



GPO Membership Agreement

MEMBER INFORMATION

Member Legal Name ("Member")

Address (street address)

City

Province / Territory

Postal Code

CONTACT INFORMATION

Primary Contact Name

Title

Phone #

Email

AGREEMENT

This Membership Agreement (the "Agreement") is effective as of the later of the dates noted below (the "Effective Date") and is between Kinetic GPO Inc., a Canadian corporation, ("Kinetic") and the Member identified above for the purposes of permitting Member to obtain products and services pursuant to Kinetic's Vendor Contracts. This Agreement expires on December 31 and thereafter, automatically renews for 12-month terms (the initial term and renewal terms are the "Term") unless either party notifies the other in advance of its intention not to renew. Member has the right to terminate this Agreement at any time by providing Kinetic with thirty (30) days advanced written notice. Please see the next page for further terms of the Agreement and definitions of terms used above.

IN WITNESS WHEREOF, each party hereto has duly executed this Agreement on the date noted below.

Signature of Kinetic Representative

Signature of Member Representative

Name and Title (please print)

Name and Title (please print)

Date

Date

AGREEMENT (continued from page 1)

Kinetic and Member agree as follows:

1. **APPOINTMENT.** Subject to the terms and conditions set forth in this Agreement, Member is hereby appointed a Member of Kinetic for the Term. Member shall be provided access to all member benefits offered by Kinetic as of the Effective Date and otherwise made available to Member during the Term, including without limitation, access to Vendor Contracts pursuant to which goods and services may be purchased by Member.
2. **NO SUBSCRIPTION FEES OR PURCHASE COMMITMENTS.** There are no membership fees payable by Member to access Member benefits throughout the Term. Member shall have no obligation to purchase any goods or services from Vendors unless otherwise agreed by Member in writing.
3. **COMPLIANCE WITH PROCUREMENT RULES.** Kinetic shall comply with the requirements of Chapter 5 of Canada's Free Trade Agreement (and, as applicable, any successor trade agreement) in its procurements however Kinetic does not warrant or represent that the specific rules applicable to Member or to Member's procurements have been, or will be, complied with. For greater certainty, compliance with the laws and other rules governing Member's procurement is Member's sole and exclusive responsibility.
4. **VENDOR CONTRACTS AVAILABLE 'AS IS'.** Kinetic makes Vendor Contracts available to Members on an "as is, where is" basis. While a Member may enter into negotiations with Vendors to establish Member-specific terms applicable to any part of a Vendor Contract, Kinetic assumes no responsibility to do so on any Member's behalf.
5. **MEMBER TO COMPLY WITH VENDOR CONTRACTS.** Member shall comply with the provisions of Vendor Contracts used by Member and indemnify, defend and hold harmless Kinetic for any claims against Kinetic, its directors, officers, employees and agents arising from Member's failure to do so.
6. **MEMBER-VENDOR DISPUTES.** Kinetic may, but shall have no obligation to, assist with the resolution of disputes between Member and Vendors.
7. **KINETIC NOT AN AUTHORIZED AGENT.** Kinetic is authorized to conduct solicitation processes and to negotiate Vendor Contracts in the ordinary course of its business but shall not represent itself or act as an agent of Member unless and until authorized to do so by Member in writing.
8. **CONFIDENTIALITY.** All Vendor Contracts, this Agreement, including the terms and conditions, any user access codes to electronic services and any information gathered by Member in connection with any audit of Kinetic, are confidential and proprietary information (collectively, "Confidential Information") of Kinetic and must not be disclosed to any third party without Kinetic's prior consent. Member may disclose Confidential Information as required by law or pursuant to a judicial or governmental order but any such disclosure shall be made only to the extent so ordered and only provided: (i) Member notifies Kinetic in advance of any disclosure so as to allow Kinetic to intervene in response to such order; or (ii) if such notice cannot be given, Member seeks to obtain a protective order from the court or government for such Confidential Information. All obligations of confidentiality shall survive the expiration or termination of this Agreement.
9. **RIGHT TO ACCESS DATA.** Kinetic reserves the right to collect and report on information relating to Member's use of any Vendor Contract. Upon Kinetic's request and within not more than two weeks following any request, Member shall disclose information relating to all purchases made pursuant to Vendor Contracts, including the total value of purchases made in any given month.
10. **TERMINATION.** Kinetic or Member shall have the right to terminate this Agreement by providing the other party with at least thirty (30) days advanced notice in writing. Following termination, Member can continue to purchase goods and services pursuant to existing Vendor Contracts that are in place between Member and Vendors however Member shall no longer have access to other Vendor Contracts or other Member benefits.
11. **LIMITATION OF LIABILITY.** In no event shall Kinetic be liable for any consequential, incidental, indirect, special, exemplary, or punitive damages incurred by Member, including but not limited to loss of good will, loss of data and lost profits or revenue, whether or not such loss or damage is based in contract, warranty, tort, negligence, strict liability or otherwise, even if Kinetic has been advised of the possibility of such damages.
12. **MEMBER RIGHT OF AUDIT.** Upon Member's written request, Member shall have a right to audit records relating to any procurement leading to an award of a Vendor Contract as necessary to confirm that the procurement process followed by Kinetic satisfied, or conformed with, the provisions of this Agreement and Member's procurement standards.
13. **GENERAL.** This Agreement: (i) authorizes Kinetic to contact Member's contact person identified on the first page by email for purposes of advertising new Vendor Contracts and other purposes related to the Kinetic membership; (ii) may be amended or modified only by a written instrument executed by authorized representatives of the parties hereto; (iii) states the entire agreement as between Kinetic and Member with respect to Member's membership rights and obligations (without regard to, or impact upon, any agreements between Kinetic and Vendors, or Member and Vendors); (iii) supersedes all prior negotiations, understandings and agreements, written or oral, regarding such subject matter; (iv) shall be governed and construed as to both substantive and procedural matters in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Any disputes arising in connection with this Agreement shall be settled by any competent court in the Province of Ontario.