

This Agreement, # COG-2120A, entered into as of the first of September in the year of 2021.

MASTER AGREEMENT

between

Cooperative Council of Governments

6001 Cochran Road, Suite 333
Cleveland, Ohio 44139

and

Freemotion Fitness, Inc.

1500 South 1000 West
Logan, Utah 84321

and

Equalis Group LLC

5550 Granite Parkway, Suite 298
Plano, Texas 75024

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THIS MASTER COOPERATIVE PURCHASING AGREEMENT (this "**Master Agreement**" or "**Agreement**"), effective as of September 1, 2021 (the "**Effective Date**"), is entered into by and between The Cooperative Council of Governments, Inc., an Ohio non-profit corporation organized as a regional council of governments under Chapter 167 of the Ohio Revised Code, with its principal place of business at 6001 Cochran Road, Suite 333, Cleveland, Ohio 44139 ("**CCOG**"), Freemotion Fitness, Inc., a Utah corporation with its principal place of business at 1500 South 1000 West, Logan, Utah 84321 ("**Freemotion**"), and Equalis Group LLC, a Delaware limited liability company with its principal place of business at 5550 Granite Parkway, Suite 298, Plano, Texas 75024 ("**Equalis**"). Throughout this Master Agreement, CCOG, Freemotion, and Equalis are referred to interchangeably as in the singular "**Party**" or in the plural "**Parties**."

SECTION 1. RECITALS

A. CCOG is a Council of Governments formed under Chapter 167 of the Ohio Revised Code and established for the purpose of (a) developing and implementing certain sound business practices and processes as shared services to be made available to its members, and (b) serving as a lead public agency (a "**Lead Public Agency**") for Equalis Group ("**Equalis Group**"), a national cooperative purchasing organization, by publicly procuring Master Agreements for products and services to be made available to current and prospective Equalis Group members ("**Equalis Group Member**" or "**Member**").

B. Equalis is the third-party procurement administrator for and duly authorized agent of CCOG, and in that role manages the procurement, marketing, sales, reporting, and financial activities of, for, and on behalf of CCOG at the direction and with the authorization of the CCOG Board of Directors.

C. To the extent that the laws of a state, region, territory, and/or country permit, any public sector entity may join Equalis Group as a Member. The term "**Public Sector Entities**" includes, but is not limited to, political subdivisions, municipal corporations, counties, townships, villages, school districts, special districts, public institutions of higher education or training, units of government, state/regional/territorial agencies, state/regional/territorial governments, federal/national agencies, federal/national governments, and other entities receiving financial support from tax monies and/or public funds.

D. Any organization that is exempt from federal income tax under **Section 501(c)(3)** of the IRS Code, and any other entity if permitted under the IRS Code and other applicable law, including for-profit companies, may also join Equalis Group as a Member.

E. Equalis Group makes its Master Agreements available through groups and associations ("**Association Partners**") that contract with Equalis for the purpose of providing additional benefits to the members of such Association Partners.

F. Members, Association Partners, and Association Partners' members are referred to throughout this Master Agreement as Equalis Group participants ("**Equalis Group Participants**").

G. CCOG issued request for proposal ("**RFP**") #COG-2120 dated May 21, 2021 for contracting on behalf of Equalis Group Participants for fitness, exercise, and strength training equipment ("**Products & Services**") and awarded a contract to Freemotion as the lowest responsive and responsible bidder.

H. Freemotion desires to promote and expand its operations and increase the sales of its Products & Services to public sector, private sector, and non-profit organizations through Equalis Group.

I. CCOG and Equalis agree to make the Products & Services from Freemotion available to Equalis Group Participants and Freemotion agrees to provide the same to Equalis Group Participants who purchase Products & Services ("**Program Participants**") subject to the terms of this Master Agreement, #COG-2120A.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following terms and conditions:

SECTION 2. BUSINESS TERMS

2.1. Appendices. Freemotion agrees to provide Products & Services to Program Participants as may be agreed to by the Parties in accordance with the specific terms and conditions set forth in this Master Agreement and the appendices attached hereto and made a part of this Master Agreement (if one, an “**Appendix**” or more, “**Appendices**”).

- (i) **Appendix A** defines the Term of this Master Agreement and Addresses for Notices.
- (ii) **Appendix B** sets forth the Products & Services and pricing available to Program Participants under this Master Agreement.

2.2. Terms in Appendices. In all cases where the terms of this Master Agreement and any Appendices disagree, the terms in the Appendix shall control.

2.3. Personnel & Equipment. The Parties agree that the number and types of any subcontractors, dealers, distributors, personnel, or specialized equipment which may be required to furnish Products & Services to Program Participants will be determined by Freemotion. Freemotion agrees to engage the number and types of subcontractors, personnel, and/or specialized equipment necessary to furnish the types of Products & Services as specified in **Appendix B** to all Program Participants throughout the Term, as defined in **Appendix A**, of this Master Agreement and any Customer Agreement.

2.4. Rates & Charges. The rates, fees, and charges to be charged to and paid by Program Participants for Products & Services are set forth in **Appendix B**. Freemotion agrees that there are no other applicable rates, fees, charges, or other monetary incentives for Products & Services except those set forth in **Appendix B**.

SECTION 3. TERMS & CONDITIONS

3.1. Confidentiality.

(a) **Obligation.** The nature and details of the business relationship established by this Master Agreement, and the business information regarding the other Party(ies) (the “**Disclosing Party**”) to which a Party(ies) (the “**Receiving Party**”) may become privy during the Term of this Master Agreement (collectively, the “**Information**”) constitute confidential and proprietary information, the disclosure, copying, or distribution of which could result in competitive harm to the Disclosing Party. Each Party agrees to maintain the other Parties’ Information in the strictest confidence and agrees not to disclose, copy, or distribute the other Parties’ Information, whether orally or in writing, directly or indirectly, in whole or in part, except to those of the Receiving Party’s employees, agents, subcontractors, and suppliers with a need to know the Information in order to perform their respective obligations under this Master Agreement. The foregoing will not limit a Receiving Party, for purposes of marketing, from informing actual or potential Equalis Group Participants of the existence of a contractual relationship between the Parties. The Parties further agree that they will require that all of their employees, agents, subcontractors, and suppliers who have a need to know such Information in order to perform their respective obligations with respect to this Master Agreement abide by the terms of these confidentiality obligations. The Parties shall be responsible for any breach of this **Section 3.1** by any of their respective employees, agents, subcontractors and suppliers. The confidentiality obligations set forth in this section will continue in effect for the Term of this Master Agreement and for a period of two (2) years after the date this Master Agreement is terminated or expires; provided that with respect to Information that constitutes a trade secret under applicable law, such rights and obligations will survive such expiration until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of Recipient or its Representatives.

(b) **Exceptions.** Nothing herein will apply to any information (a) which is or becomes generally available to the public other than as a result of a disclosure by a Receiving Party or its representatives, (b) which was available on a non-confidential basis prior to its disclosure by the Disclosing Party or its representatives, (c) which becomes available to a Receiving Party on a non-confidential basis from a source other than the Disclosing Party or its representatives, provided that such source is not known to be subject to any prohibition against transmitting the information, (d) which is disclosed pursuant to an order of court; provided that in the event that proprietary information is disclosed or threatened to be disclosed pursuant to this clause (d), the Receiving Party will give the original Disclosing Party prompt, written Notice, as hereinafter defined, of such threatened disclosure and the right to defend against such disclosure, at Disclosing Party's expense, and provided further that the original Receiving Party will cooperate reasonably in such defense, or (e) which is subject to a Freedom of Information Act Request or other public records request to which a Party is, or may be, required to respond by applicable law.

3.2. Indemnification.

(a) **Freemotion Indemnification.** Except as otherwise provided herein and to the extent permitted by law, Freemotion shall indemnify, defend, and hold harmless ("**Indemnifying Party**") CCOG and Equalis, and their respective officers, directors, employees, agents, subcontractors, suppliers, and all Equalis Group Participants subject to this Master Agreement (the "**Indemnified Party**") from and against any and all liabilities, damages, fines, penalties, costs, claims, interest, and expenses (including costs of defense, settlement, and reasonable attorneys' fees), including any claim arising from environmental health and safety laws or regulations, which are generated by third-party claims, allegations, actions, causes of action, demands, assertions, adjudications, or suits which arise out of damage to or destruction of any property, or bodily injury (including death) suffered by any person including the Indemnified Party arising out of or relating to this Master Agreement ("**Losses**") to the extent they are caused by gross negligence, willful misconduct, noncompliance with applicable laws, or strict products liability of the Indemnifying Party or its employees, agents, subcontractors, and suppliers. With respect to Losses under this Master Agreement, the liability of the Indemnified Party is limited to the extent of such Indemnifying Party's gross negligence, willful misconduct, willful noncompliance with applicable laws, or strict products liability.

(b) **CCOG Indemnification.** Except as otherwise provided herein and to the extent permitted by law, CCOG shall indemnify, defend, and hold harmless ("**Indemnifying Party**") Freemotion, its officers, directors, employees, agents, subcontractors, and suppliers subject to this Master Agreement (the "**Indemnified Party**") from and against any and all liabilities, damages, fines, penalties, costs, claims, interest, and expenses (including costs of defense, settlement, and reasonable attorneys' fees), including any claim arising from environmental health and safety laws or regulations, which are generated by third-party claims, allegations, actions, causes of action, demands, assertions, adjudications, or suits which arise out of damage to or destruction of any property, or bodily injury (including death) suffered by any person including the Indemnified Party arising out of or relating to this Master Agreement ("**Losses**") to the extent they are caused by gross negligence, willful misconduct, or noncompliance with applicable laws of the Indemnifying Party or its employees, agents, subcontractors, and suppliers. With respect to Losses under this Master Agreement, the liability of the Indemnified Party is limited to the extent of such Indemnifying Party's gross negligence, willful misconduct, or willful noncompliance with applicable laws.

(c) **Equalis Indemnification.** Except as otherwise provided herein and to the extent permitted by law, Equalis shall indemnify, defend, and hold harmless ("**Indemnifying Party**") Freemotion, its officers, directors, employees, agents, subcontractors, and suppliers subject to this Master Agreement (the "**Indemnified Party**") from and against any and all liabilities, damages, fines, penalties, costs, claims, interest, and expenses (including costs of defense, settlement and reasonable attorneys' fees), including any claim arising from environmental health and safety laws or regulations, which are generated by third-party claims, allegations, actions, causes of action, demands, assertions, adjudications, or suits which arise out of damage to or destruction of any property, or bodily injury (including death) suffered by any person including the Indemnified Party arising out of or relating to this Master Agreement ("**Losses**") to the extent they are caused by gross negligence, willful misconduct, or noncompliance with applicable laws of the Indemnifying Party or its employees, agents, subcontractors, and suppliers. With respect to Losses under this Master Agreement, the liability of the Indemnified Party is limited to the extent of such Indemnifying Party's gross negligence, willful misconduct, or willful noncompliance with applicable laws.

3.3. Notice & Opportunity to Defend; Limitations & Thresholds.

(a) **Notice; Opportunity.** If any Losses are asserted against an Indemnified Party, such Indemnified Party shall notify the Indemnifying Party as promptly as practicable and give it an opportunity to defend the same. The Indemnified Party shall reasonably cooperate with the Indemnifying Party in connection with such defense. In the event that the Indemnifying Party in connection with such claim fails to defend against the claim within thirty (30) days after Notice of such claim, the Indemnified Party shall be entitled to assume the defense thereof, and the Indemnifying Party shall be liable to repay the Indemnified Party entitled to indemnification for all its expenses reasonably incurred in connection with said defense (including reasonable attorneys' fees and settlement payments) until the Indemnifying Party assumes such defense. The attorneys prosecuting such defense on behalf of a Party must be acceptable to the Indemnified Party, which acceptance shall not be unreasonably withheld.

(b) **Liability.** Notwithstanding any other provision of this Master Agreement, indemnity obligations entered into hereunder shall be due only to the extent of the Losses actually suffered by an Indemnified Party (i.e., reduced by any offsetting or related asset or service received and any recovery from any third Party). The Indemnifying Party's insurance shall obtain all rights of the Indemnified Party against any third party with respect to any claim for which indemnity was paid.

(c) EXCEPT FOR LIABILITY FOR INDEMNIFICATION UNDER **SECTION 3.2(A)** OF THIS MASTER AGREEMENT, IN NO EVENT: (I) IS FREEMOTION LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF OR RELATING TO THIS MASTER AGREEMENT, REGARDLESS OF: WHETHER THE DAMAGES WERE FORESEEABLE; WHETHER OR NOT FREEMOTION WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES; AND THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) ON WHICH THE CLAIM IS BASED; AND (II) SHALL FREEMOTION'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS MASTER AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID AND AMOUNTS ACCRUED BUT NOT YET PAID TO FREEMOTION SELLER UNDER THIS MASTER AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF CCOG'S OR EQUALIS' REMEDIES UNDER THIS MASTER AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

(d) EXCEPT FOR THE WARRANTIES SET OUT UNDER FREEMOTION'S RFP RESPONSE AT SECTION 3.7 ("**WARRANTY**") OF ATTACHMENT A (ATTACHMENT A – PROPOSALS REQUIREMENTS & TECHNICAL SPECIFICATIONS) THEREOF, NEITHER FREEMOTION NOR ANY PERSON OR PARTY ON THE WINNING PARTY'S BEHALF HAS MADE OR MAKES FOR CCOG'S OR EQUALIS' BENEFIT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF: (I) MERCHANTABILITY, (II) FITNESS FOR A PARTICULAR PURPOSE, (III) TITLE OR (IV) NON-INFRINGEMENT; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. CCOG AND EQUALIS ACKNOWLEDGE THAT THEY HAVE NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY FREEMOTION, OR ANY OTHER PERSON OR PARTY ON THE WINNING PARTY'S BEHALF. Freemotion shall have no obligation under the Warranty set forth above if CCOG, Equalis, the relevant Program Participant(s) or the relevant Program Participant(s)' subject employee or contractor who is authorized to use the Products & Services (as the case may be): (i) fails to notify Freemotion in writing during the warranty period of a non-conformity; (ii) or uses, misuses, or neglects the Products & Services in a manner inconsistent with the Products & Services' specifications or use or maintenance directions, modifies the Products & Services or improperly installs, handles or maintains the Products & Services.

3.4. Freemotion Insurance. During the Term of this Master Agreement, and for two (2) years following expiration or termination of this Master Agreement, Freemotion, at its own expense, shall maintain and shall require that its agents, subcontractors, and suppliers engaged in Freemotion's performance of its duties under this Master Agreement maintain general liability insurance, property insurance, and automobile insurance (at a minimum, in the amount of \$1,000,000 per occurrence/\$5,000,000 annual aggregate) applicable to any claims, liabilities, damages, costs, or

expenses arising out of its performance under this Master Agreement, or any Appendix, and with respect to, or arising out of, Freemotion's provision of Products & Services to Program Participants. CCOG, Equalis, and their respective officers, directors, employees, and agents will be named as additional insureds on Freemotion's related insurance policies. All such insurance policies shall incorporate a provision requiring the giving of written Notice to CCOG and Equalis at least thirty (30) days prior to the cancellation, nonrenewal, and/or material modification of any such policies. Freemotion shall submit to Equalis within ten (10) calendar days after the Effective Date of this Master Agreement, and prior to furnishing Products & Services to any Program Participants, valid certificates evidencing the effectiveness of the foregoing insurance policies. Freemotion shall provide such valid certificates on an annual basis until the terms of this section are no longer applicable.

3.5. Termination Rights. The Parties shall have the termination rights set forth below.

(a) **Insolvency.** If a petition in bankruptcy is filed by any Party, or if any Party is adjudicated as bankrupt, or if any Party makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the insolvency of any Party, then the other Parties, without prejudice to any other right or remedy, may terminate this Master Agreement upon giving at least five (5) business days prior written Notice of such termination.

(b) **Mutual Consent.** This Master Agreement, or any Appendix, may be terminated at any time by the mutual written consent of the Parties.

(c) **Breach.** In the event that any Party commits a material breach of its obligations under this Master Agreement, except for a payment obligation, the non-breaching Party(ies) may provide written Notice describing the material breach to the breaching Party. The breaching Party will have thirty (30) calendar days to cure such breach or provide acceptable reassurance to the non-breaching Party(ies), or, if the Parties agree that a cure or reassurance is not feasible within thirty calendar (30) days, such period of time for cure or satisfactory reassurance as the Parties may agree in writing. If the breach is not cured within such period or if satisfactory reassurance is not accepted by the non-breaching Party(ies) in such period, then the Party(ies) not in breach may terminate this Master Agreement upon ten (10) business days written Notice at the Addresses for Notices set forth in **Appendix A.**

3.6. Effects of Termination. Upon expiration or earlier termination of this Agreement for any reason, all Customer Agreements entered into with Program Participants shall immediately terminate and all ordering documents for Products & Services under such Customer Agreement shall automatically terminate. Freemotion shall immediately cease any sales of Products & Services to any Program Participant under and through the terms of this Master Agreement. Following the date of termination, Freemotion shall not be precluded from selling its products and services to individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect either directly or through some other contract vehicle. Following the date of termination, and subject to the confidentiality obligations set forth in Section 3.1, CCOG and Equalis shall not be precluded from transitioning individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect to another agreement or Equalis Group supplier partner. Upon the expiration or earlier termination of this Agreement for any reason, (a) CCOG and Equalis shall cease to represent itself as authorized to make the Products & Services from Freemotion available to Equalis Group Participants, and shall otherwise desist from all conduct or representations that might lead the public to believe that CCOG and Equalis are authorized by Freemotion to make the Products & Services from Freemotion available; and (b) CCOG and Equalis shall promptly return or destroy (pursuant to Freemotion's instructions) all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on Information of Freemotion.

3.7. Audit of Freemotion. CCOG and Equalis, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data of Freemotion solely with respect to Freemotion's provision of Products & Services to Program Participants pursuant to this Master Agreement, to ensure that pricing, inventory, quality, process, and business controls are maintained, unless such information is already available to CCOG and Equalis; provided, however, that (a) such inspections and audits will be (i) conducted upon reasonable notice to Freemotion and so as not to unreasonably interfere with Freemotion's business or operations, (ii) restricted to a reasonable scope and duration as agreed by the Parties prior to the start date, (iii)

conducted no more than twice each year of the Term and (iv) conducted at the sole costs and expense of CCOG and/or Equalis; (b) CCOG, Equalis and their respective auditors and accounting firms comply with Freemotion's security requirements; and (c) all information that is the subject of said inspections and audits, including books, records and computer data, and any and all results of said inspections and audits shall (i) be deemed and treated by CCOG, Equalis and their respective auditors and accounting firms as Information of Freemotion that is confidential and proprietary under Section 3.1(a) and (ii) constitute Freemotion's trade secrets under applicable law.

3.8. Force Majeure. This Master Agreement will be temporarily suspended during any period to the extent that any Party during that period is unable to carry out its obligations under this Master Agreement or the Appendices by reason of an Act of God or the public enemy, act of terrorism, epidemic or pandemic, fire, flood, labor disorder not caused by Freemotion, civil commotion, closing of the public highways not caused by Freemotion, government interference, government regulations, or any other event or occurrence beyond the reasonable control of the affected Party ("**Event of Force Majeure**"). No Party will have any liability to the other Party(ies) for a delay in performance nor failure to perform to the extent this Master Agreement or any Appendix is so temporarily suspended; provided that nothing contained herein shall apply to payment obligations with respect to obligations which have already been performed under this Master Agreement. If the provision of Products & Services are impeded due to an Event of Force Majeure, then Freemotion may apportion the provision of Products & Services among its present and future customers on a fair and reasonable basis after consulting with Equalis and the Program Participants potentially affected and in a manner that would not reasonably be expected to disproportionately affect Program Participants.

3.9. Buy American requirement. (for New Jersey and all other applicable States) Freemotion may only use unmanufactured construction material mined or produced in the United States, as required by the Buy American Act. Where trade agreements apply, to the extent permitted by applicable law, then unmanufactured construction material mined or produced in a designated country may also be used. Vendors are required to check state specific requirements to ensure compliance with this requirement.

3.10. Notices. All notices, claims, certificates, requests, demands, and other communications required or permitted hereunder ("**Notice**") must be in writing and will be deemed given to the Addresses for Notices (a) when delivered personally to the recipient, (b) upon delivery by reputable overnight courier service (charges prepaid), or (c) upon delivery or refusal of delivery by certified or registered mail, return receipt requested, and addressed to the intended recipient. The Parties agree that the day-to-day business communications, including notification of a change of address, pricing updates, or revisions to any Appendix, may be made via electronic communication.

3.11. Waiver. Other than the rights and obligations with respect to payment provided by this Master Agreement, waiver by any Party(ies) of or the failure of any Party(ies) hereto to enforce at any time its rights with regard to any breach or failure to comply with any provision of this Master Agreement by the other Party(ies) may not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other future breach of or failure to comply with the same provision or any other provision of this Master Agreement.

3.12. Governing Law; Invalidity. This Master Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Ohio without regard to rules of conflict of laws. If any provision of this Master Agreement is declared unlawful or unenforceable by judicial determination or performance, then the remainder of this Master Agreement shall continue in force as if the invalidated provision did not exist. Any suits filed by any Party pursuant to this Master Agreement shall be brought in a court of competent jurisdiction located in Cuyahoga County, Ohio. In the event any Party initiates a suit and that suit is adjudicated by a court of competent jurisdiction, the prevailing Party shall be entitled to reasonable attorney's fees and costs from the non-prevailing Party in addition to any other relief to which the court determines the prevailing Party is entitled or awarded.

3.13. Modification. No release, discharge, abandonment, waiver, alteration, or modification of any of the provisions of this Master Agreement, or any of the Appendices incorporated herein, shall be binding upon any Party unless set forth in a writing signed by authorized representatives of the Parties.

3.14. Assignment. This Master Agreement and the rights and obligations hereunder may not be assignable by any Party hereto without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned, or delayed, provided, however, that Freemotion and Equalis may assign their respective rights and obligations under this Master Agreement without the consent of the other Parties in the event either Freemotion or Equalis shall hereafter effect a corporate reorganization, consolidation, merger, merge into, sale to, or a transfer of all or substantially all of its properties or assets to another entity. Subject to the preceding sentence, this Master Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Any instrument purporting to make an assignment in violation of this section shall be null and void. This Master Agreement may be extended to additional entities affiliated with the Parties upon the mutual agreement of the Parties. No such extension will relieve the extending Party of its rights and obligations under this Master Agreement.

3.15. No Third-Party Beneficiaries; Survival of Representations. This Master Agreement is made solely for the benefit of the Parties to it, and no other persons will acquire or have any right under or by virtue of this Master Agreement. Except as otherwise provided herein, all representations, warranties, covenants, and agreements of the Parties shall remain in full force and effect regardless of any termination of this Master Agreement, in whole or in part.

3.16. Entire Agreement. This Master Agreement, together with all attachments, appendices, and exhibits hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written representations and agreements with regard to the same subject matter. In connection with entering into this Master Agreement, CCOG and Equalis specifically disclaim reliance on any and all oral or written representations, statements, warranties or covenants that are not contained in this Agreement. The Parties acknowledge that this Master Agreement has been negotiated and incorporates their collective agreement as to the provisions to be contained herein. Therefore, no presumption will arise giving benefit of interpretation by virtue of authorship of any provision of this Master Agreement, and any ambiguity may not be construed for or against any Party. Freemotion's complete and final RFP response is hereby incorporated into and made part of this Master Agreement. The Parties acknowledge that the relationship created under this Master Agreement is non-exclusive and (i) Freemotion may in its sole discretion sell its Products & Services, as defined in **Appendix B of the Master Agreement**, to any other person or party, including distributors, retailers and customers; and (ii) Equalis, in partnership with a public agency may in its sole discretion develop request for proposals and enter into Master and Administration Agreements with any other party, including organizations offering similar Products & Services, provided, however, that, and for clarification and without limiting the generality of **Section 3.1(a) of this Master Agreement**, no information of Freemotion that is confidential and proprietary under **Section 3.1(a) of this Master Agreement**, including (without limitation) information that constitutes Freemotion's trade secrets under applicable law, shall be disclosed to any such other party.

3.17. Execution in Counterparts. This Master Agreement may be executed in one or more counterparts, each of which will be deemed an original. For purposes of this Master Agreement, a facsimile, scanned, or electronic signature will be deemed an original signature.

3.18. Titles, Headings & Recitals. The Preamble to this Master Agreement is hereby incorporated herein and made part of this Master Agreement. The Recitals stated within this Master Agreement are deemed to be a part of this Master Agreement. The titles and headings of the sections and paragraphs of this Master Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Master Agreement.

3.19. Nondiscrimination & Intimidation.

(a) Freemotion expressly agrees that in the hiring of employees for the performance of work or services under this Master Agreement or any subcontract that takes place in the State of Ohio, Freemotion, its subcontractors, or any person acting on a Freemotion's or its subcontractor's behalf shall not discriminate in the hiring of employees by reason of race, creed, sex, disability as defined in **Section 4112.01** of the Ohio Revised Code nor shall it discriminate against any citizen of the State of Ohio in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.

(b) Freemotion expressly agrees that Freemotion, any of its subcontractors, or any person on behalf of Freemotion or its subcontractors in any manner shall not discriminate against or intimidate any employee hired for the performance of work or services under this Master Agreement on account of race, creed, sex, disability as defined in **Section 4112.01** of the Ohio Revised Code, or color.

(c) Freemotion expressly agrees to include principally similar provisions of this section in each of its written subcontractor agreements for the Products & Services subject to this Master Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Master Agreement to be executed by their duly authorized representatives as of the Effective Date.

THE COOPERATIVE COUNCIL OF GOVERNMENTS, INC.

By: *Scott A. Morgan*
Scott A. Morgan (Oct 11, 2021 08:15 EDT)

Name: Scott A. Morgan

As: CCOG Board President

Date: Oct 11, 2021

FREEMOTION FITNESS, INC.

By: *Chris McGill*
Chris McGill (Oct 12, 2021 08:55 MDT)

Name: Chris McGill

As: SVP Global Sales

Date: Oct 12, 2021

EQUALIS GROUP, LLC.

By: *Eric Merkle*

Name: Eric Merkle

As: SVP, Sourcing & Operations

Date: Oct 11, 2021

APPENDIX A: TERM OF AGREEMENT; NOTICES

This Appendix may be modified at any time with the mutual written consent of the Parties.

1. The Term.

This Master Agreement and the Appendices attached hereto will become effective as of the Effective Date. This Master Agreement will remain in effect for approximately five (5) years and expire on August 31, 2026 (the "**Termination Date**") unless extended or unless otherwise terminated or cancelled as set forth in the Master Agreement (the "**Initial Term**"). This Master Agreement may be renewed at any time by the mutual written consent of the Parties (each a "**Renewal Term**") unless this Master Agreement is terminated as set forth herein. The Initial Term together with all Renewal Terms exercised are hereinafter collectively referred to as the "**Term.**"

2. Addresses for Notices.

a. If to CCOG:

The Cooperative Council of Governments, Inc.
Attn: Board President
6001 Cochran Road, Suite 333
Cleveland, Ohio 44139
Facsimile: 440.337.0002

b. If to FREEMOTION:

Freemotion Fitness, Inc.
1500 South 1000 West
Logan, Utah 84321

and with copy to:

Freemotion Fitness, Inc.
Attn: Legal Department
1500 South 1000 West
Logan, UT 84321

c. If to EQUALIS:

Equalis Group, LLC.
Attn: Eric Merkle, SVP
5550 Granite Parkway, Suite 298
Plano, Texas 75024

APPENDIX B: PRODUCTS & SERVICES; PRICING

The following terms and conditions will apply to any purchase or utilization of the Products & Services from Freemotion. This Appendix may be modified at any time with the mutual written consent of Freemotion and Equalis.

1. Products & Services

Freemotion offers a wide array of fitness, exercise, strength training equipment and services including, but not limited to, the following:

- (a) **Cardio machines**. Incline trainers, treadmills, ellipticals, stationary bikes, and indoor bikes.
- (b) **Strength machines**. Cable based machines, free weights, racks and rigs.
- (c) **Services**. Equipment layout and full CAD design layout, consultations, installation and shipping, inspection and trade-in, service and preventative maintenance and staff education as well as in-service training education that provides educational fitness continuing education credits.

The definition of Products & Services may be amended from time to time upon the mutual written agreement of Freemotion and Equalis.

Freemotion may add or make changes to Products & Services or remove Products & Services subject to Equalis Group's approval, that are the subject of this Master Agreement on notice to CCOG and Equalis, in each case, without obligation to modify or change any Products & Services previously delivered or to supply new Products & Services meeting earlier specifications.

2. Pricing for Products & Services

Pricing for Products & Services is made available in **Exhibit A – Contract Pricing**.

3. Price Adjustments

Should it become necessary or proper during the Term of this Agreement to make any change in design or any alterations that will increase expense, Equalis Group must be notified immediately. Price increases must be approved by CCOG, which approval shall not be unreasonably withheld or delayed, and no payment for additional materials or services, beyond the amount stipulated in the Agreement, shall be paid without prior approval. All price increases must be supported by a formal cost justification letter.

Freemotion must honor previous prices for thirty (30) days after approval and written notification from Equalis Group if requested.

It is Freemotion's responsibility to keep all pricing up to date and on file with Equalis Group. All price changes must be provided to Equalis Group, using the same format as was accepted in the original contract.











Agreement - Freemotion and CCOG (Master) - 2021.09.01

Final Audit Report

2021-10-12

Created:	2021-10-06
By:	David Robbins (drobbins@equalisgroup.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAi8ejWy1TdaMLSSoryODhrv1NRLIAs6Fr

"Agreement - Freemotion and CCOG (Master) - 2021.09.01" History

-  Document created by David Robbins (drobbins@equalisgroup.org)
2021-10-06 - 5:55:14 PM GMT- IP address: 23.126.70.39
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2021-10-06 - 5:56:36 PM GMT
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2021-10-11 - 12:15:07 PM GMT- IP address: 66.213.22.193
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Signature Date: 2021-10-11 - 12:15:42 PM GMT - Time Source: server- IP address: 66.213.22.193
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Signature Date: 2021-10-11 - 12:16:12 PM GMT - Time Source: server- IP address: 74.135.119.85
-  Document emailed to Chris McGill (chris.mcgill@freemotionfitness.com) for signature
2021-10-11 - 12:16:14 PM GMT
-  Email viewed by Chris McGill (chris.mcgill@freemotionfitness.com)
2021-10-11 - 12:16:19 PM GMT- IP address: 74.125.212.95
-  Email viewed by Chris McGill (chris.mcgill@freemotionfitness.com)
2021-10-12 - 2:52:08 PM GMT- IP address: 66.249.84.203

 Document e-signed by Chris McGill (chris.mcgill@freemotionfitness.com)

Signature Date: 2021-10-12 - 2:55:38 PM GMT - Time Source: server- IP address: 174.247.112.30

 Agreement completed.

2021-10-12 - 2:55:38 PM GMT