\_\_\_

By: *Justin Wayne*

Name: Justin Waynick

Title: Director of Corporate Sales

Address: 526 S. Main St  
Akron, OH 44311

Date: 8/5/2024

# EXHIBIT A

## PRODUCT DISCOUNT RATES & REBATES

### Discount Rates

Prices to program customers are discounted, per the range below, off manufacturer list price with additional volume discounts and additional volume rebates:

- Apparel – 10% to 43% or more
- Drinkware – 25% to 31% or more
- Bags & Totes – 26% to 48% or more
- Awards & Plaques – 15% to 42% or more
- Writing Instruments – 27% to 51% or more
- Stationary – 12% to 48% or more
- Health & Fitness – 12% to 45% or more
- Technology – 26% to 35% or more

### Rebate Schedule for GOVMVMT Members

Once the total spend of all GOVMVMT members achieves the rebate threshold, all members will get the associated percentage rebate of their own spend. Rebate Schedule is as follow:

- 2.5M-5M = 1%
- 5M-10M = 1.25%
- 10M-15M = 1.5%
- 15M-20M = 1.75 %
- 20M-25M = 2.0%
- 25M-30M = 2.25%
- 30M+ = 2.5%