



Continuing Education Provider Agreement

This non-exclusive Continuing Education Provider Agreement (“Agreement”) is entered into by and between American Council on Exercise, a California corporation with its principal place of business at 4851 Paramount Drive, San Diego, California 92123 (“ACE”) and the continuing education course provider who has submitted their application online to ACE (the “Provider”). The Agreement is effective as of the date the Provider accepts these terms and conditions online.

Whereas, ACE Certified Professionals (“Professionals”) are required to complete twenty (20) hours of continuing education credits (“CECs”) biannually to maintain their certification and thus seek out workshops, distance learning courses and conferences (“the Product”), that have been awarded ACE CEC approved status;

Whereas, ACE seeks ACE continuing education providers to assist in providing these high quality CECs to Professionals; and

Whereas, Provider desires to become an ACE Continuing Education Provider to assist in the effort to deliver high quality CEC education and training to Professionals;

NOW, THEREFORE, In consideration of the above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. STATEMENT OF AGREEMENT

In applying to become or renew Provider’s status as an ACE Continuing Education Provider, Provider agrees to the terms in this Agreement. Additionally, Provider agrees that: (a) it has submitted or will submit an online completed and accurate Continuing Education Provider Application; and (b) it will abide by ACE’s Continuing Education Provider Policies and Procedures and Code of Ethics, copies of which are available online on the ACE website. Provider also agrees that it has submitted or will submit with this Agreement all items listed on ACE’s Live Course Application if Provider intends to provide the Product(s) to one or more Professionals in person and/or ACE’s Distance Learning Application if Provider intends to provide the Product(s) to one or more Professionals via the Internet or some other form of distance learning. Provider acknowledges and agrees that ACE application fees are non-refundable and are charged in consideration of ACE’s review of Provider’s application to become a Provider pursuant to this Agreement and all materials related to such application. ACE reserves the right at its sole discretion, to publicize and promote this Continuing Education Provider relationship in any manner ACE deems appropriate.

2. TERM

This Agreement shall commence as of the date of final execution of the parties herein and continue through



December 31 of the year the course was approved by ACE. Should the course not be approved, this Agreement will immediately terminate without any further notice to Provider. This Agreement may be renewed for additional one (1) year terms by mutual agreement of the parties. All rights granted herein shall terminate upon the termination of this Agreement.

3. GRANT OF LICENSE

During the term hereof, and subject to the terms and conditions of this Agreement, ACE grants to Provider a non-exclusive, non-transferable limited license to use the ACE APPROVED mark and logo (the "Mark") in connection with the sale and distribution of only the Product expressly approved for CECs in writing by ACE. That license is personal to the Provider named in this Agreement. A copy of the Mark will be available on the Provider's ACE website account.

The Product may be marketed, distributed and sold by Provider throughout the world. Provider's right to use the Mark is limited to use of the mark ACE APPROVED. Provider may not use the Mark in any other manner, on any other products or in any other media without the express written permission of ACE.

4. LICENSE LIMITATIONS

All rights not specifically granted to Provider herein are expressly reserved by ACE. Provider agrees to use the proper trademark notice for each reference to the Mark. Provider may not: (a) use the ACE® or AMERICAN COUNCIL ON EXERCISE® marks; (b) use the Mark with any descriptive qualifier other than "approved"; (c) use the Mark on any promotional materials that promote Provider's other services; or (d) use the Mark in conjunction with any other product or service not approved in writing by ACE.

5. OWNERSHIP OF TRADEMARK

Provider acknowledges that ACE is the owner of the Mark and all other rights and entitlements related thereto. Other than as expressly set forth herein, Provider has absolutely no right title or interest in or to the Mark. Provider further agrees that it will not alter the Mark in any way, that it will do nothing inconsistent with ACE's ownership of the Mark, and that all goodwill from use of the Mark by Provider shall inure solely to the benefit of ACE.

6. QUALITY CONTROL/APPROVAL OF PRODUCT

Provider shall provide the final version of the Product to ACE for content review to allow ACE to determine, in its sole judgment if all content is consistent with ACE's standards. After the Product is approved, Provider shall not depart there from without resubmitting the new finished Product for subsequent approval by ACE. Provider agrees that the nature and quality of the Product shall be of the highest quality, manufactured free from defects and in full compliance with all laws and with the quality control standards established by ACE. Provider shall operate its business in a manner that reflects favorably at all times on the Mark. At ACE's request, Provider shall provide ACE with copies of the Product or any materials related to the Product including, but not limited to, brochures, line sheets, advertisements and promotional materials. Except as provided in this section 6, if, at any time, ACE determines in its reasonable



discretion that a Product bearing the Mark is of poor quality, ACE may give Provider notice to immediately cease production and distribution of said Product until its quality is improved to the reasonable satisfaction of ACE. Upon notice of defect given by ACE, Provider shall promptly cure the defects in the use of the Mark or the goods offered thereunder. In the event that the Provider does not take reasonable steps to cure such defect within thirty (30) days after notification by ACE, ACE shall have the right to terminate this Agreement without further notice to Provider. Provider agrees not to use any other trademark or service mark of a third party in combination with the Mark without prior written approval of ACE. Provider agrees to conduct itself in a manner that reflects favorably at all times on the Mark and ACE. If, at any time, ACE determines in its reasonable discretion that Provider has misused the Mark, violated the ACE Continuing Education Provider Policies and Procedures or ACE Continuing Education Provider Code of Ethics, misled consumers or misrepresented itself or its products or services in any way, ACE shall have the right to terminate Provider's ACE Continuing Education Provider Membership and this Agreement without further notice to Provider.

7. RELEASE AND INSURANCE

Provider hereby agrees to waive, release and forever discharge ACE and ACE's affiliates, agents, servants, employees, officers, directors, instructors and all others from any and all responsibilities or liability of any nature from injuries or damages resulting from or related to Provider's Product.

Provider further agrees to obtain and keep in force policies of general liability insurance which will include but not be limited to personal injury liability, premises liability, workers compensation insurance, employer's liability insurance, broad form property damage and independent contractor coverage that would cover any act or injury occurring related to Provider's Product. Insurance will hold limits of \$1,000,000 with an insurance company that ACE deems satisfactory, Provider's insurance will be considered primary of any similar insurance carried by ACE. Copies of insurance policies will be made available to ACE upon written request.

8. NOTICES

Any notice, communication or payment hereunder shall be deemed sufficiently given if in writing and deposited in the United States Mail in a sealed envelope registered or certified with postal charges prepaid (International applicants must utilize overnight delivery service with package tracking and delivery confirmation, i.e. FedEx), to the following address:

To ACE:
American Council on Exercise
4851 Paramount Drive
San Diego, CA, 92123

To Provider: At the address listed on Provider's online application.