

SCHEDULE 2 – CUSTOMER-SUPPLIER AGREEMENT

THIS CUSTOMER-SUPPLIER AGREEMENT ("CSA"), made in duplicate, for the **Sports and Special Needs Products Request for Proposals #2023-442** is effective as of the **[Insert Customer-Supplier Agreement effective date (e.g., 1st)]** day of **[Insert month]**, **20XX** (the "CSA Effective Date")

BETWEEN:

[Insert full legal name and address of Customer]
(the "Customer")

- and -

Sports Equipment of Toronto
(the "Supplier")

WHEREAS the Supplier entered into a Master Agreement with OEMC referred to as **OECM-2023-442-05** for the provision of Resources;

AND WHEREAS the Customer has decided to become a Customer as defined under the Master Agreement by entering into this Customer-Supplier Agreement (the "CSA");

NOW THEREFORE in consideration of the mutual covenants, rights, obligations, and respective agreements set out below, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound hereby covenant and agree as follows:

ARTICLE 1 - DEFINITIONS

Unless otherwise specified in the CSA, capitalized words and phrases will have the meaning set out in the Master Agreement. When used in the CSA, the following words and phrases have the following meanings:

"Business Day" means Monday to Friday between the hours of 9:00 a.m. to 5:00 p.m., except when such a day is a public holiday, as defined in the *Employment Standards Act (Ontario)*, or as otherwise agreed to by the parties in writing;

"CSA Term" means the period of time from the CSA Effective Date first above written up to and including the later of April 30, 2024.

"Rates" means the applicable price for the Resources, as defined in the Master Agreement.

ARTICLE 2 – THE MASTER AGREEMENT

2.1 This CSA is entered into pursuant to, incorporates by reference and is governed by the Master Agreement reference OECM-2023-442-05.

2.2 All terms and conditions of the Master Agreement apply with the appropriate modifications to this CSA. In the event of a conflict or inconsistency between this CSA and the Master Agreement, the Master Agreement will govern (unless the Master Agreement provides otherwise) provided that the Rates payable pursuant to a Customer-Supplier Agreement executed by the Supplier and a Customer may be less than the Rates set out in the Master Agreement.

ARTICLE 3 – REPRESENTATIVES FOR CUSTOMER-SUPPLIER AGREEMENT

3.1 The Supplier's representative for purposes of this CSA will be:

Olivier Fortin-Morin, 905-475-2440 x1282, ofm@sportsequipmentofteronto.com

3.2 The Customer representative for purposes of this CSA will be:

[Insert Customer's contact name, phone/facsimile numbers and email address]

3.3 The OEMC representative for purposes of this CSA will be:

- Customer Relationship Management
- Email: customersupport@oecm.ca
- Phone: 1-844-OECM-900 (1-844-632-6900)

ARTICLE 4 – CSA TERM

- 4.1** This CSA is effective as of the CSA Effective Date, and will, unless terminated earlier in accordance with the provisions of the Master Agreement or this CSA, terminate on the same day that the Master Agreement terminates (the “**Term**”). If the Term of the Master Agreement is extended, then the CSA Term will automatically be extended for the same period and upon the same terms and conditions as the Master Agreement is extended.

ARTICLE 5 – RESOURCES, RATES AND PAYMENT PROCESS

- 5.1** The Supplier agrees to provide the Resources to the Customer as described in the Master Agreement and as more particularly specified in Schedule 2 Appendix A – Resources and Supplementary Provisions to this CSA in accordance with the Rates set out in Schedule 1 of the Master Agreement.
- 5.2** The Supplier will adhere to the timelines set out in Schedule 2 Appendix A – Resources and Supplementary Provisions to this CSA.
- 5.3** The Customer hereby consents to the use by the Supplier of the Supplier’s Subcontractors and personnel (if any) named in Schedule 2 Appendix A – Resources and Supplementary Provisions to this CSA.
- 5.4** The Customer may request changes to the particular CSA, which may include altering, adding to, or deleting any of the Resources in order to reflect an increase or decrease in the kind, amount, or frequency of Resources to be rendered. The Supplier will comply with all reasonable Customer change requests and the performance of such request will be in accordance with the terms and conditions of the Master Agreement and CSA, including the Rates for such Resources set out in the Master Agreement. Any changes requested must be authorized in writing by the Customer and accepted by the Supplier in writing in accordance with Article 12.3 of this CSA.

ARTICLE 6 – RATES AND PAYMENT

- 6.1** The Customer will pay the Supplier in accordance with the Rates set out in the Master Agreement. For convenience, the applicable Rates are set out in Schedule 2 Appendix B – Rates of this CSA.
- 6.2** The Customer will pay the Supplier by way of purchasing cards, cheque or electronic funds transfer. The CSA payment terms are net thirty (30) days.
- 6.3** The Supplier will bill the Customer for Resources in accordance with Article 4 of the Master Agreement, unless otherwise set out in Schedule 2 Appendix B – Rates to this CSA or in Article 6.1 above.

ARTICLE 7 – INSURANCE

- 7.1** The Supplier will furnish a Certificate of Insurance to the Customer in accordance with the insurance requirements set out in Article 7 of the Master Agreement prior to commencing performance under the CSA.
- 7.2** The Supplier will ensure that the Customer is named as an additional insured party under the Supplier’s insurance policy put in effect and maintained pursuant to Article 7.03 of the Master Agreement.

ARTICLE 8 - NOTICES

- 8.1** Notices will be in writing and will be delivered by email, postage-prepaid envelope, personal delivery or facsimile and will be addressed to, respectively, the Customer address to the attention of the Customer Representative and to the Supplier address to the attention of the Supplier Representative. The parties may change such addresses by notice in writing delivered to the other in accordance with this paragraph.
- 8.2** Notices will be deemed to have been given:
- (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or,
 - (b) in the case of personal delivery or facsimile, or email, one (1) Business Day after such notice is sent in accordance with this paragraph.

- 8.3** In the event of a postal disruption, notices must be given by personal delivery or by facsimile or email, unless the parties expressly agree in writing to additional methods of notice. Notices may only be provided by the methods contemplated in this Article.

ARTICLE 9 –TERMINATION

9.1 Termination by Either Party

Either party may terminate this CSA upon prior written notice of one-hundred and twenty (120) days to the other where such other party neglects or fails to perform or observe any material term or obligation of the CSA and such failure has not been cured within thirty (30) days of written notice being provided.

9.2 Termination by Customer

The Customer will be entitled to terminate the CSA, without liability, cost or penalty:

- (a) on written notice to the Supplier, if any Proceeding in bankruptcy, receivership, liquidation or insolvency is commenced against the Supplier or its property;
- (b) on written notice to the Supplier, if the Supplier makes an assignment for the benefit of its creditors, becomes insolvent, commits an act of bankruptcy, ceases to carry on its business or affairs as a going concern, files a notice of intention or a proposal or seeks any arrangement or compromise with its creditors under any statute or otherwise;
- (c) on written notice to the Supplier, following the occurrence of any material change in the Customer's requirements which results from regulatory or funding changes or recommendations issued by any government or public regulatory body;
- (d) at any time, without cause, by giving the Supplier at least sixty (60) days written notice; or,
- (e) in accordance with any provision of the Master Agreement or the CSA which provides for termination.

9.3 Supplier's Obligations on Termination

The Supplier will, in addition to its other obligations under the Contract and at law:

- (a) provide the Customer with a report detailing (i) the current state of the provision of Resources by the Supplier at the date of termination; and, (ii) any other information requested by the Customer pertaining to the provision of the Resources and performance of the CSA;
- (b) execute such documentation as may be required by the Customer to give effect to the termination of the CSA; and,
- (c) comply with any instructions provided by the Customer, including but not limited to instructions for facilitating the transfer of the Supplier's obligation to another person.

9.4 Supplier's Payment Upon Termination

A Customer will only be responsible for the payment for the Resources supplied on or before the CSA Effective Date of any termination of the CSA and for any Customer-unique Resources in Supplier's inventory ordered at the specific request of the Customer (which such inventory will be immediately delivered to the Customer). Termination will not relieve the Supplier of its warranties and other responsibilities relating to the Resources performed or money paid prior to termination. In addition to its other rights of hold back or set off, the Customer may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

9.5 Termination in Addition to Other Rights

The express rights of termination in the CSA are in addition to and will in no way limit any rights or remedies of the Customer or the Supplier under the CSA, at law or in equity.

9.6 Survival upon Termination

In the event that OECM terminates the Master Agreement with the Supplier prior to the expiry of this CSA but does not terminate this CSA at the same time, the terms of the Master Agreement will survive and continue to apply to this CSA.

ARTICLE 10 – PUBLICITY

- 10.1** Any publicity or publications related to this CSA or the provision of the Resources will be at the sole discretion of the Customer. The Customer may, in its sole discretion, acknowledge the Resources of the Supplier in any such publicity or publication. The Supplier will not make use of its association with the Customer without the prior written consent of the Customer.

ARTICLE 11 – LEGAL RELATIONSHIP BETWEEN CUSTOMER, SUPPLIER AND THIRD-PARTIES

11.1 Supplier’s Power to Contract

The Supplier represents and warrants that it has the full right and power and all necessary licences, authorizations and qualifications to enter into and perform its obligations under this CSA and that it is not a party to any agreement with another Person which would in any way interfere with the rights of the Customer under this Contract.

11.2 Representatives May Bind the Parties

The parties represent that their respective signatories have the authority to legally bind them.

11.3 Independent Contractor

This CSA is for a particular and non-exclusive service. The Supplier will have no power or authority to bind the Customer or to assume or create any obligation or responsibility, express or implied, on the Customer’s behalf, or to hold itself out as an agent, employee or partner of the Customer. Nothing in the CSA will have the effect of creating an employment, partnership or relationship between the Customer and the Supplier. For the purposes of this paragraph, the Supplier includes any of its directors, officers, employees, agents, partners, affiliates, volunteers or the Supplier’s Subcontractors.

11.4 Subcontracting or Assignment

The Supplier may subcontract or assign this CSA in whole or any part to any corporation or other business entity that is controlled by or is under common control of the Supplier. Control exists when an entity owns or controls directly or indirectly the outstanding equity representing the right to vote for the election of directors or other managing authority of another entity. If this CSA is subcontracted or assigned to such a corporation or business entity, the Supplier will remain jointly and severally liable with such corporation or business entity for all obligations hereunder.

The Supplier will not subcontract or assign the whole or any part of the CSA or any monies due under it, other than as outlined above without the prior written consent of the Customer, not to be unreasonably withheld. Such consent will be in the sole discretion of the Customer and subject to the terms and conditions that may be imposed by the Customer. Without limiting the generality of the conditions which the Customer may require prior to consenting to the Supplier’s use of a Supplier’s Subcontractor, every contract entered into by the Supplier with a Supplier’s Subcontractor will adopt all of the terms and conditions of the Master Agreement and the CSA as far as applicable to those parts of the Resources provided by the Supplier’s Subcontractor. Nothing contained in the Master Agreement or the CSA will create a contractual relationship between any Supplier Subcontractor or its employees and the Customer.

ARTICLE 12 – GENERAL

12.1 Severability

If any term or condition of the CSA, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the CSA, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, will not be affected thereby.

12.2 Force Majeure

Neither party will be liable for damages caused by delay or failure to perform its obligations under the CSA where such delay or failure is caused by a Force Majeure Event beyond its reasonable control. The parties agree that an event will not be considered beyond one’s reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the CSA would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that Force Majeure

Events will include without limitation any cause beyond the reasonable control of either party including, without limitation, fire, explosion, power failure, acts of God, , pandemics, epidemics, quarantines or civil disturbances caused by severe medical emergencies or diseases, government declared emergencies, military actions or actions of public enemies, any act or omission under any law, order, regulation, rule or requirement of any court, governmental or public authority or legal body having jurisdiction, labour action (such as strikes, slowdowns, picketing or boycotts), natural disasters and acts of war, insurrection and terrorism and labour disruptions but will not include shortages or delays relating to supplies or services. In no event will lack of money, insolvency, any act of bankruptcy or any act or omission of a party be a Force Majeure Event. If a party seeks to excuse itself from its obligations under this CSA due to a Force Majeure Event, that party will immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the CSA by giving notice of termination and such termination will be in addition to the other rights and remedies of the terminating party under the CSA, at law or in equity.

12.3 Changes By Written Amendment Only

Any changes to the CSA will be by written amendment signed by both parties. No changes will be effective or will be carried out in the absence of such an amendment.

12.4 Section 217 Education Act et. Al.

The Supplier represents and warrants that it has not employed, and that it will not during the CSA Term employ, any teacher, supervisory officer or other employee of an Ontario district school board or of the Ontario Ministry of Education to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario district school board, provincial school or teachers' college, or to any pupil enrolled therein, and that it has not given or paid, and will not during the CSA Term give or pay, directly or indirectly, compensation to any such teacher, supervisory officer or employee for such purpose.

The Supplier further represents and warrants that it has not employed, and that it will not during the CSA Term employ, any member of faculty or other employee of an Ontario college or university to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario college or university, or to any student enrolled therein, and that it has not given or paid, and will not during the CSA Term give or pay, directly or indirectly, compensation to any such member of faculty or employee for such purpose where such employment or compensation would place the member of faculty or employee in a Conflict of Interest with the college or university by which he or she is employed.

12.5 Criminal Records Check

The Supplier covenants and agrees that it will not engage any employee or other person to perform services for the Supplier who may come into direct contact with students and/or other vulnerable person on a regular basis, or who may have access to student and/or other vulnerable person's information to provide services hereunder, where such Supplier's employee or other person has been charged with or convicted of an offence the nature of which may be construed as jeopardizing the safety and well-being of the students and/or other vulnerable person of the Customer. For the purposes of this CSA, the Customer will determine in its sole and unfettered discretion whether an employee of the Supplier or such other person may come into direct contact with students and/or other vulnerable persons on a regular basis or have access to student and/or other vulnerable person's information and whether or not any such offence is of a nature which may be construed as jeopardizing the safety and well-being of students and/or other vulnerable persons.

The Supplier covenants and agrees to retain on file at its head office a criminal background check covering convictions, charges and occurrences under the Criminal Code, the *Controlled Drugs and Substances Act*, the *Cannabis Act* (Canada) and any other convictions, charges and occurrences which would be revealed by:

- (a) the criminal record and judicial matters check of the automated Criminal Records Retrieval System maintained by the Royal Canadian Mounted Police ("RCMP System"); and,
- (b) a vulnerable sector check of the RCMP System

for every employee of the Supplier or other person who will perform services for the Supplier who may come into direct contact with students and/or other vulnerable persons on a regular basis or who may have access to student and/or other vulnerable person's information. A "Criminal Background Check"), together with an Offence Declaration, in a Customer approved form, prior to the occurrence of such possible direct contact

or prior to having access to student and/or other vulnerable person's information and on or before September 1st each year thereafter with respect to Offence Declarations.

The Supplier agrees to indemnify and save harmless the Customer from all claims, liabilities, expenses and penalties to which it may be subjected on account of: the Supplier engaging an employee or other person to perform services in contravention of this paragraph 12.5; or the Supplier's failure to retain a Criminal Background Check or an Offence Declaration on file, as aforesaid. This indemnity will survive the expiration or sooner termination of this CSA. In addition to and notwithstanding anything else herein contained, if the Supplier engages an employee or other person to perform services in contravention of this paragraph 12.5, or fails to retain a Criminal Background Check and an Offence Declaration for any employee of the Supplier or other person who performs services for the Supplier who may come into direct contact with students and/or other vulnerable persons on a regular basis, or who may otherwise have access to student and/or other vulnerable person's information prior to the occurrence of such possible direct contact, or prior to having access to student and/or other vulnerable person's information with respect to Offence Declarations, then the Customer will have the right to immediately terminate this CSA without prejudice to any other rights which it may have in this CSA, at law or in equity.

The Customer will be entitled, on forty-eight (48) hours prior written notice to attend at the head office of the Supplier for the purposes of reviewing the Criminal Background Checks and Offence Declarations. The parties acknowledge and agree that it is contemplated that the Customer may attend to such reviews at least twice per year during the CSA Term, and any renewal thereof.

In the event that either the Criminal Background Check or an Offence Declaration reveals a charge or a criminal conviction which is not acceptable to the Customer in the circumstances and in its sole and unfettered discretion, then the Customer will have the right to request that the Supplier prohibit the employee of the Supplier or other person who performs services for the Supplier from providing services to the Customer hereunder. Upon such request, the Supplier will forthwith effect such removal, without prejudice to any other rights which the Customer may have in this CSA, at law or in equity.

The Supplier will use a third party to conduct criminal reference checks for onsite employees or contractors supporting this CSA and will cause any such employee or contractor to wear identification badges.

The Supplier will provide thirty (30) days written notice to OEMC and the Customer should the third-party provider be changed to another provider.

12.6 Purchasing Policies and Guidelines

The Supplier agrees to comply with the Customer's purchasing or administrative policies and guidelines which apply to the provision of Services under this CSA. Copies of the applicable policies and guidelines are attached as Schedule 2 Appendix C – Customer's Policies and Guidelines to this CSA.

12.7 Harassment and Assault

Without limiting the generality of the foregoing, the Supplier is required to comply with the Customer's policies with respect to sexual harassment, workplace harassment, workplace violence, prohibited discrimination and harassment, and health and safety. The Supplier must cooperate with the Customer in any investigation undertaken by the Customer pursuant to such policies.

12.8 Financial Administration Act Section 28

Notwithstanding anything else in this Customer-Supplier Agreement, or in any Appendix attached or appended hereto, any express or implied reference to a Customer providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of Ontario, whether at the time of execution of this Customer-Supplier Agreement or at any time during the CSA Term, shall be void and of no legal effect unless the Customer has obtained the written approval of the Ontario Minister of Finance or the arrangement, commitment, guarantee, indemnity or transaction belongs to a class of transaction exempted from the application of subsection 28(1) of the *Financial Administration Act* (the "FAA") pursuant to Ontario Regulation 376/18: Section 28 Exemptions – Colleges, and the formal requirements for the reliance on such exemption, including without limitation those specified in the Binding Policy Directive on Banking, Investments and Borrowing issued by the Ontario Ministry of Advanced Education and Skills Development, and its associated Operating Procedure, have all been complied with, or belongs to a class of transactions that has been approved by the Ontario Minister of Finance in writing.

In accordance with the requirements of the Financial Administration Act ("FAA"), notwithstanding anything else in this CSA, or in any other agreement between the Customer and the Supplier executed to carry out

the Resources provided for herein, the remedies, recourse or rights of the Supplier will be limited to the Customer and to the right, title and interest owned by the Customer in and to all of its real or personal property, whether now existing or hereinafter arising or acquired from time to time. The Supplier unconditionally and irrevocably waives and releases all other claims, remedies, recourse or rights against the Crown in right of Ontario in respect of this CSA, and agrees that it will have no remedies, recourse or rights in respect of this CSA against the Crown in right of Ontario, any Ontario Ministry, Minister, agent, agency, servant, employee or representative of the Crown or any director, officer, servant, agent, employee or representative of a Crown agency or a corporation in which the Crown holds a majority of the shares or appoints a majority of the directors or members, other than against the Customer and its assets.

If the Supplier and the Customer agree that this CSA is exempt from the application of subsection 28(1) of the Financial Administration Act pursuant to Ontario Regulation 376/18: Section 28 Exemptions – Colleges, the Customer represents and warrants that this CSA (i) complies with all applicable policies of the Customer; (ii) complies with all applicable laws and Ontario government directives applicable to it; and, (iii) relates to activities of the Customer that are permitted under its objects and that are undertaken within Canada. The Supplier represents and warrants that this CSA complies with all Applicable Laws and Ontario government directives applicable to it.

IN WITNESS WHEREOF the parties hereto have executed this Customer-Supplier Agreement as of the date first above written.

[CUSTOMER'S NAME]

Authorized Signature

Name

Title

Contact Email

Contact Phone

Date

I have authority to bind the Customer. By signing this Customer-Supplier Agreement, I also consent to receive email communications from OECS, which may include announcements related to changes in services and pricing on this and other OECS Master Agreements.

SPORTS EQUIPMENT OF TORONTO

Authorized Signature

Name

Title

Date

I have authority to bind the Supplier