



TERMS AND CONDITIONS

JURISDICTION

SHAPE America is a 501(c)(3) non-profit corporation incorporated in the District of Columbia. SHAPE America requires contracts to be governed by the laws of the Commonwealth of Virginia. Any proceedings brought pursuant to an agreement must be brought in the Commonwealth of Virginia, in the state or federal court with jurisdiction over SHAPE America, and in no other place. This agreement shall be construed and enforced in accord with Virginia laws.

INTELLECTUAL PROPERTY

Advertiser/Sponsor has the right to use SHAPE America's name and logo on ads or other materials related to the sponsored event(s)/activity(ies), and can showcase this relationship in all its consumer efforts, provided the use of such logos does not state or imply an endorsement of any product or service. Use of name and logo in all such materials are subject to SHAPE America's prior written approval. SHAPE America will provide official logos with color breaks.

SHAPE America has the right to use the Advertiser/Sponsor's name and logo on ads or other materials related to the associated event(s)/activity(ies), and can showcase this relationship in all its consumer efforts, provided the use of such logos does not state or imply an endorsement of any product or service. Use of name and logo in all such materials are subject to the Advertiser/Sponsor's prior written approval. Sponsor will provide official logos with color breaks.

FINANCIAL TERMS

The fees associated with an agreement shall be due within thirty (30) days of execution of the agreement or upon receipt of invoice from SHAPE America.

TERM AND DURATION

The Agreement shall commence on the Effective Date and shall remain in effect until the Termination Date unless earlier terminated in accordance with the Agreement.

TERMINATION

The agreement shall be subject to termination upon the occurrence of the following events: If either party hereto defaults on any of its material obligations, representations or warranties under this agreement, the non-defaulting party shall notify the other party in writing, specifying in sufficient details the nature and extent of such breach and, unless within thirty (30) calendar days after written notice of such default the defaulting party remedies the default, the Agreement will terminate. If (a) either party files a petition for bankruptcy or is adjudicated a bankrupt; (b) a petition in bankruptcy is filed against either party; (c) either party becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement for its creditors pursuant to any bankruptcy law; (d) either party discontinues its business, then the other party shall have the right to terminate the Agreement immediately upon written notice.

INDEMNITY

While executing the agreement each party hereby agrees to defend, indemnify and save harmless the other party from and against any and all actions claims and demands whatsoever, including costs, expenses and reasonable attorney's fees, related to resulting from or claimed to have resulted from any acts or omissions of the indemnifying party, its employees or agents while executing the Agreement.

INDEPENDENT CONTRACTOR

None of the provisions of the Agreement are intended to create, nor shall any provision in the Agreement be deemed or construed to create, any relationship between the said entities other than that of independent entities contracting with each other under the Agreement solely for the purpose of effecting the provisions of the Agreement. Neither of the parties, nor any of their employees, shall be construed to be the agent, the employer or the representative of the other.

WAIVER

The failure of either party to enforce at any time any provisions hereof shall not be construed to be a waiver of such provisions or of the right of such party thereafter to enforce any such provisions.

ASSIGNMENT

Neither party shall assign, or transfer any rights or obligations, under the Agreement either in whole or in part, without the prior written consent of the other party.

FORCE MAJEURE

Neither party shall be liable for any loss or damage sustained by the other party because of any delay in performance or noncompliance with any provision of the Agreement that results from an act, event, omission, or cause beyond its reasonable control and without its fault or negligence, including but not limited to failure of suppliers, shortage of raw materials, or other industrial disturbances, civil commotion, riots, war, fires, explosions, floods, earthquakes, volcanic eruptions, or acts of civil or military authority.

CONFIDENTIALITY OF TERMS

Each party will maintain in strict confidence, and shall not disclose, divulge or otherwise communicate any confidential information of either entity, including the terms of the Agreement, and specially to its compensatory pricing and financial terms. The parties hereby agree to exercise reasonable precautions to prevent and restrain the unauthorized disclosure of such confidential information by any of its directors, officers, employees, consultants, advisors or agents.



ADVERTISING POLICIES

ACCEPTANCE OF ADVERTISING

- Acceptance of all advertising is subject to review and approval by SHAPE America.
- No advertising shall be permitted that may injure the good name or reputation of SHAPE America.
- SHAPE America prohibits discrimination on the basis of race, religion, creed, sex, age, marital status, sexual orientation, national origin, disability, or veteran status in the treatment of participants in, access to, or content of its programs and activities.
- Advertising will not be accepted if it promotes any of the following: alcohol, firearms, ammunition, fireworks, gambling, pornography, tobacco, vaping products, marijuana, opioids, partisan causes or the simulation of news or is directed at children.
- Promotion of products, meetings, and services that compete directly with those offered by SHAPE America is generally prohibited.
- Membership solicitation by organizations other than SHAPE America is prohibited. Fundraising by organizations or individuals other than SHAPE America is strictly prohibited.
- The following online advertising formats are prohibited:
 - Pop-ups and floating advertisements.
 - Advertisements that collect personally identifiable information from visitors without their knowledge or permission.
 - Advertisements that extend across or down the page without the visitor having clicked or rolled over the ad.
 - Advertisements that send visitors to another site without the visitor having clicked the ad.
- The use of the SHAPE America and health. moves. minds. names, seals and/or logos are prohibited without SHAPE America's prior written approval.
- Advertisements may not imply endorsement by SHAPE America, its publications or websites except as may be provided for under a separate agreement, in which as advertising must be pre-approved to ensure adherence to the letter and spirit of that separate agreement.

- SHAPE America strictly prohibits false, deceptive, misleading and unfair methods of competitive advertising. Any advertising that casts a negative light on its competitors is not acceptable; therefore, SHAPE America has the right to reject any advertising copy that does so.
- SHAPE America reserves the right, at its absolute discretion and at any time before publication, to reject any advertising copy, whether or not the same has already been acknowledged and/or previously published. The rejection of copy by SHAPE America, for any reason whatsoever, shall not be considered a breach of contract, but shall require Advertiser and/or Agency to supply new copy acceptable to SHAPE America.
- Advertisements that simulate editorial content must be clearly labeled "ADVERTISEMENT" and SHAPE America may, in its sole discretion, so label such copy. Such advertisements must appear in a different typeface than that used for SHAPE America's editorial material.
- SHAPE America does not vouch for or assume any responsibility for any material contained on web sites to which it links. The following statement will appear on each SHAPE America website --- "The appearance of an advertisement on a SHAPE America site is neither a SHAPE America guarantee nor endorsement of the product or service or the claims for the product or service made by the advertiser."
- SHAPE America will not link to web sites that frame SHAPE America sites content without express permission of SHAPE America; prevent the viewer from returning to the SHAPE America website or other previously viewed screens, such as by disabling the viewer's "back" button; redirect the viewer to a website the viewer did not intend to visit; or that do not otherwise follow SHAPE America policies with respect to the use of SHAPE America logos and trademarks. SHAPE America reserves the right to not link to or to remove links to other websites.
- Advertising rates are subject to change without notice.

GENERAL GUIDELINES

- Advertiser and/or Agency agree that all material necessary for the placement must arrive at SHAPE America no later than the published closing dates. Advertiser and/or Agency agrees that in the event that such materials are not sent in time, that SHAPE America will not have any responsibility to Advertiser and/or Agency for failure to publish the proposed ad and hereby agrees that SHAPE America is authorized to publish the last prepared ad of the Advertiser, if any and that Advertiser will pay the contracted amount for the ad.
- In the event that the Advertiser and/or Agency pulls an ad after the space reservation deadline, therefore breaching the Advertising Contract, SHAPE America will not refund monies to the Advertiser or Agency.
- In the event a volume of advertising less than that agreed is used and paid for or the Advertiser or Agency otherwise breaches the terms of the Advertising Contract, or if at any time, SHAPE America in its reasonable judgment determines that Advertiser is not likely to have utilized the amount of space specified in the Advertising Contract, any rate discount will be nullified and Advertiser and Agency will be charged the difference between the rates charged and the rates applicable for the volume of space actually used, in accordance with the applicable rates schedules ("short-rate"). In such event, Advertiser and Agency must reimburse SHAPE America for the short-rate within ten (10) days of SHAPE America's invoice therefore and Advertiser will thereafter pay for advertising at the open rate (defined as the base rate for a single placement) or at the newly-determined rate(s) (as applicable).
- The Advertiser or Agency may not use any space for the advertisement either directly or indirectly of any business organization, enterprise, product, or service other than that for which the advertising space is provided by SHAPE America, nor may Advertiser or Agency authorize any others to use any advertising space.



- Orders containing restrictions, or specifying position, facing, editorial adjacency, or other requirements may be accepted and inserted but such restrictions or specifications are at SHAPE America's sole discretion.
- It is the responsibility of the advertiser to comply with all applicable domestic and foreign laws and regulations. If SHAPE America becomes aware of any breach or potential breach of any applicable law or regulation, or of this Advertising Policy, SHAPE America may remove the advertising.
- SHAPE America prefers to work with advertisers who share our mission of helping students, schools, and families achieve their physical and health educational goals and who provide education-seeking members a broad array of choices for the future.
- SHAPE America's published Advertising Policy is not exhaustive and is subject to change at any time without notice.

LIMITATIONS OF LIABILITY

- Advertiser and Agency represent and warrant that they are authorized to publish the entire contents and subject matter of the advertisements, and that publication by SHAPE America will not violate the personal or proprietary rights of any third party or any law or regulation. Advertiser and Agency will indemnify and hold SHAPE America harmless from and against any loss, expense, or liability (including attorney's fees) resulting from claims or suits based upon such advertising, without limitation.
- As a not-for-profit, tax-exempt organization that publishes various publications, some of which contain advertising, SHAPE America does not verify or substantiate the claims of Advertisers. As a matter of law, it is the responsibility of an Advertiser and/or Agency, not SHAPE America, to substantiate its claims. Advertisers agree to indemnify and defend SHAPE America from any and all liability for all advertising content.
- Advertiser and Agency shall be jointly and severally liable for the payment of all bills and charges made. Advertiser authorizes SHAPE America, at its election, to tender any bill to Agency, and such tender shall constitute due notice to Advertiser of the bill and such manner of billing shall in no way impair or limit the joint and several liability of Advertiser and Agency. Payment by Advertiser to Agency shall not discharge Advertiser's liability to SHAPE America. The rights of SHAPE America shall in no way be affected by any dispute or claims as between Advertiser and Agency.
- SHAPE America's liability for failure to publish an advertisement shall not exceed a refund of or credit for SHAPE America's charge for such advertisement.