

## MYSHOP ACCOUNT AGREEMENT

This **MyShop Account Agreement**, together with its exhibits, attachments, schedules, and documents incorporated by reference (each of which may be amended from time to time) (collectively, the “**Agreement**”), constitutes an agreement by and between **LEGENDS HOSPITALITY, LLC** and/or its parent, subsidiaries, and/or affiliates (“**Legends**”) and the entity (or entities) specified as the Client (“**Client**”) on the **Legends – MyShop Program Account Application** completed and signed by Client (“**Application**”) (which is expressly incorporated herein) with respect to Client’s participation in Legends’ MyShop Program and Legends’ operation of the Online Store and processing and fulfillment of Orders as further set forth below. Each party may be referred to herein each as a “**Party**” or collectively as the “**Parties**.” Any attempted deviation from the Agreement or request or demand for additional or different terms or any statement made in an invoice or otherwise attempting to make acceptance conditional on Legends’ assent to additional or different terms shall be of no effect and is expressly objected to and rejected. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**I. DEFINITIONS:** All capitalized terms not defined in the body of this Agreement shall have the meaning ascribed to them in **EXHIBIT A**, attached hereto and made a part of this Agreement by this reference.

**II. TERM:** The term of the Agreement shall commence as of the Effective Date and continue through the conclusion of the Second Agreement Year and automatically renew for successive Agreement Years thereafter, unless (A) either Party provides written notice of its intent to not renew this Agreement no less than sixty (60) days prior to the end of the then-current Agreement Year, (B) the Agreement is terminated as permitted hereunder, or (C) the Agreement is extended upon mutual agreement by the Parties (“**Term**”). The “**First Agreement Year**” shall refer to the period between the Effective Date and December 31 of that respective year and each “**Agreement Year**” thereafter shall refer to the twelve (12) month period from January 1 through December 31.

**III. GRANT OF RIGHTS; MERCHANDISE SERVICES:** As of the Effective Date and through the Term, Client grants to Legends and Legends accepts the exclusive right, throughout the Term, to (A) operate the Online Store in accordance with the terms herein and (B) manufacture, produce, and/or source Merchandise for the Online Store and to outsource the foregoing to third-party manufacturers, providers, vendors, and/or brands (“**Vendor**”) (as determined by Legends in its sole and absolute discretion) (collectively, the “**Merchandise Services**”). Client shall not grant any other party the rights to vend or otherwise sell or distribute Merchandise online and/or operate a similar online store and/or online marketplace that is competitive to the Online Store; provided, however, that Client shall not be prohibited from selling or distributing online apparel and products from its physical, on-site store/shop and/or Client-branded gift cards. Client acknowledges and agrees that the design, development, framework, orientation, and integration of the Online Store shall be as determined by Legends in its sole and absolute discretion. Legends reserves the right to subcontract certain Merchandise Services in its sole discretion, subject to the terms of this Agreement.

**IV. DUTIES AND OBLIGATIONS OF LEGENDS:** Legends agrees to perform the Merchandise Services as follows:

- A. Legends shall display, market, promote, sell (and/or facilitate the sale), distribute, and process and fulfill Orders through the Online Store;
- B. Legends shall undertake commercially-reasonable efforts to maintain and make available through the Online Store a high-quality assortment of Merchandise from a variety of Vendors and to update the Online Store assortment (as it determines in its discretion but with input from Client), except for the occurrence(s) of any Force Majeure events and/or unforeseen supply chain issues, delays, and/or failures. Client shall not own any Merchandise under the Agreement;
- C. Legends may (as it determines in its sole discretion) engage and utilize Vendor(s) to (1) manufacture, produce, and/or source Merchandise (including Embroidered Merchandise) and/or (2) incorporate Embroidery Files into select Merchandise, provided that Legends shall be responsible for all Vendor costs associated therewith; and
- D. Legends will handle all customer service matters as it relates to the Online Store, including, but not limited to, establishing, modifying (from time to time in its sole discretion), and posting on the Online Site a return policy governing the eligibility of Merchandise to be returned and/or exchanged (“**Return Policy**”), questions and complaints regarding any Merchandise, and engaging with any Vendor with respect to any requested return of, exchange of, and/or refund for Merchandise (subject to the Return Policy). Client shall direct all customers with any customer services issues to Legends. Client acknowledges and agrees that, in some instances, its Payment Account may be debited for a Merchandise return (as determined by Legends in its sole discretion), in which case, Client will receive the returned Merchandise and may resell it in its sole discretion.

V. **DUTIES AND OBLIGATIONS OF CLIENT:** Client agrees to do the following (at its sole cost and expense) in connection with Legends' performance of the Merchandise Services:

- A. Provide Legends with all reasonably-requested and/or necessary cooperation, access, information, and materials for Legends' performance of the Merchandise Services, including, without limitation, the Marks, Embroidery Files, branding specifications, Member information (i.e., contact information, member number(s), and other membership details), and/or requirements set forth in Section XI(C);
- B. Generate awareness and drive traffic to the Online Store, including, but not limited to, the following: **(1)** cooperate with Legends with regard to a strategic marketing plan; **(2)** provide Legends with marketing assets and all available marketing support; **(3)** provide a navigation "shop" tab and other applicable promotional links on Client's website homepage; and **(4)** market its Online Store, including, as applicable, via e-mail, social media, and on-site marketing and distribution; and
- C. Client acknowledges and agrees that Legends shall not be liable or deemed to be in breach of this Agreement should there be any failure and/or delay by Client in providing Legends and/or any Vendor with any of the foregoing in a timely, complete, and accurate manner.

VI. **FINANCIAL TERMS:**

- A. **MSRP; Pricing.** Legends shall establish (as communicated by Vendor (as applicable) and reasonably determined in Legends' sole discretion) the suggested retail price for all Merchandise ("**MSRP**"); provided, however, Client shall determine the resale, retail price of any Merchandise as it appears and is sold on the Online Store, which shall remain at or above the MSRP. For the avoidance of doubt, all amounts referenced in this Agreement are in U.S. Dollars.
- B. **Percentage Fees.** In consideration for the rights granted herein, the Parties agree that Client shall receive Twenty Five Percent (25%) of the MSRP from the sale of each unit of Merchandise through the Online Store, adjusted by any Allotted Costs (to the extent not borne by the customer) and/or sale price above the MSRP ("**Client Percentage Fee**").
- C. **Golf Retirement Plus.** To the extent that Client's Professional Golfers' Association of America ("**PGA of America**") Professional (as defined by the PGA of America) participates in the PGA of America's Golf Retirement Plus program ("**Professional's GRP Account**") during the Term, Legends shall contribute up to Three Percent (3%) of the MSRP from the sale of each unit of Merchandise through the Online Store to the Professional's GRP Account through a means and frequency as mutually agreed upon by the Parties; provided, however, that Client shall be responsible for providing Legends with all necessary information in connection with the Professional's GRP Account in a timely, complete, and accurate manner and for facilitating payment thereto. Client acknowledges and agrees that Legends shall not be liable or deemed to be in breach of this Agreement should there be any failure and/or delay by Client in providing Legends and/or any Vendor with any of the foregoing in a timely, complete, and accurate manner.
- D. **Client Fees.** In consideration for Legends' performance of the Merchandise Services, Client agrees to the following:
  - 1. **Activation Fee.** For each activation required for the Online Store, Client shall pay to Legends an activation fee in the amount specified on the Application or as otherwise determined by Legends thereafter and communicated to Client (in its sole discretion) ("**Activation Fee**").
  - 2. **Monthly Fee.** For Legends' operation of the Online Store, Client shall pay to Legends a monthly fee in the amount specified on the Application for the nature of the Online Store selected by Client or as otherwise determined by Legends thereafter and communicated to Client (in its sole discretion) ("**Monthly Fee**").
  - 3. **Payment Account; Authorization.** Prior to activation of the Online Store and throughout the Term, Legends may request that Client provide Legends with credit card and/or automated clearing house information, as mutually agreed upon by the Parties ("**Payment Account**") for purposes of Client's payment of the Activation Fee and Monthly Fee and any other fees, expenses, and costs payable by Client under this Agreement (collectively, the "**Fees**") and to complete certain documentation authorizing Legends' processing of payment of such Fees. To the extent that Client establishes a Payment Account, it shall, at all times during the Term, provide, maintain, and update as necessary fully accurate and valid Payment Account information. Legends will provide Client with electronic invoices for such Fees on a monthly basis. All Fees shall be due immediately upon Client's receipt of the applicable invoice, regardless of whether Client has established a Payment Account.

4. **Suspension/Deactivation.** Client's failure to make timely payment to Legends as required under this Agreement, including, without limitation, due to inaccurate, invalid, and/or expired Payment Account information, may result in suspension and/or deactivated of the Online Store until the outstanding balance is fully satisfied (as determined by Legends in its sole discretion).
5. **Late Fees.** Any delinquent payment by Client under this Agreement may be subject to a Late Fee. "**Late Fee**" means the charge assessed with respect to any payments due from Client to Legends after the date specified in this Agreement for payment. Late Fees shall accrue and compound daily based on an annual rate equal to the lesser of: (i) ten percent (10%) and (ii) the maximum rate permitted under Applicable Law.

**E. Reports and Remittance.**

1. Legends shall prepare and submit to Client a formal sales report with respect to the Online Store (the content and format of which shall be as determined by Legends in its sole discretion) ("**Sales Report**") on a quarterly basis for the preceding Quarter on or before the twentieth (20<sup>th</sup>) day following the end of each Quarter of an Agreement Year.
2. Legends shall remit to Client all Client Percentage Fees on a quarterly basis, with each such payment due and payable on the twentieth (20<sup>th</sup>) day following the end of each Quarter within the Agreement Year. Any amounts due and owing to Legends shall be paid in accordance with Section VI(C).
3. All financial and sales reporting provided by Legends under this Agreement shall be managed through and subject to the functionalities and limitations of certain system(s) determined by Legends in its sole discretion; provided, however, Legends shall undertake commercially-reasonable efforts to allow for Client to manually request and receive digital templated, operational reports for reference purposes (which Client agrees shall not be used for any accounting purposes or serve as data of record pursuant to this Agreement) ("**Operational Report**"). Legends may, in its sole discretion, make ad hoc Operational Reports available to Client, subject to licensing, set-up, and other costs to be borne by Client.

- F. Gross Receipts Metrics.** The sales data stored in the Online Store's payment processing system shall be the measure of Gross Receipts for the Online Store.

**VII. REPRESENTATIONS AND WARRANTIES:**

- A. **Mutual Representations/Warranties.** Each Party represents and warrants that: **(1)** it has full right, power and authority to enter into this Agreement and grant and convey any rights set forth herein, including but not limited to the rights with respect to the Marks; **(2)** all approvals, rights, and authorizations necessary for execution, delivery, and performance of this Agreement have been obtained (including Client's grant of rights as set forth herein) and this Agreement constitutes a legal, valid, and binding obligation, enforceable in accordance with its terms, and nothing contained herein violates, interferes with, or infringes upon the rights of any third party; **(3)** its signatory is duly authorized and empowered to bind it to this Agreement; and **(4)** it has complied with all applicable laws, ordinances, codes, rules, and regulations ("**Applicable Law**") relating to this Agreement.
- B. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION VII(A), LEGENDS MAKES NO GUARANTEES, REPRESENTATIONS, AND/OR WARRANTIES WHATSOEVER WITH RESPECT TO THE MERCHANDISE, MERCHANDISE SERVICES, OR ONLINE STORE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, AS TO THE PERFORMANCE OR SUCCESS OF THE ONLINE STORE, PARTICIPATING VENDORS, AND/OR THE ASSORTMENT AND QUALITY OF MERCHANDISE.

**VIII. INTELLECTUAL PROPERTY; APPROVALS:**

**A. Marks.**

1. Client hereby grants to Legends, during the Term, a non-exclusive, worldwide, royalty-free (except as otherwise set forth herein) license to use the Marks for the purposes of providing the Merchandise Services. Legends shall not use or permit the use of such Marks except as permitted under this Agreement. Upon written notice from Client and as reasonably requested, Legends shall promptly and, as practicable, cease the sale and/or use of any Marks, Merchandise, and/or Embroidery File (including any changes thereto), at Client's sole cost, provided that any such notice and request is provided within a reasonable amount of time to allow Legends to properly cease or modify such sale and/or use. Client represents and warrants that it

has obtained all necessary licenses, rights, and authorizations with respect to the licenses, rights, and authorizations granted to Legends with respect to the Marks, Embroidery Files, and all other intellectual property, including with respect to any separately-owned and/or -operated golf club, pro shop, and/or entity. Except for the licenses and rights granted under this Agreement, Client expressly reserve all other rights. Legends acknowledges that the Marks, and all rights therein and goodwill pertaining thereto, are the sole property of Client and that Legends shall not acquire any rights in the Marks by virtue of any use hereunder.

2. Notwithstanding anything to the contrary, to the extent Legends utilizes any of Legends' intellectual property in connection with its Merchandise Services (including, without limitation, its Marks, proprietary databases, platforms, information, and/or any software), the foregoing shall remain the exclusive property of Legends, and Legends shall retain all exclusive rights to use and disclose its ideas, concepts, know-how, methods, techniques, processes and skills, and adaptations thereof.

#### **IX. INDEMNIFICATION:**

**A. Indemnification by Legends.** Legends shall indemnify, defend, and hold harmless Client and its Affiliates and their respective officers, directors, employees, agents, and assigns (collectively "**Client Indemnitees**"), to the fullest extent permitted by Applicable Law, from and against all actual losses, damages, liabilities, judgments, awards, and costs and expenses (including reasonable outside attorneys' fees and court-related costs) (collectively, "**Losses**") incurred by Client Indemnitees as a result of any third-party claim, demand, action, lawsuits, or other proceeding (collectively "**Claims**"), arising from or in connection with: (1) any negligence or willful misconduct by Client (or any party on its behalf) in the performance of its obligations under this Agreement; and/or (2) any alleged and/or actual infringement or misappropriation by Legends in the performance of its obligations under this Agreement; provided, however, that each of the foregoing shall be limited to the extent that Client is required to indemnify Legends for such Loss under Section IX(B).

**B. Indemnification by Client.** Client shall indemnify, defend, and hold harmless Legends and its Affiliates and their respective officers, directors, employees, agents, and assigns (collectively "**Legends Indemnitees**") to the fullest extent permitted by Applicable Law, from and against all Losses incurred by Legends Indemnitees as a result of any Claims arising from or in connection with: (1) any breach by Client (or any party on its behalf) of this Agreement, including, without limitation, any of its obligations, representations, and/or warranties hereunder; (2) any negligence or willful misconduct by Client (or any party on its behalf) in the performance of its obligations under this Agreement; and/or (3) any alleged and/or actual infringement or misappropriation by Client and/or the Marks (including, without limitation, Legends' use as authorized by Client hereunder with respect to the Merchandise); provided, however, that each of the foregoing shall be limited to the extent that Legends is required to indemnify Client for such Loss under Section IX(A).

**X. INSURANCE.** Client agrees to obtain and maintain during the Term, at its sole cost and expense, insurance of the types and in the amounts reasonably requested by Legends in order to insure against any and all claims, losses, damages, or expenses resulting from Client's actions or omissions under this Agreement, such insurance naming the Legends Indemnitees as additional insureds. Within seven (7) days' following Legends's request, Client shall provide Legends with proof of the acquisition of such insurance in the form of one or more Certificates of Insurance.

#### **XI. DATA PROCESSING/ EXCHANGE:**

**A.** Each Party will use commercially reasonable security technology and protocols to protect Customer Data, including, but not limited to, with respect to the processing and transmission of such Customer Data, and will comply with all Applicable Laws in connection therewith. Subject to and in accordance with the Data Processing Addendum (attached hereto and incorporated herein as **EXHIBIT B** and available at <https://www.legends.net/lgm/myshop>) ("**DPA**") and Applicable Laws, Client shall be the owner of all Online Store Data, provided that Client shall not have access to or ownership or any other rights in or to data other than what is provided and/or collected from the Online Store. The Parties shall agree upon a frequency and secure methodology of transfer of such Online Store Data. Client shall be solely responsible for all its costs, expenses, and liabilities in connection with its compliance with this Section XI.

**B.** Except as set forth herein, Client hereby authorizes Legends and the Professional Golf Enterprises, Inc. and PGA Tournament Corporation, Inc. ("**PGA**") to use Customer Data for any business purposes involving the Online Store, such business purposes including, without limitation, marketing and promoting PGA-operated events, Merchandise, and/or the Online Store and for safety and security purposes (as permitted by Applicable Law); provided, however, notwithstanding anything to the contrary, Client hereby grants to Legends and PGA a perpetual, worldwide, royalty-free, non-exclusive, sublicensable and transferable right and license during the Term and after

the Term to anonymize and/or aggregate the Customer Data as long as such aggregated or anonymized data does not identify Client as the source of such data and such data is not “identifiable” as such term is defined by Applicable Law.

- C. In connection with its obligations set forth in Section V(A), Client shall provide Legends with all reasonably-requested and/or necessary cooperation, access, information, and/or materials (at Client’s sole cost and expense) as required for Legends to integrate and/or operate the Online Store, including, without limitation, access to Client’s website, support for Client-requested platform upgrades (which may be chargeable to Client), identification of and cooperation from Client’s identity provider to support single-sign on, and/or to comply with any Legends’ requirements for interfaces, applications, security, and access. All such information and materials shall be made available in a data exchange format and method as specified by Legends (including, without limitation, through EDI, API, SFTP, and/or other means) (“**Data Exchange**”); provided, Legends will consider and may approve other reasonably-suggested Data Exchange options on a case-by-case basis, in its sole discretion. Client may not modify any Data Exchange required under this Agreement without thirty (30) days’ prior written request to Legends and Legends express written authorization.
- D. In connection with Legends’ performance of the Merchandise Services, it shall develop and post a privacy policy and other related documents on the Online Store (collectively, the “**Privacy Policy**”), which, in relevant part, shall describe the Customer Data collected by Legends from the Online Store. Client acknowledges and agrees that (1) Legends shall maintain and control the Privacy Policy and may modify the Privacy Policy at any time, in its sole discretion, without notice to Client, (2) the Privacy Policy does not create any additional rights or obligations for either Party other than those set forth in this Agreement, and (3) neither Party may disclose (indirectly or directly) any Customer Data to any third party except as authorized under this Agreement, the DPA, and the Privacy Policy.

## XII. TERMINATION AND EFFECT:

- A. **Right to Terminate: Material Breach.** Either Party may terminate this Agreement upon written notice to the other in the event that: (1) the other Party commits a material breach of this Agreement and fails to cure such default to the non-defaulting Party’s reasonable satisfaction within thirty (30) days after receipt of notice (except due to Force Majeure, in which case the cure period shall end thirty (30) days following the earlier of the: (a) cessation of the Force Majeure or (b) the sixtieth (60<sup>th</sup>) consecutive day of such Force Majeure) or (2) the other Party becomes insolvent or bankrupt, assigns all or a substantial part of its business or assets for the benefit of creditors, permits the appointment of a receiver for its business or assets, becomes subject to any legal proceeding relating to insolvency or the protection of creditors’ rights, or otherwise ceases to conduct business in the normal course.
- B. **Right to Terminate: For Convenience.** Legends may terminate this Agreement immediately upon written notice to Client (email sufficient). Client may terminate this Agreement upon sixty (60) days’ written notice to Legends, beginning twelve (12) months from the Effective Date.
- C. **Effect of Termination/Expiration.**
1. Upon any expiration or termination of this Agreement, the Online Store shall be deactivated and Legends shall not order, manufacture, produce, or sell any Merchandise following the effective date of expiration or termination; provided, however, Legends may fulfill any pending Orders of such date, subject to the terms of the Agreement.
  2. Notwithstanding the termination or expiration of this Agreement, (a) the right of a Party to receive a payment or obligation of either Party to make a payment, in each case, that has accrued on or prior to the termination or expiration shall survive such termination or expiration; and (b) such termination or expiration shall not relieve either Party from liability for any failure to comply with this Agreement.

XIII. **WAIVER OF INDIRECT DAMAGES:** Each Party waives to the fullest extent permitted by law any right to or claim of any consequential, incidental, special, punitive or exemplary damages against any other Party.

XIV. **LIMITATION OF LIABILITY:** Legends aggregate liability that arises from this Agreement will not exceed the amount Legends has cumulatively paid or is payable to Client in accordance with this Agreement for one (1) year period preceding the events giving rise to the claim (“**Limit of Liability**”). The Limit of Liability does not apply to claims that arise from: (A) gross negligence, willful misconduct, fraud, or misrepresentation, or (B) death or personal injury.

## XV. MISCELLANEOUS:

- A. **Names; Promotional Use.** Neither Party shall use the other Party’s name or any of its Marks, except as required to perform its obligations under this Agreement, expressly permitted under this Agreement, or expressly approved

by the other Party in writing; provided however, either Party may publicly disclose that Legends operates the Online Store for Client and use the other Party's Marks solely in connection therewith, subject to the other Party's approval, not to be unreasonably withheld.

- B. Legends Non-Exclusivity.** Nothing in this Agreement shall prevent or restrict Legends from performing services of any kind, to or on behalf of any person, entity, or association as Legends, in its sole discretion, determines.
- C. Confidentiality.** The terms and conditions of this Agreement, as well as any document or other information that is obtained by either Party or is supplied or delivered by a Party to the other and is not publicly available, are confidential. Except to the extent: **(1)** required by law (in which case the disclosing Party shall, to the extent permitted by law, provide written notice to the other Party of that requirement prior to the date of such disclosure in order to permit the other Party an opportunity to seek confidential treatment of such information and/or to take legal action to prevent or limit the scope of such disclosure); **(2)** to protect such Party's rights in the event of an uncured breach of the Agreement by the other Party; **(3)** already or hereafter publicly known or known to the recipient of such disclosure free from any obligation of confidence (other than pursuant to a breach of this Section; or **(4)** independently developed by the other Party without use of or reference to the confidential information of the disclosing Party, neither Party shall disclose, directly or indirectly, any such confidential information without the other Party's prior written consent. Notwithstanding the foregoing, neither Party shall be prohibited or restricted from disclosing this Agreement to its Affiliates or to its or its Affiliates' counsel, accountants, representatives, lenders, advisors or consultants, provided, in each case, the foregoing shall be advised of the confidential nature of this Agreement and the Party providing this Agreement shall be responsible for compliance by such parties.
- D. Force Majeure.** Either Party shall be excused from performing under this Agreement in the event and/or for so long as its performance is prevented or delayed, impeded, or hindered by an act of Force Majeure or any other cause, whether similar or dissimilar, not within the reasonable control of such Party. In addition to any act of Force Majeure, Legends may, in its sole discretion, temporarily suspend the Online Site to the extent that it determines necessary for any reason, including, without limitation, due to actual or anticipated maintenance and/or performance issues, unexpected emergencies, and/or security concerns, at no cost or liability to Legends.
- E. Notices.** All notices under this Agreement must be in writing and shall be duly given **(1)** on the date of delivery, if transmitted by a nationally recognized courier service (with proof of delivery) or **(2)** on the date of receipt, if mailed to the individual to whom notice is to be given by certified or registered mail, postage prepaid, return receipt requested, and properly addressed. For Legends, the individuals required to receive notices pursuant to this Section are set forth below. For Client, such individual and address are as set forth in the Application.

IF TO LEGENDS:

Dan Smith  
President  
Legends Hospitality, LLC  
61 Broadway, Suite 2400  
New York, NY 10006

WITH A COPY TO:

Legends Hospitality, LLC  
Attn: General Counsel  
61 Broadway, Suite 2400  
New York, NY 10006  
Email: [LegalNotices@legends.net](mailto:LegalNotices@legends.net)

- F. Relationship of the Parties.** The Parties acknowledge and agree that they are independent contractors. Nothing in this Agreement shall, nor shall any act of the Parties, be deemed or construed to create the relationship of principal/agent, partnership, and/or joint venture. Neither Party shall hold itself out to be anything other than an independent contractor, nor shall either Party incur or purport to incur liability on behalf of the other.
- G. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which, when taken together, shall constitute one and the same agreement.
- H. Waiver of Jury Rights.** Each Party irrevocably waives trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by any Party against the other.
- I. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of New York as to contracts entered into, and to be fully performed and satisfied in the State of New York, without regard to such state's position on conflict of laws.
- J. Entire Agreement and Amendments.** This Agreement supersedes and replaces all prior agreements and undertakings, written and oral, between the Parties with respect to the subject matter hereof and contains the entire agreement of the Parties with respect thereto. This Agreement shall not be modified, amended, or supplemented, except by an agreement in writing signed by both Parties. A waiver by either Party of a breach of any provision

hereof shall not be deemed a waiver of any subsequent breach or a permanent modification of such provision. All exhibits to this Agreement are incorporated by reference and are part of the Agreement.

- K. Consents and Good Faith Dealing.** The Parties covenant that each will deal with the other equitably and will take into account the reasonable commercial expectations of the other Party. When consent or approval is requested, the Party from whom approval is sought shall give full and fair consideration to the financial issues raised by the other Party and shall act in a fair, timely and non-capricious manner. Unless otherwise set forth herein, consents and approvals shall not be unreasonably withheld, delayed, or conditioned.
- L. Assignment.** This Agreement is not assignable by either Party without the prior written consent of the other Party. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. Notwithstanding the foregoing, Legends may assign this Agreement to a Legends Affiliate or a successor in interest so long as any such assignee is fully capable of performing all duties and obligations herein.
- M. Severability.** In the event any provision(s) in this Agreement is held invalid, illegal, or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of the remaining provisions, and the validity, legality and enforceability of such provision(s) in all jurisdictions, shall not in any way be affected or impaired thereby.
- N. Survival.** Any provision of this Agreement that contemplates performance or observance subsequent to termination or expiration of this Agreement will survive such termination or expiration and continue in full force and effect.

**EXHIBIT A**  
**DEFINITIONS**

“**Affiliate**” means any legal or natural person or entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, a person. For purposes of this definition, “control” when used with respect to any entity, means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Allotted Costs**” means costs attributable to the sale of the Merchandise Services in connection with this Agreement including but not limited to: (1) Sales Taxes, excise taxes, and business taxes; (2) credit/debit and gift card charges, bank fees, other processing fees, and charges and bank fees imposed by any bank or processor charged to, and actually paid by, Legends related to transactions; (3) shipping, freight, and merchandise transportation costs; (4) returns, rebates, awards, and refunds made to customers in connection with any permitted returns; and (6) any sales, discounts, and/or any other price reductions for the Merchandise.

“**Customer Data**” means the Online Store Data.

“**Effective Date**” means the date the Application was fully signed by both Legends and Client.

“**Embroidered Merchandise**” means Merchandise featuring embroidered Marks derived from the Embroidery File.

“**Embroidery File**” means all standards, specifications, designated artwork, files, language, logos, high-resolution images, and other materials (including Marks incorporated therein) provided by Client to Legends (or such third parties as directed by Legends), in writing, as required for the manufacture, production, and/or sourcing of Embroidered Merchandise.

“**Force Majeure**” means: (1) any act of God, fire, flood, earthquake or any other extreme weather occurrence or natural disaster; (2) riot, insurrection or civil commotion; (3) sabotage, vandalism or enemy, terrorist or hostile governmental action; (4) work stoppage; (5) pandemic, epidemic, or global contagion; (6) acts of the other Party or other causes outside the reasonable control of a Party; or (7) law, statute, ordinance, order, rule, regulation, or requirement of general applicability of any Governmental Authority, whether now or hereafter in force including rationing or restriction in respect of any construction work or the use of labor or materials.

“**Governmental Authorities**” means the federal and state authorities or any political subdivision, agency, department, legislative body, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over operations to be conducted by Legends hereunder.

“**Marks**” means Client’s name, logos, trademarks, copyrights, trade dress, artwork, and all other intellectual property relating thereto.

“**Member(s)**” means an individual that is a then-current member of Client’s golf club.

“**Merchandise**” means any apparel and products (e.g., t-shirts, polo shirts, hats, headwear, sweatshirts, jackets, beverage ware, adult and youth apparel, miscellaneous novelty items) featuring the Marks and approved by Client for sale by Legends through the Online Store, including, without limitation, Embroidered Merchandise, as well as certain apparel and products not featuring the Marks (e.g., select footwear and other products) and approved by Client for sale by Legends through the Online Store.

“**Online Store**” means a Client-branded e-commerce platform designed, developed, hosted, managed, supported, maintained, and operated by Legends that will process and fulfill Orders.

“**Online Store Data**” means customer records (excluding payment card information), Online Store performance data, clickstream data, traffic data, and any other data captured in the operation of the Online Store.

“**Order**” means a valid e-commerce order for Merchandise placed by a consumer on the Online Store.

“**Quarter**” means each successive three-month period of an Agreement Year (e.g., January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31).

“**Sales Tax**” means all taxes imposed by any Governmental Authority, which are, either: (1) measured by the retail sale, rental, furnishing or use of tangible personal property, or the retail sale, rental, furnishing or use of services; (2) payable by the purchaser, lessee, licensee or user of any tangible property or any services and are required to be collected by the vendor, lessor, licensor or furnisher of such tangible property or services; or (3) gross receipts or commercial rent tax.