



PLATFORM ACCESS AGREEMENT
(For Buyers)
Last updated on January 1, 2020

This Platform Access Agreement (“**Agreement**”) is entered into by and between SupplyShift Inc., a Delaware corporation (“**SupplyShift**”) and the company registered or registering on the Platform (defined below) on whose behalf the User (also defined below) is clicking “I Agree” (“**Buyer**”).

PLEASE NOTE: THIS AGREEMENT IS A BINDING CONTRACT BETWEEN SUPPLYSHIFT AND THE BUYER. UNLESS BUYER AND SUPPLYSHIFT HAVE ENTERED INTO A SEPARATE WRITTEN AGREEMENT GOVERNING BUYER’S ACCESS AND USE OF THE PLATFORM, THE TERMS THAT FOLLOW SHALL APPLY AS BETWEEN BUYER AND SUPPLYSHIFT.

1. USE OF PLATFORM

1.1. Platform Provision and Access. SupplyShift will make the Platform available to Buyer for the Subscription Term solely for use by Buyer and its Users in accordance with the terms and conditions of this Agreement, the Documentation, and the Order Form. Buyer shall be responsible for each User’s compliance with this Agreement.

1.2. Affiliates. Buyer Affiliates may enter into Order Forms or SOWs with SupplyShift referencing this Agreement. By such Affiliate entering into an Order Form or SOW hereunder, the Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto and for purposes of such Order Form or SOW, shall also be deemed “Buyer” hereunder.

1.3. Assessments.

1.3.1. Assessment Templates. Subject to the terms and conditions of this Agreement, SupplyShift hereby grants Buyer, during the Subscription Term, a non-exclusive, worldwide license to: (a) use the Assessment Templates to solicit and collect Supplier Data from Confirmed Suppliers, or (b) use the Assessment Templates to create Custom Assessments, and (c) use the portions of the Assessment Template retained in Buyer’s Custom Assessment to solicit and collect Supplier Data from Confirmed Suppliers.

1.3.2. Custom Assessments. Subject to SupplyShift’s and, if applicable, its Content Licensors’ retained rights in a Assessment Template, Buyer hereby grants to SupplyShift a non-exclusive, royalty-free, worldwide license to use the Custom Assessment during the Subscription Term to (a) provide the Platform and Technical Services to Buyer pursuant to this Agreement, (b) for the purposes set forth in Section 1.3.3 below, and (c) to solicit and collect Supplier Data from Confirmed Suppliers.

1.3.3. Generalized Formulations. Buyer understands and agrees that, owing to the natural limitations of language, individual questions in a Assessment are not capable of being expressed in infinitely unique ways. Therefore, provided that SupplyShift removes any and all Unique Identifiers from a Custom Assessment, and excluding questions in a Custom Assessment that contain a Private Designation, Buyer grants to SupplyShift a non-exclusive, royalty-free, worldwide, license to use the Custom Assessment during the Subscription Term solely to derive or create Generalized Formulations of the questions contained in the Custom Assessment and to incorporate, use, and commercially exploit such Generalized Formulations as part of the Assessment Templates on a perpetual, royalty-free, and worldwide basis, and directly or indirectly, without restriction or compensation to Buyer. Buyer understands and agrees that, excluding the use of any Unique Identifiers, either SupplyShift, Requestors, or their respective Content Licensors, may have previously or may hereafter independently develop or author the same or similar expressions of questions contained in a Custom Assessment, including but not limited to, Generalized Formulations of the same, regardless of any Private Designation assigned by Buyer.

1.3.4. Private Designation. Buyer is responsible for determining, in its sole discretion, whether to assign or remove a Private Designation from a specific question within a Assessment or with respect to a Private Assessment. Without limiting SupplyShift’s right to develop Generalized Formulations as set forth in Section 1.3.3 above, and excluding any portions of a Private Assessment that constitute a Assessment Template, SupplyShift agrees that any questions or Assessments for which Buyer or its Users apply a Private Designation shall constitute Buyer’s Confidential Information under this Agreement.

1.3.5. Contributed Assessments. To the extent that Buyer does not employ a Private Designation on a Custom Assessment, such Custom Assessment shall constitute a Contributed Assessment. Provided that SupplyShift removes any and all Unique Identifiers from a Contributed

Assessment, Buyer hereby grants to SupplyShift a non-exclusive, worldwide, perpetual, irrevocable, royalty-free right and license to use, disseminate, disclose, and commercially exploit, directly or through others, the Contributed Assessment, including the right to prepare Generalized Formulations of the same or to incorporate portions of the same into Assessment Templates.

1.3.6. Completed Assessments. Subject to the terms and conditions of this Agreement, SupplyShift hereby grants to Buyer, during the Subscription Term, a non-exclusive, worldwide license to access and use Completed Assessments via the Platform solely for Buyer’s Permitted Business Use. Buyer understands and agrees that Supplier Data and SupplyShift Content included or referenced in a Completed Assessment are proprietary and confidential to either a Confirmed Supplier, SupplyShift or their respective Content Licensors. For clarity, the fact that a Confirmed Supplier is engaged in an existing or prospective commercial relationship with Buyer, the fact that Confirmed Supplier has responded to a Assessment at the request of Buyer, and any Confirmed Supplier’s statements in a Completed Assessment that quote, restate, paraphrase, abridge or reference any Unique Identifiers of Buyer are and shall remain Buyer Data and Buyer’s Confidential Information hereunder. Unless Buyer obtains or possesses independent rights or licenses from the Suppliers or Content Licensors, Buyer shall not engage in any public or commercial use, processing, dissemination, distribution, modification, or disclosure of the Supplier Data and SupplyShift Content for any purpose or reason other than Buyer’s Permitted Business Use. Buyer understands and agrees that the Platform will automatically retain a copy of a Completed Assessment within the Confirmed Supplier’s account, and that the Confirmed Supplier, as an authorized user of the Platform, obtains a non-exclusive, worldwide right to use the Completed Assessments for its Permitted Business Use, including the right to export Completed Assessments from the Platform. Buyer understands and agrees that the foregoing copies of Completed Assessments, including Unique Identifiers therein, may persist in the Platform as part of the Confirmed Supplier’s account for so long as the Confirmed Supplier remains enrolled in the Platform, notwithstanding termination of Buyer’s commercial relationship with the Confirmed Supplier or Buyer’s discontinued use of the Platform. Without limiting SupplyShift’s ongoing confidentiality obligations hereunder, Buyer understands and agrees that SupplyShift does not control, and shall not be liable for any act or omission of a Confirmed Supplier pertaining to its use of any Completed Assessment, including any Unique Identifiers therein.

1.3.7. Supplier Data; Third-party Content. Buyer acknowledges and agrees that SupplyShift does not author, verify, monitor, approve or in any way participate in the generation or supply of Supplier Data or Third-party Content. As such, SupplyShift does not represent or warrant the legality, accuracy, reliability, completeness, or timeliness of any Supplier Data or Third-party Content and provides the Supplier Data or Third-party Content solely and exclusively on an “AS IS” basis without warranty, representation, indemnity of any kind. Further, insofar as SupplyShift depends upon the availability and supply of Supplier Data from each Confirmed Supplier and/or Content Licensor, SupplyShift does not promise or guarantee that Supplier Data or Third-party Content will be or remain available throughout the Subscription Term. SupplyShift reserves the right to remove, discontinue, suspend, limit, or cease to provide any Supplier Data or Third-Party Content if: (a) required to do so by law, regulation, or right vested in either the Confirmed Supplier, the Content Licensor, or the legal owner of the Supplier Data or Third-party Content, (b) the Supplier Agreement or agreement with a Content Licensor or terminates or expires, or (c) in the event of termination of this Agreement. Further, SupplyShift may, without liability to Buyer, at any time during the Subscription Term discontinue or substitute any Content Licensor.

Confidential

SupplyShift Platform Access Agreement (for Buyers)

1.3.8. Benchmarking Content. Provided that SupplyShift removes and omits any Unique Identifiers from a Completed Assessment, Buyer hereby grants SupplyShift a non-exclusive, worldwide, royalty-free license to derive Benchmarking Content from the Supplier Data contained in a Completed Assessment by performing statistical analysis of such Supplier Data, combining the results of such analysis with other Benchmarking Content or SupplyShift Content, and to use and commercially exploit, directly or indirectly, the resulting Benchmarking Content, without restriction or compensation to Buyer. To the extent set forth on an Order Form, and subject to the terms and conditions of this Agreement, SupplyShift hereby grants to Buyer during the Subscription Term a non-exclusive, worldwide license to use Benchmarking Content for Buyer's Permitted Business Use.

1.3.9. Third-Party Content. To the extent set forth on an Order Form, and subject to the terms and conditions of this Agreement, SupplyShift hereby grants to Buyer, during the Subscription Term only, a non-exclusive, worldwide license to use Third-Party Content for Buyer's Permitted Business Use only. Use of Third-Party Content may be subject to additional terms or conditions which, if applicable, will be set forth in the relevant Order Form.

1.4. Suppliers; Confirmed Suppliers. SupplyShift will make available the then-current tools and functionality within the Platform for Buyer to facilitate Buyer's requests to Suppliers to become Confirmed Suppliers to Buyer and engage in responding to Assessments. Buyer acknowledges and agrees that SupplyShift does not control a Supplier's decision to become or decline to become a Confirmed Supplier to Buyer and shall have no liability for the failure of any such Supplier to proceed with or with a Confirmed Supplier's election to terminate any such enrollment.

1.5. Buyer As Confirmed Supplier. The Platform includes the capability for Buyer, at its option and in its sole discretion, to share data with other Requestors by becoming a Confirmed Supplier and submitting Completed Assessments with Supplier Data about Buyer to such Requestors. Buyer must first enter into a Supplier Agreement as a condition to becoming a Confirmed Supplier.

1.6. General Restrictions. Buyer will not (and will not permit any User to): (a) sell, rent, lease, license, distribute, provide access to, sublicense, or otherwise make available the Platform, the Assessment Templates, any Supplier Data or SupplyShift Content to a third-party other than Users, or in a service bureau or outsourcing offering; (b) use the Platform, the Assessment Templates or any Supplier Data or SupplyShift Content to provide any general purpose supply chain management or data collection service for the benefit of a third-party; (c) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Platform; (d) remove or obscure any proprietary or other notices contained in the Platform, the Assessment Templates, or any Supplier Data or SupplyShift Content; (e) use Platform, the Assessment Templates, any Supplier Data or SupplyShift Content in a manner not permitted by the Documentation or in violation of this Agreement, applicable law or regulation, or the rights of third parties.

2. BUYER DATA

2.1. Buyer Data Ownership. As between the parties, Buyer and its Content Licensors retain all right, title and interest (including any and all intellectual property rights) in and to the Buyer Data, any Unique Identifiers and Buyer's Confidential Information, and to any modifications to the foregoing as may be contained in a Completed Assessment. Subject to the terms of this Agreement, Buyer hereby grants to SupplyShift a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of, and display the Buyer Data, Unique Identifiers, solely to the extent necessary to (a) provide the Platform and Technical Services to Buyer, (b) as may be required by law, and (c) as necessary for SupplyShift to exercise the rights granted pursuant to Section 1 above.

2.2. Buyer Obligations.

(a) In General. Buyer will ensure that its use of the Platform is at all times compliant with this Agreement, and all applicable local, state, federal and international laws, regulations and conventions, including, without limitation, those related to data privacy and data transfer, international communications, and the exportation of technical or personal data. Buyer is solely responsible for the accuracy, content and legality of all Buyer Data. Buyer represents and warrants that Buyer has sufficient rights in the Buyer Data to grant the rights granted to SupplyShift in Section 2.1 and that the Buyer Data does not infringe or violate the intellectual property, publicity, privacy or other rights of any third-party.

(b) User ID and Password Protection. Buyer will require that all permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Buyer will be responsible for restricting access by any User who is no longer authorized to access the Platform. SupplyShift will have no liability for actions taken using Buyer's user IDs and passwords, including any unauthorized use or access

caused by misuse or misappropriation of such user IDs and passwords resulting from Buyer's breach of this Section. A User's individual access to and use of the Platform shall be subject to the terms and conditions of the User Agreement, provided that references to "Buyer Agreement" in that User Agreement shall refer only to this Agreement.

3. TECHNICAL SUPPORT AND AVAILABILITY. SupplyShift will provide reasonable technical support to Buyer and its Users via phone or email during normal business hours Pacific Standard Time, for incidents reporting technical issues with the Platform. SupplyShift will make the Platform available 99.5% of the time ("**Uptime Percentage**") excluding (i) planned downtime, or (ii) unplanned downtime caused by (a) circumstances not in SupplyShift's control, (b) circumstances entitling SupplyShift to suspend access to the Platform under this Agreement, (c) a User's acts or omissions in using the Platform. Buyer may, no later than thirty (30) days after the occurrence of the conditions that follow, terminate this Agreement and/or the applicable Order Forms by providing written notice to SupplyShift if SupplyShift fails to meet the Uptime Percentage in any three (3) months out of any twelve (12) month rolling period. If Buyer timely exercises the foregoing termination right, then SupplyShift shall promptly provide Buyer with a pro-rata refund of pre-paid subscription fees for the remainder of the then-current Subscription Term.

4. INTELLECTUAL PROPERTY

4.1. SupplyShift Ownership. Buyer agrees that SupplyShift, its Content Licensors and other suppliers retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Platform, all Documentation, Assessment Templates, any Generalized Formulations derived from the Custom Assessments or Completed Assessments, SupplyShift Content, Benchmarking Data, System Data, any Technical Services deliverables or training materials or content (excluding any Unique Identifiers, or any of Buyer's Confidential Information or Buyer Data therein), and any and all related and underlying technology and documentation; and any derivative works, modifications, or improvements of any of the foregoing, including any Feedback that may be incorporated therein (collectively, "**SupplyShift Technology**"). Except for the express, limited rights granted to Buyer in this Agreement, and except for Buyer's and its Content Licensors' retained rights in the relevant portions of Custom Assessments and Buyer Data, no right, title or interest in any SupplyShift Technology is granted to Buyer. Further, Buyer acknowledges that the Platform is offered as an online, hosted solution, and that Buyer has no right to obtain a copy of the underlying computer code for the Platform. Notwithstanding anything to the contrary herein, SupplyShift may freely use and incorporate into SupplyShift's products and services any suggestions, enhancement requests, recommendations, corrections, or other feedback provided by Buyer or by any Users relating to SupplyShift's products or services ("**Feedback**").

4.2. System Data. Notwithstanding anything to the contrary in this Agreement, SupplyShift has the right to collect and use de-identified technical information pertaining Users' use the Platform ("**System Data**") to develop, improve, support, and operate its products and services during and after the Term of this Agreement. This Section does not give SupplyShift the right to identify Buyer as the source of the System Data without written permission from Buyer.

4.3. Custom Assessment Ownership. In addition to Buyer's retained rights in Section 2.1 above (Buyer Data Ownership), SupplyShift agrees that Buyer and its Content Licensors retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to those questions in a Custom Assessment that are not: (a) copies or modifications of questions in an Assessment Template, or (b) Generalized Formulations ("**Buyer-Authored Questions**"). Except for the express limited rights granted to SupplyShift in this Agreement, no right, title or interest in Buyer-Authored Questions is granted to SupplyShift.

4.4. Supplier Ownership. Buyer as Requestor acknowledges and agrees that this Agreement does not grant to Requestor any right, title or interest in or to Supplier Data other than the express rights noted in this Agreement. Except as may be separately agreed between Requestor and a Supplier outside the scope of this Agreement, the Supplier retains all of its right, title and interest in and to the Supplier Data.

4.5. Logo and Name Use. SupplyShift may use and display Buyer's name, logo, trademarks, and service marks as incorporated by Buyer on a Custom Assessment or in other areas of the Platform to identify Buyer as a customer of SupplyShift.

5. CONFIDENTIALITY. Each party (as "**Receiving Party**") will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the other party (the "**Disclosing**

Party) for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. If Receiving Party is required by law or court order to disclose Confidential Information, then Receiving Party shall, to the extent legally permitted, provide Disclosing Party with advance written notification and cooperate in any effort to obtain confidential treatment of the Confidential Information. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party, the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

6. FEES AND PAYMENT; TAXES; PAYMENT DISPUTES

6.1. Fees and Payment. All Fees and payment terms are as set forth in the applicable Order Form. Except as expressly set forth in this Agreement, all payment obligations are non-cancelable and Fees are non-refundable.

6.2. Taxes. Fees do not include Taxes. Buyer is responsible for paying all Taxes associated with its purchases hereunder other than taxes based on income, property, or employees of SupplyShift. If SupplyShift has the legal obligation to pay or collect Taxes for which Buyer is responsible under this Section, SupplyShift will invoice Buyer and Buyer will pay that amount unless, concurrently with or no later than five (5) business days following execution of the Order Form, Buyer provides SupplyShift with a valid tax exemption certificate authorized by the appropriate taxing authority.

6.3. Payment Disputes. SupplyShift will not exercise its rights under Section 7.2 (Termination for Cause) or Section 7.5(a) (Suspension of Service) with respect to non-payment by Buyer if Buyer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute. If the parties are unable to resolve such a dispute within thirty (30) days, each party shall have the right to seek any remedies it may have under this Agreement, at law or in equity, irrespective of any terms that would limit remedies on account of a dispute. For clarity, any undisputed amounts must be paid in full.

7. TERM AND TERMINATION

7.1. Term. This Agreement is effective as of the Effective Date and will remain in effect until terminated in accordance with its terms. If there is no SOW, Order Form or Retrieval Right currently in effect, either party may terminate this Agreement upon written notice to the other party. Each Order Form will terminate upon expiration of the applicable Subscription Term, unless expressly stated otherwise therein or in this Agreement.

7.2. Termination for Cause. Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay Fees) within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party and is not dismissed within 60 days. Except where an exclusive remedy is specified, the exercise of either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise. For any termination of this Agreement by Buyer for cause in accordance with Section 7.2(a), Buyer shall be entitled to a refund of any unused Fees Buyer has pre-paid for the Platform purchased hereunder.

7.3. Effect of Termination; Buyer Data Retrieval. Upon written notice to SupplyShift, Buyer will have up to thirty (30) calendar days from termination or expiration of this Agreement to access the Platform solely to the extent necessary to retrieve Buyer Data ("**Retrieval Right**"). If Buyer exercises its Retrieval Right, this Agreement and the applicable Order Form shall continue in full force and effect for the duration of the Retrieval Right. After the Retrieval Right period, Buyer will have no further access to Buyer Data from within the Platform and shall cease use of and access to the Platform (including any related SupplyShift Technology), Third-Party Content and delete all copies of Documentation, Third-Party Content (except as incorporated into reports exported prior to the end of the Subscription Term), the Platform passwords or access codes, and any other Confidential Information of SupplyShift in its possession.

7.4. Survival. The following Sections will survive any expiration or termination of this Agreement: 1.5 (General Restrictions), 4 (Intellectual Property), 5 (Confidentiality), 6.1 (Fees and Payment), 6.2 (Taxes), 7 (Term and Termination), 8.2 (Warranty Disclaimer), 10 (Indemnification), 11

(Limitation of Remedies and Damages), 12 (General Terms), and 13 (Definitions).

7.5. Suspension of Service. In addition to any of its other rights or remedies (including, without limitation, any termination rights) set forth in this Agreement, SupplyShift reserves the right to suspend provision of the Platform or performance of Technical Services; (a) if Buyer is thirty (30) days or more overdue on a payment, (b) if SupplyShift deems such suspension necessary as a result of Buyer's breach of Sections 1.6 (General Restrictions) or 2.2 (Buyer Obligations), (c) if SupplyShift reasonably determines suspension is necessary to avoid material harm to SupplyShift or its other Buyers, including if the Platform is experiencing denial of service attacks, mail flooding, or other attacks or disruptions outside of SupplyShift's control, or (d) as required by law or at the request of governmental entities.

8. WARRANTY

8.1. Platform and Technical Services Warranty. SupplyShift warrants that each Platform will operate in substantial conformity with the applicable Documentation and that the Technical Services will be performed in a professional and workmanlike manner. In the event of a breach of this warranty, SupplyShift will use commercially reasonable efforts to correct the reported non-conformity, at no charge to Buyer, or if SupplyShift is unable to do so within thirty (30) days, either party may terminate the applicable Order Form, SOW or this Agreement and Buyer will receive a refund of any unused Fees Buyer has pre-paid for the defective offering to which the fees correspond. The foregoing shall be Buyer's sole and exclusive remedy for any breach of the warranty set forth in this Section. This warranty will not apply: (i) unless Buyer makes a claim within thirty (30) days of the date on which Buyer first noticed the non-conformity, or (ii) if the error was caused by misuse of the Platform, Assessments, SupplyShift Data or Supplier Data, or third-party hardware, software, or services.

8.2. Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PLATFORM, SUPPLIER DATA, SUPPLYSHIFT CONTENT, THIRD-PARTY CONTENT, ASSESSMENT TEMPLATES, AND ALL TECHNICAL SERVICES ARE PROVIDED "AS IS" AND SUPPLYSHIFT MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. SUPPLYSHIFT DOES NOT WARRANT THAT THE USE OF THE PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE, NOR DOES SUPPLYSHIFT WARRANT THAT IT WILL REVIEW THE ASSESSMENTS, SUPPLIER DATA, THIRD-PARTY CONTENT, OR BUYER DATA FOR ACCURACY. SUPPLYSHIFT SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, PLATFORM FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES OUTSIDE OF SUPPLYSHIFT'S CONTROL. SUPPLYSHIFT DOES NOT MAKE ANY WARRANTIES AND SHALL HAVE NO OBLIGATIONS WITH RESPECT TO THIRD-PARTY CONTENT OR SUPPLIER DATA. BUYER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

9. TECHNICAL SERVICES. SupplyShift will provide the Technical Services purchased, if any. The scope of Technical Services will be as set forth in a SOW. Buyer may use anything delivered as part of the Technical Services in support of authorized use of the Platform and subject to the terms regarding Buyer's rights to use the Platform set forth in Section 1 (Use of Platform) and the applicable SOW, but SupplyShift will retain all right, title and interest in and to any such work product, software code and deliverables and any derivative, enhancement or modification thereof created by or on behalf of SupplyShift, excluding in all events Buyer Data or Buyer's Confidential Information contained therein.

10. INDEMNIFICATION

10.1. Indemnification by SupplyShift. SupplyShift will defend Buyer from and against any claim by a third-party alleging that the Platform, when used as authorized under this Agreement, infringes a U.S. patent, copyright, or trade secret or trademark and will indemnify and hold harmless Buyer from and against any damages and costs awarded against Buyer or agreed in settlement by SupplyShift (including reasonable attorneys' fees) resulting from such claim. If Buyer's use of the Platform is (or in SupplyShift's opinion is likely to be) enjoined, if required by settlement or if SupplyShift determines such actions are reasonably necessary to avoid material liability, SupplyShift may, in its sole discretion, either: (a) substitute substantially functionally similar products or services; (b) procure for Buyer the right to continue using the Platform; or if (a) and (b) are not commercially reasonable, (c) terminate this Agreement and refund to Buyer the Fees paid by Buyer for the Platform that were prepaid but not used by Buyer. The foregoing indemnification

obligation of SupplyShift will not apply to Assessments, Supplier Data, Buyer Data, Third-Party Content, Benchmarking Content, or the extent the applicable claim is attributable to: (1) the modification of the Platform by any party other than SupplyShift or based on Buyer's specifications or requirements; (2) the combination of the Platform with products or processes licensed or procured from a party other than SupplyShift; (3) any unauthorized use of the Platform; or (4) any action arising as a result of Buyer's use of any Assessments, Supplier Data, Buyer Data, Benchmarking Content, Third-Party Content, or Buyer Data, or any of Buyer's decisions based on the foregoing. THIS SECTION SETS FORTH SUPPLYSHIFT'S SOLE LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

10.2. Indemnification by Buyer. Buyer will defend SupplyShift from and against any claim by a third-party alleging that (a) Buyer engaged in the unauthorized use, disclosure, or processing of Assessments, Supplier Data, Buyer Data, Benchmarking Content, Third-Party Content, or Buyer Data, (b) any dispute between a Supplier and Buyer, and will indemnify and hold harmless SupplyShift from and against any damages and costs awarded against SupplyShift or agreed in settlement by Buyer (including reasonable attorneys' fees) resulting from such claim.

10.3. Indemnification Procedures. In the event of a potential indemnity obligation under this Section 10, the indemnified party will: (i) promptly notify the indemnifying party in writing of the claim, (ii) allow the indemnifying party the right to control the investigation, defense and settlement (if applicable) of such claim at the indemnifying party's sole cost and expense, and (iii) upon request of the indemnifying party, provide all necessary cooperation at the indemnifying party's expense. Failure by the indemnified party to notify the indemnifying party of a claim under this Section 10 shall not relieve the indemnifying party of its obligations under this Section 10, however the indemnifying party shall not be liable for any litigation expenses that the indemnified party incurred prior to the time when notice is given or for any damages and/or costs resulting from any material prejudice caused by the delay or failure to provide notice to the indemnifying party in accordance with this Section. The indemnifying party may not settle any claim in any matter that would require obligation on the part of the indemnified party (other than payment or ceasing to use infringing materials), or any admission of fault by the indemnified party, without the indemnified party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Further, any indemnification obligation under this Section 10 will not apply if the indemnified party settles or makes any admission with respect to a claim without the indemnifying party's prior written consent.

11. LIMITATION OF REMEDIES AND DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR "EXCLUDED CLAIMS", NEITHER PARTY NOR ITS AFFILIATES SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, INTERRUPTION OF BUSINESS, COSTS OF DELAY, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR "EXCLUDED CLAIMS", AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EACH PARTY'S AND ITS AFFILIATES' ENTIRE LIABILITY TO THE OTHER PARTY OR ITS AFFILIATES (FOR DAMAGES OR LIABILITY OF ANY TYPE), SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID (OR WITH RESPECT TO CLAIMS FOR FEES DUE, PAYABLE) BY BUYER TO SUPPLYSHIFT ATTRIBUTABLE TO THE PRIOR 12 MONTHS UNDER THE APPLICABLE ORDER FORM ("**GENERAL LIABILITY CAP**"). NOTWITHSTANDING THE FOREGOING, IN THE CASE OF "DATA CLAIMS" THE TOTAL RESPECTIVE AGGREGATE LIABILITY OF EACH PARTY UNDER THIS AGREEMENT SHALL NOT EXCEED THREE TIMES (3x) THE GREATER OF THE "GENERAL LIABILITY CAP".

THE PARTIES AGREE THAT THE WAIVERS AND LIMITATIONS SPECIFIED IN THIS SECTION 11 WILL SURVIVE AND APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE AND WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

12. GENERAL TERMS

12.1. Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Either party may assign this Agreement to an Affiliate or in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of such party's assets or

voting securities. Each party shall promptly provide notice of any such assignment. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section will be null and void.

12.2. Severability; Interpretation. If a court of competent jurisdiction holds any provision of this Agreement to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect. Section headings are inserted for convenience only and shall not affect the construction of the agreement.

12.3. Dispute Resolution; Governing Law; Jurisdiction and Venue. Each party agrees that before it seeks any form of legal relief (except for a provisional remedy as explicitly set forth below) it shall provide written notice to the other party of the specific issue(s) in dispute (and reference the relevant provisions of the contract between the parties which are allegedly being breached). Within thirty (30) days after such notice, knowledgeable executives of the parties shall hold at least one meeting (in person or by video- or tele-conference) for the purpose of attempting in good faith, to resolve the dispute. The parties agree to maintain the confidential nature of all disputes and disagreements between them, including, but not limited to, informal negotiations, mediation or arbitration, except as may be necessary to prepare for or conduct these dispute resolution procedures or unless otherwise required by law or judicial decision. The dispute resolution procedures in this Section shall not apply to claims subject to indemnification under Section 10 (Indemnification) or prior to a party seeking a provisional remedy related to claims of misappropriation or ownership of intellectual property, trade secrets or Confidential Information. This Agreement will be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to the subject matter hereof will be the state and federal courts located in San Jose, California and both parties hereby submit to the personal jurisdiction of such courts.

12.4. Notice. Any notice or communication required or permitted under this Agreement will be in writing to the parties at the addresses set forth in this Agreement or at such other address as may be given in writing by either party to the other in accordance with this Section and will be deemed to have been received by the addressee: (i) if given by hand, immediately upon receipt; (ii) if given by overnight courier service, the first business day following dispatch; (iii) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail; or (iv) if given by email, immediately upon receipt. Notwithstanding the foregoing, except for notices pertaining to non-payment and except as otherwise expressly permitted in this Agreement or in an Order Form, notices related to termination of this Agreement or any claims (including without limitation breach, warranty or indemnity) may not be given via email. Email notifications to SupplyShift shall be to legal@supplyshift.net.

12.5. Amendments; Waivers. No supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement, except as expressly set forth herein. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No terms or conditions stated in a Buyer purchase order, vendor onboarding process or web portal, or any other Buyer order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void, notwithstanding any language to the contrary therein, whether signed before or after this Agreement.

12.6. Entire Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. SupplyShift may change and update the Platform (in which case SupplyShift may update the applicable Documentation accordingly), subject to the warranty in Section 8.1 (Platform Warranty).

12.7. Third-party Beneficiaries. There are no third-party beneficiaries under this Agreement.

12.8. Force Majeure. Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay Fees) if the delay or failure results from any cause beyond such party's reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.

12.9. Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture,

employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

12.10. Export Control. Buyer agrees to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (i) Buyer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (ii) Buyer will not (and will not permit any third parties to) access or use the Platform in violation of any U.S. export embargo, prohibition or restriction, and (iii) Buyer will not submit to the Platform any information that is controlled under the U.S. International Traffic in Arms Regulations.

12.11. Federal Government End Use Provisions. SupplyShift provides the Platform, including all related software and, to the extent applicable the SupplyShift Technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Platform include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with SupplyShift to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

12.12. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement.

14. DEFINITIONS

"Account" means Buyer's and its User's unique account within the Platform.

"Affiliate" means an entity that, directly or indirectly, owns or controls, is owned or is controlled by, or is under common ownership or control with a party. As used herein, "control" means the power to direct the management or affairs of an entity and "ownership" means the beneficial ownership of more than fifty percent (50%) of the voting equity securities or other equivalent voting interests of an entity.

An **"Assessment"** is a grouping of questions within the Platform in unanswered form that are intended for completion by a third-party and for which a Requestor purchases a subscription pursuant to an Order Form.

An **"Assessment Template"** is a Assessment that consists of either one or any combination of the following: (a) questions authored by SupplyShift or its Content Licensors, (b) Generalized Formulations of Custom Assessments consistent with the rights granted by Buyer to SupplyShift under this Agreement.

A **"Custom Assessment"** is a Assessment that consists of either: (a) all questions authored by Buyer or its Content Licensors, (b) a combination of questions from a Assessment Template and questions authored by Buyer or its Content Licensors. A Custom Assessment is a Private Assessment for so long as it is marked by Buyer or its Users with a Private Designation, but is a Contributed Assessment otherwise.

A **"Private Assessment"** is a Assessment with a Private Designation.

A Custom Assessment that does not contain a Private Designation is a **"Contributed Assessment"**.

A specific Assessment Template, Private Assessment, Custom Assessment, or Contributed Assessment that is answered and submitted by a Supplier containing Supplier Data is a **"Completed Assessment"**.

"Benchmarking Content" means de-identified and/or aggregated data or content, and any resulting findings, compiled and/or prepared by SupplyShift or Content Licensors and made available by SupplyShift to Buyer for comparative, benchmarking, or similar informational purposes.

"Confidential Information" shall mean all information that is identified as confidential at the time of disclosure by the Disclosing Party or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. All Buyer Data will be deemed Confidential Information of Buyer without any marking or further designation. All SupplyShift Technology and the terms and conditions of this Agreement will be deemed Confidential Information of SupplyShift without any marking or further designation. Confidential Information shall not include information that the Receiving Party can demonstrate: (i) was rightfully in its possession or known to it prior to Confidential

receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third-party without breach of any confidentiality obligation; (iv) is independently developed by employees of the Receiving Party who had no access to such information; (v) is approved by the Disclosing Party for disclosure or marked by the Disclosing Party as non-confidential.

"Content Licensor" means third parties with whom SupplyShift or Buyer has an agreement governing the use of content authored, licensed, collected or supplied by such third party (**"Third-Party Content"**). Content Licensors may include other Requestors, third-party data licensors, standards bodies or organizations, government or regulatory entities, industry associations, consortiums, or similar entities who issue, review, audit, approve, monitor, or enforce such standards, laws or regulations.

"Buyer Data" means the data that Buyer: uploads into or generates within the Platform in connection with Buyer's authorized use of the Platform, excluding, however, Supplier Data and Assessment Templates.

"Data Claims" means with respect to each party, any claims arising from the other party's breach of Section 2.2 (Buyer Obligations), or breach of Sections 5 (Confidentiality), or 3 (Security), where such breach results in the unauthorized disclosure of Buyer Data.

"Disclosing Party" is defined in Section 5 (Confidential Information).

"Documentation" means SupplyShift's technical documentation and usage guides for the applicable Platform made available through the Platform.

"Excluded Claims" means (a) Buyer's breach of Section 1.6 (General Restrictions); (b) a party's breach of its obligations in Section 5 (Confidential Information) (but excluding obligations and/or claims relating to Supplier Data, SupplyShift Content, or Buyer Data); and (c) either party's express obligations under Section 10 (Indemnification).

"Feedback" is defined in Section 4.1 (SupplyShift Technology).

"Fees" means the fees payable by Buyer for the applicable Platform or Technical Services, as set forth in an Order Form or SOW.

"Generalized Formulations" are questions in a Assessment that do not contain any Unique Identifiers.

"Permitted Business Use" means use of Completed Assessments (a) in connection with the Requestor's ongoing authorized and lawful evaluation and assessment of a Confirmed Supplier, (b) as necessary for either a Requestor or Supplier to comply with applicable law, regulation, or standard (including but not limited to, an auditing standard, manufacturing standard, financial or banking standard, security standard, employment standard, among others), (c) as necessary for Requestor or the Supplier to achieve, maintain, renew, or reinstate certifications, attestations, licenses or other independent assessment by an independent body with oversight and/or jurisdiction over Requestor or Supplier, as applicable, or (d) for the Requestor's or Supplier's internal lawful business use.

"Order Form" means the SupplyShift ordering document executed by both Buyer and SupplyShift which specifies the services being provided by SupplyShift.

"Receiving Party" is defined in Section 5 (Confidentiality).

"Requestor" means, generically, any entity that is subscribed to the Platform that wishes to obtain Assessment information from a third-party via the Platform. A Requestor includes Buyer, insofar as Buyer is the party soliciting information from a Confirmed Supplier pursuant to this Agreement.

"Retrieval Right" is defined in Section 7.3 (Effect of Termination; Buyer Data Retrieval).

"Security Policy" means the SupplyShift Security Policy made available under separate cover, or attached hereto as an Exhibit, as such may be generally updated by SupplyShift from time to time to comply with law, regulation or industry standard applicable to SupplyShift, or to describe equivalent changes or improvements in SupplyShift's security practices or procedures.

"Platform" means the SupplyShift software-as-a-service offering made generally available and ordered by Buyer as set forth in an Order Form.

"Private Designation" means that Buyer or a User has specifically marked a question or Assessment within Buyer's Account as being "Private" by use of the Platform features provided for such purpose, until such time as Buyer or a User remove the same.

"SOW" means a statement of work or Order Form (as applicable) referencing this Agreement and executed by both parties describing the work to be performed, Fees and any applicable milestones, dependencies and other

technical specifications or related information for Technical Services ordered pursuant to Section 9 (Technical Services).

“Subscription Term” means the set term designated on an Order Form, and includes the period of a Retrieval Right.

“Supplier” means a party from whom a Requestor wishes to obtain information via the Platform. A **“Confirmed Supplier”** is a Supplier that (a) has entered into a Supplier Agreement, (b) has been granted login credentials to the Platform by SupplyShift; (c) specifically verifies its relationship to the Requestor by clicking the appropriate confirmation within the Platform, thereby consenting to permit the Requestor to receive the Supplier Data contained in a Completed Assessment. A Confirmed Supplier may include Buyer, insofar as Buyer agrees to provide Completed Assessments to a Requestor via the Platform pursuant to this Agreement.

“Supplier Agreement” means the terms and conditions established between SupplyShift and a Supplier for such Supplier’s access to and use of the Platform, which may include third-party terms and conditions which SupplyShift is required to present on behalf of Content Licensors.

“Supplier Data” means the information that is entered into a Assessment Template, Private Assessment, or Contributed Assessment by a Supplier in order to generate a Completed Assessment. Supplier Data in a Completed Assessment may include information about the Supplier itself and/or information about Supplier’s other vendors in the Supplier’s supply chain.

“SupplyShift Content” means content authored by SupplyShift or licensed from Content Licensors and Benchmarking Content, but excluding Supplier Data or Buyer Data.

“SupplyShift Technology” is defined in Section 4.1 (SupplyShift Technology).

“Taxes” means taxes, levies, duties or similar governmental assessments of any nature, including, for example, any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, or assessed by any jurisdiction.

“Technical Services” means the services related to the Platform provided by SupplyShift to Buyer, as set forth in a SOW or Order Form.

“Unique Identifier(s)” means any portion of an Assessment question that identifies or permits identification of Buyer, its Users, its Confirmed Suppliers, Buyer’s Confidential Information, or Buyer Data.

“User” means the persons designated and granted access to the Platform by Buyer.

“User Agreement” means the terms and conditions for a User’s access to and use of the Platform presented on enrollment, as made available at the URL: www.supplyshift.net/legal or any successor URL designated by SupplyShift.