

## SUPPLY CLINIC STANDARD SUITE SUBSCRIPTION ORDER FORM

<p><b>Standard Suite:</b> Subject to Customer’s compliance with the Terms and Conditions, Supply Clinic will make available to Customer, and Customer is authorized to use, the Standard Suite during the Term, which allows the Customer to access both (i) Supply Clinic’s proprietary applications and associated content and pricing provided as a subscription service and relating to health care Products offered by Sellers, and (ii) Supply Clinic’s digital proprietary health care supply marketplace.</p>	
<p><b>Billing Terms:</b>  <i>Subscription Fees:</i> Subscription Fees are due for each twelve month period in advance, payable on the Effective Date and on each anniversary thereof, and in accordance with Section 4.1 of the Terms &amp; Conditions.  <i>Products Purchased through Standard Suite:</i> Customer shall be invoiced for all Products that are not paid at the time of sale through the Standard Suite at time of purchase.</p>	
<p><b>One-Time Implementation Fee:</b> \$0 per User  <b>Subscription Fees:</b> \$0 per month per User</p>	<p><b>Customer Deposit Amount:</b> N/A  <b>Standard Suite Credit Limit:</b> N/A</p>
<p><b>Initial Number of Users:</b> Up to 5</p>	<p><b>Effective Date:</b> Date Terms and Conditions are accepted  <b>Term:</b> Six months  <b>Automatic Renewal:</b> No</p>
<p><b>Implementation and Support Services:</b> See Sections 2.6 and 2.7 of the Terms &amp; Conditions.</p>	
<p><b>Additional Terms:</b> <i>Product Tracking:</i> Customer shall have access to all tracking information for Products to the extent such information has been provided by the Seller of such Products.  <i>Product Returns:</i> Unless a Product specifically indicates a return restriction or non-returnable status at time of purchase, Customers may return such Products for 14 days after receipt, provided such Products are unopened, damaged, expired, or otherwise unsatisfactory for a full refund; and provided further that Customer strictly follows the return policies set forth on the Standard Suite; any Products not returned within such time shall be deemed accepted in all respects.</p>	
<p>This Order Form and the relationship between the parties are governed by and subject to those certain Standard Suite Terms &amp; Conditions, including the exhibits and schedules attached thereto (the “<b>Terms &amp; Conditions,</b>” and, together with the Order Form, this “<b>Agreement</b>”), which are incorporated by reference as though fully set forth herein. To the extent any conflict exists between the summarized terms provided in this Order Form and the contents of the Terms &amp; Conditions, the Terms &amp; Conditions shall govern. Any capitalized terms used but otherwise undefined shall have the meaning ascribed to such terms in the Terms &amp; Conditions. <b>Customer is advised to carefully review the Terms &amp; Conditions prior to accepting this Order Form.</b></p>	

## Standard Suite Terms & Conditions

The following Terms & Conditions may be updated from time to time, however, for each Order Form, terms effective as of execution of the Order Form shall apply for the duration of the applicable Term.

### 1. DEFINITIONS

1.1. "**Addendum**" means that certain Data Protection Addendum, attached hereto as **Exhibit A**.

1.2. "**Additional User**" means a User that is granted access to the Standard Suite after the Effective Date.

1.3. "**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and "**control**" for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity, provided that any such Affiliate shall be deemed an Affiliate only for so long as such control lasts.

1.4. "**Claim**" means any third party suit, claim, actions, suits, settlements, or judgements, as finally adjudicated.

1.5. "**Confidential Information**" means all confidential and proprietary information of a disclosing party (in such capacity, a "**Disclosing Party**") or any of its Affiliates disclosed by or on behalf of such party to the receiving party (in such capacity, the "**Receiving Party**") whether prior to or after the Effective Date, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including Customer Data, the terms and conditions of this Agreement (including pricing and other terms reflected in all Order Forms), business and marketing plans, technology and technical information, product designs, and business processes. Notwithstanding anything to the contrary, the Standard Suite is deemed to be Confidential Information of Supply Clinic. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party without restriction prior to its disclosure by the Disclosing Party and without breach of any obligation owed to the disclosing party; (iii) was independently developed by the Receiving Party without either use of or reference to any Confidential Information or breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party

without restriction and without breach of any obligation owed to the Disclosing Party.

1.6. "**Customer**" means the customer identified on the Order Form attached to these Terms & Conditions.

1.7. "**Customer Data**" means any data, information or material provided or submitted by Customer or on behalf of Customer to the Supply Clinic Platform in the course of using the Standard Suite.

1.8. "**Customer Deposit**," means the amount (if any) that Customer has deposited with Supply Clinic as a prepayment of fees and amounts payable by Customer pursuant to this Agreement.

1.9. "**Data Protection Laws**" means all applicable data privacy, data protection, and cybersecurity laws, rules and regulations to which the Customer Data are subject. "Data Protection Laws" shall include, but not be limited to, the California Consumer Privacy Act of 2018.

1.10. "**Designated POC**" means each party's designated point of contact for urgent privacy and security issues.

1.11. "**Documentation**" means the Supply Clinic product documentation relating to the operation and use of the Standard Suite, including technical program or interface documentation, operating instructions, update notes, and support knowledge base, as made available and updated from time to time by Supply Clinic.

1.12. "**Effective Date**" means the effective date reflected on the Order Form.

1.13. "**Standard Suite**" means (i) the proprietary applications and associated content and pricing provided as a subscription service and relating to Products offered by Sellers to Customer, and (ii) Supply Clinic's digital proprietary health care supply marketplace, in each case, as made accessible to Customer through the Supply Clinic Platform.

1.14. "**Standard Suite Credit**" means credit, in the amount set forth on an Order Form (if any), which may be applied toward the full or partial purchase of Products.

1.15. "**Excused Downtime**" means: (i) planned maintenance windows, which are announced or posted online ahead of time, (ii) emergency maintenance required to address an exigent situation with the Standard Suite that

if not addressed on an emergency basis could result in material harm to the Standard Suite. Supply Clinic shall provide advance notice of emergency maintenance via the Supply Clinic Platform to the extent practicable, or (iii) any unavailability caused by circumstances beyond Supply Clinic's reasonable control, including without limitation, unavailability due to Customer or its Users' acts or omissions, a Force Majeure Event, Internet service provider failures or delays, a distributed denial-of-service or other malicious attack against Supply Clinic or any technologies, tools, or companies used by Supply Clinic, failure or malfunction of equipment or systems not belonging to or controlled by Supply Clinic.

1.16. **"Force Majeure Event"** means any acts beyond the affected party's reasonable control, including without limitation: strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, cyber-attacks, failure of energy sources or transport network, acts of God, export bans, sanctions and other government actions, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, pandemics, epidemics or similar events (including without limitation delays caused by COVID-19), natural disasters or extreme adverse weather conditions.

1.17. **"Implementation Fee"** means the one-time fee payable by the Customer to Supply Clinic for the provision of the Implementation Services.

1.18. **"Implementation Services"** means those services to be provided by Supply Clinic to implement, integrate, configure or populate the Standard Suite for Customer's use.

1.19. **"Order Form"** means an order form mutually executed by the parties evidencing the purchase of subscriptions to the Standard Suite specifying, among other things, the Term, the initial number of Users, the applicable fees, and the billing period as agreed to between the parties. Each Order Form, once mutually executed, shall be governed by and become part of this Agreement, and is hereby incorporated by this reference.

1.20. **"Process"** or **"Processing"** means any operation or set of operations which is performed on Customer Data or sets of Customer Data, whether or not by automated means, such as collection, recording, organization,

structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction.

1.21. **"Products"** means the health care products and ancillary services relating thereto that are offered for sale by a Seller through the Standard Suite.

1.22. **"Security Incident"** means the breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data attributable to Supply Clinic.

1.23. **"Sellers"** means the suppliers, sellers, manufacturers and/or distributors offering Products on the Standard Suite.

1.24. **"Subscription Fees"** means the fees payable by the Customer as consideration for access to and use of the Standard Suite.

1.25. **"Supply Clinic"** means Supply Clinic, Inc., a Delaware corporation.

1.26. **"Supply Clinic Platform"** means the portal or portals through which Customer can access the Standard Suite, including but not limited to Supply Clinic's website.

1.27. **"Support"** means the Supply Clinic technical support services provided pursuant to this Agreement.

1.28. **"Support Portal"** means Supply Clinic's customer support portal.

1.29. **"Taxes"** means any and all taxes, levies, or duties imposed by taxing authorities, including for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever.

1.30. **"Term"** means the period(s) during which Customer is authorized to use the Standard Suite pursuant to an Order Form.

1.31. **"Third Party(ies)"** means Supply Clinic's authorized vendors and third-party service providers that Process Customer Data.

1.32. **"Transition Services"** means transition services performed by Supply Clinic to facilitate the orderly and complete transfer of the Customer Data to Customer or to any replacement provider designated by Customer.

1.33. **"Trial"** means a limited trial or evaluation period of the Standard Suite, if applicable.

1.34. **“Updates”** means Supply Clinic’s updates of the Standard Suite for repairs, enhancements or new features applied by Supply Clinic to Customer’s instances, including updates to the Documentation as a result of such updates, at no additional fee during the Term. Updates shall not include additional functionality or upgrades to the Standard Suite that Supply Clinic requires a separate charge from its other customers generally.

1.35. **“Uptime”** means the Standard Suite’s uptime availability requirement of 99% over a calendar month, calculated based on the percentage (on a minute basis) of non-Excused Downtime in which the Standard Suite was not down.

1.36. **“Users”** means the number of Customer’s offices that are authorized to use the Standard Suite and have been supplied unique user identifications and passwords by Customer.

1.37. **“Warranty Period”** means 14 days from the time Customer discovers or should have discovered any defect or non-conformity of the Products covered by any warranties set forth in Section 7.2 of this Agreement.

## 2. SUPPLY CLINIC’S OBLIGATIONS

2.1. **Provision of the Standard Suite.** Supply Clinic will make available to Customer, and Customer is authorized to use, the Standard Suite during the Term as set forth in an applicable Order Form for its and its Affiliates’ internal business purposes in accordance with the Documentation.

2.2. **Support, Updates & Uptime.** Supply Clinic shall: (i) provide the Support, as detailed in Section 2.6; (ii) provide Updates to the Standard Suite during the Term; (iii) ensure the availability and Uptime of the Standard Suite as detailed in Section 7.1.

2.3. **Security.** Supply Clinic agrees to follow industry standard practices designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction. Supply Clinic may periodically review and update its internal policies and practices to address new and evolving security technologies, changes to industry standard practices, and changing security threats, provided that any such update does not materially reduce the overall level of security provided to Customer as described herein. The parties agree that the terms of the Addendum shall govern Supply Clinic’s Processing of Customer Data.

2.4. **Security Incident Notification.** Unless notification is restricted by law, Supply Clinic shall report to Customer’s support contacts designated in the Support Portal any Security Incident as soon as practicable after Supply Clinic determines that a Security Incident has occurred. Unless prohibited by law, Supply Clinic shall share information about the nature of the Security Incident that is reasonably requested by Customer to enable Customer to notify affected individuals, government agencies and/or credit bureaus. Customer has sole control over the content of Customer Data that it enters into the Supply Clinic Platform and is responsible for determining whether to notify impacted individuals and the applicable regulatory bodies or enforcement commissions and for providing such notice.

2.5. **Insurance.** Supply Clinic shall maintain during the Term, at its own expense, sufficient insurance coverage to adequately cover its obligations under this Agreement. Upon request, and no later than thirty (30) days of a written request therefor, Supply Clinic shall provide to the Customer a copy of its current certificate of insurance evidencing its current insurance coverage.

## 2.6. Support Services.

(a) **Support.** Supply Clinic shall provide Support to Customer during the Term in connection with Customer’s access to and use of the Standard Suite. A resolution to such a defect may consist of a fix, workaround or other relief reasonably determined by Supply Clinic’s Technical Support staff in their sole discretion.

(b) **Live Phone Support.** Supply Clinic personnel are available to provide live phone support to Customer as needed during the periods of Monday-Friday, 8am-5pm Central Standard Time.

(c) **Online Chat Support.** Supply Clinic personnel are available to provide online chat support to Customer as needed during the periods of Monday-Friday, 8am-5pm Central Standard Time.

(d) **Support Exclusions.** Supply Clinic is not required to provide resolutions for defects due to use or modifications of the Standard Suite made by anyone other than Supply Clinic (or anyone acting at Supply Clinic’s direction). Support does not include professional services for implementation, configuration, integration or customization of the Standard Suite or custom software development, training or assistance with administrative functions

2.7 **Implementation Services.** Subject to payment of the Implementation Fee, as set forth in the Order Form, Supply Clinic agrees to provide the Implementation Services. Customer agrees to perform the tasks and obligations as reasonably requested by Supply Clinic and to provide appropriate resources and information as required by Supply Clinic in connection with Supply Clinic's provision of the Implementation Services. The Implementation Fee shall be due and payable in full on the Effective Date.

### 3. CUSTOMER'S USE OF THE STANDARD SUITE

3.1. **User Accounts.** Customer is responsible for activity occurring under its User accounts and shall ensure that it and its Users abide by all local, state, national and foreign laws, treaties and regulations applicable to Customer's use of the Standard Suite. Customer shall: (i) notify Supply Clinic promptly of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) notify Supply Clinic promptly and use reasonable efforts to promptly stop any unauthorized use, copying, or distribution of the Standard Suite that is known or suspected by Customer or its Users; and (iii) not impersonate another Supply Clinic user or provide false identity information to gain access to or use the Standard Suite.

3.2. **Restrictions.** Customer shall not (i) license, sublicense, sell, resell, transfer, rent, lease, assign (except as provided in Section 11.3 (Assignment)), distribute, disclose, or otherwise commercially exploit or make available to any third party the Standard Suite; (ii) copy, modify or make derivative works based upon the Standard Suite; (iii) "frame" or "mirror" the Standard Suite on any other server or device; (iv) access the Standard Suite for any benchmarking or competitive purposes or use the Standard Suite for application service provider, timesharing or service bureau purposes, or any purpose other than its own internal use, (v) decompile, disassemble, reverse engineer or attempt to discover any source code or underlying ideas or algorithms of the Standard Suite (except to the extent reverse engineering restrictions are prohibited by applicable law), (vi) remove, obscure or modify a copyright or other proprietary rights notice in the Standard Suite; (vii) use the Standard Suite to send or store infringing, obscene, threatening, libelous, or otherwise unlawful material, including material that violates third party privacy rights; (viii) use the Standard Suite to create, use, send, store, or

run material containing software viruses, worms, Trojan horses or otherwise engage in any malicious act or disrupt the security, integrity or operation of the Standard Suite; (ix) attempt to gain or permit unauthorized access to the Standard Suite or its related systems or networks; (x) use the Standard Suite other than in compliance with all applicable laws and regulations or (xi) permit or assist any other party (including any User) to do any of the foregoing.

3.3. **User Reassignment.** User subscriptions cannot be shared or used by more than one User but may be reassigned to Additional Users replacing former Users who no longer require use of the Standard Suite.

3.4. **Additional Users.** Additional Users may be granted access to the Standard Suite from time to time during the Term upon Customer's written notice to Supply Clinic of its desire to add such Additional Users, contingent upon Supply Clinic's receipt from Customer of any information reasonably necessary to onboard such Additional Users. Such Additional Users shall be subject to the same terms as those reflected on the Order Form, and the Term for such Additional Users shall be coterminous with the Term in effect at the time the additional Users are added.

#### 3.5. **Third Party Interactions.**

(a) *Purchasing Products Through the Standard Suite.* During the Term, Customer may enter into correspondence with and purchase goods and/or services from Sellers. In such case, Customer shall select specific desired products from such Sellers, review and confirm shipping and billing information, confirm purchase of such products, and agree to pay all costs and taxes associated therewith (including without limitation, all insurance, shipping and delivery costs, as well as sales tax in those jurisdictions where Supply Clinic is required by applicable law to collect sales tax), as reflected on the Standard Suite.

#### (b) *Payment Terms for Products.*

(i) *Payment at Time of Purchase.* If required by the Standard Suite, payment for certain Products may be due and payable at the time Customer generates and submits a purchase order for a Seller's products.

(ii) *Payment via Monthly Invoice.* Supply Clinic shall invoice Customer for all Products that are not paid at the time of purchase pursuant to

Section 3.5(b)(i) in accordance with the terms on the Order Form.

(iii) *Failure to Make Payments.* If, (A) in the case of Customer's payment obligations pursuant to Section 3.5(b)(i), a Customer's payment is cancelled, declined by a financial institution, or otherwise fails, or (B) in the case of Customer's payment obligations pursuant to Section 3.5(b)(ii), Customer fails to pay any invoice when due, then without prejudice to any other right or remedy available to Supply Clinic or the Sellers, Supply Clinic shall be entitled in its sole discretion, and upon reasonable notice to Customer, to: (i) ask Sellers to withhold or delay shipment, including partial shipments of Products, cancel any or all remaining deliveries of such Products and/or cancel any or all other of Customer's outstanding purchase orders; and/or charge interest (both before and after any judgment) on the amount unpaid at the rate of (i) 1.5 percent per month or (ii) the maximum rate permitted by law, whichever is less, from time of purchase order to the time until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

(c) *No Cancellations.* Customer may not cancel or terminate any purchases, in whole or in part, made through the Standard Suite after submitting a purchase order, without the express written consent of Supply Clinic.

(d) *Changes to Products.* Supply Clinic reserves the right, prior to actual delivery, to make any changes, without notice, to products purchased through the Standard Suite where those changes are required, which do not materially affect such products' quality, performance or functionality.

(e) *Delivery of Products; Risk of Loss.* Timing for delivery of Products shall be as reflected on the Standard Suite at the time of purchase, and such deliveries may be made in installments. Title and risk of loss shall pass from Sellers to Customer and delivery shall be deemed to occur upon such Seller's delivery of the Products to the carrier. SUPPLY CLINIC SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR PENALTY FOR DELAY IN DELIVERY OR FOR FAILURE TO GIVE NOTICE OF ANY DELAY. EXCEPT IN ACCORDANCE WITH THE APPLICABLE SHIPPING TERMS SET FORTH IN THIS AGREEMENT, SUPPLY CLINIC SHALL NOT HAVE ANY LIABILITY IN CONNECTION WITH SHIPMENT, NOR

SHALL THE SELLERS OR CARRIERS BE DEEMED TO BE AN AGENT OF SUPPLY CLINIC.

#### **4. STANDARD SUITE CREDITS, DEPOSITS, BILLING**

4.1. **Standard Suite Credit.** Customer may request that Supply Clinic extend Standard Suite Credit to purchase Products in an amount set forth on an Order Form. If Customer desires the extension of such credit, then Customer hereby authorizes Supply Clinic to perform a credit check in order to allow Supply Clinic to determine Customer's Standard Suite Credit limit, which shall be determined by Supply Clinic in its sole and absolute discretion. Customer's Standard Suite Credit may be applied toward the full or partial purchase of Products, whether such Products are paid for at the time of purchase through the Standard Suite or pursuant to an invoice issued by Supply Clinic pursuant to the terms set forth on the Order Form. The Standard Suite Credit may not be used to offset any other amounts due from Customer to Supply Clinic under this Agreement, including without limitation the Implementation Fee, Subscription Fee or amounts payable by Customer pursuant to Section 8. Once the balance of Customer's Standard Suite Credit has been reduced to zero, Customer shall pay for all Products (which may include the partial payment for a Product, if the Standard Suite Credit balance is reduced to zero after being applied toward the partial cost of a Product) and all fees due under this Agreement, in cash or other immediately available funds in accordance with this Agreement. The Standard Suite Credit is not redeemable for cash under any circumstances.

4.2. **Customer Deposits.** Customer may prepay any fees owed by Customer pursuant to this Agreement by depositing a Customer Deposit with Supply Clinic. The Customer Deposit shall be first applied to any accrued but unpaid Implementation Fees, second to any accrued but unpaid Subscription Fees, third toward the full or partial purchase of Products, and fourth to any other outstanding amounts due and payable from Customer to Supply Clinic pursuant to this Agreement. Once the balance of the Customer Deposit has been reduced to zero, Customer shall pay for all Products purchased (which may include the partial payment for a Product, if the Customer Deposit balance is reduced to zero after being applied toward the partial cost of a Product), and all fees due under this Agreement, in cash or other immediately available funds in accordance with this

Agreement. Upon the expiration or earlier termination of this Agreement, Supply Clinic shall return any unused Customer Deposit to Customer.

**4.3. Billing and Payment of Fees.** All payment obligations under this Agreement, including without limitation Implementation Fees, Subscription Fees, and fees relating to the purchase of Products, are non-cancellable and all amounts paid are nonrefundable except as otherwise specified in this Agreement. Supply Clinic shall issue invoices to Customer as specified in the Order Form and Customer agrees to pay such amounts not subject to a good faith dispute in accordance with the payment terms as specified in the Order Form and if any such invoice is more than 60 days overdue, Supply Clinic may, without limiting its other rights and remedies, suspend access to the Standard Suite until such invoice is paid in full. Supply Clinic shall provide at least 60 days' prior written notice to Customer of the payment delinquency before exercising any suspension right. Customer agrees to provide Supply Clinic with complete and accurate billing and contact information and to update this information promptly upon any change to it. If Customer believes its bill is incorrect, Customer must contact Supply Clinic in writing within 60 days of the date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

**4.4. Taxes.** Supply Clinic shall collect sales tax for Customer's purchase of Products made through the Standard Suite, and the purchase price for such Products will be inclusive of such sales tax. Further, to the extent required by applicable taxing authorities, Supply Clinic shall collect sales tax on Customer's Implementation Fees and/or Subscription Fees. Supply Clinic will, for all sales tax it collects pursuant to this Agreement, either (i) pay the amount of any such sales taxes directly to the applicable taxing authority or (ii) provide the amount of any such sales taxes to the Seller for remittance to the applicable taxing authority. If Customer is legally entitled to an exemption from any sales, use, or similar transaction tax, upon signing an Order Form, Customer shall provide to Supply Clinic with a legally sufficient tax exemption certificate for each taxing jurisdiction, and Supply Clinic shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Supply Clinic and shall pay Supply Clinic any additional amounts necessary to ensure that the net amount that Supply Clinic receives, after any deduction and withholding, equals the amount Supply

Clinic would have received if no deduction or withholding had been required. Customer shall also provide to Supply Clinic documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.

## **5. PROPRIETARY RIGHTS**

**5.1. Supply Clinic's Intellectual Property Rights.** As between Supply Clinic and Customer, all rights, title, and interest in and to all intellectual property rights in the Standard Suite and Supply Clinic Platform (including all derivatives, modifications and enhancements thereof) are and shall be owned exclusively by Supply Clinic notwithstanding any other provision in this Agreement or Order Form. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Standard Suite or Supply Clinic Platform. The Supply Clinic name, logo and Product names associated with the Standard Suite or Supply Clinic Platform are trademarks of Supply Clinic or are otherwise duly licensed to Supply Clinic, and no right or license is granted to Customer to use them. All rights not expressly granted to Customer are reserved by Supply Clinic. Supply Clinic alone shall own all rights, title and interest in and to any suggestions, enhancement requests, feedback, or recommendations provided by Customer or any third party relating thereto.

**5.2. Customer Data.** As between Customer and Supply Clinic, Customer exclusively owns all rights, title and interest in and to all Customer Data. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership of and right to use all Customer Data, and hereby warrants that that it has and will have all rights and consents necessary to allow Supply Clinic to use all such data as contemplated by this Agreement. Customer hereby grants to Supply Clinic a royalty-free, fully-paid, non-exclusive, non-transferable (except as set forth in Section 11.3 (Assignment)), sub-licensable, worldwide right to use and process Customer Data solely for the purpose of providing to Customer the Standard Suite and any other activities expressly agreed to by Customer.

**5.3. Use of Aggregate Data.** Customer agrees that Supply Clinic may collect, use and disclose quantitative data derived from the use of the Standard Suite for industry analysis, benchmarking, analytics, marketing, and other business purposes. All data collected, used,

and disclosed will be in aggregate form only and will not identify Customer or its Users.

5.4. **Ratings and Reviews.** Customer may rate and review Seller's Products. Supply Clinic reserves the right, but not the has no obligation, to accept, alter and/or remove delete ratings and reviews.

## 6. CONFIDENTIAL INFORMATION

6.1. **Obligations.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care). If the Receiving Party is compelled by law, regulations, interrogatories, requests for information or documents, subpoena, civil investigative demand, court order, or other process or compulsion to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior written notice of such compelled disclosure (to the extent legally permitted), so the Disclosing Party may contest, at the Disclosing Party's cost and with the receiving party's reasonable assistance, the disclosure, or waive the Receiving Party's compliance with the provisions of this Agreement and any information so disclosed shall continue to be treated as Confidential Information for all other purposes.

6.2. **Remedies.** Except as expressly provided in this Agreement, if the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.

## 7. WARRANTIES

### 7.1. Standard Suite Uptime.

(a) *Limited Uptime Warranty.* If service outages result in a failure of the Standard Suite to meet its Uptime availability requirement, Customer's sole and exclusive remedy shall be a service credit equal to the *greater* of: (a) ten percent (10%) of the

Subscription Fees set forth in the applicable Order Form for the Standard Suite for that calendar month; or (b) the actual unavailability rate for that calendar month (as an example, if the Standard Suite has an Uptime availability of 85% during a calendar month, then the service credit shall be fifteen percent (15%) of the applicable Subscription Fees for that calendar month). Any Excused Downtime shall be excluded in calculating Uptime.

(b) Customer must request all service credits in writing to Supply Clinic within thirty (30) days of the end of the month in which the Uptime was not met, including identifying the period Customer's Standard Suite was not available. Supply Clinic shall apply the service credit during Customer's next billing cycle unless the service credit is reasonably disputed by Supply Clinic, in which case Customer and Supply Clinic shall work together in good faith to resolve such dispute in a timely manner. The total amount of service credits for any month may not exceed the applicable monthly Subscription Fee for the Standard Suite, and has no cash value (unless a service credit is owed at the termination or expiration of this Agreement without a renewal order, in which case, such service credit shall be paid to Customer within thirty (30) days of the end of the Term).

### 7.2. Limited Warranty for Products.

(a) No Products are covered under warranty unless otherwise indicated on the Standard Suite. In such case, the warranty shall be limited to defects in work and materials, and exclude any and all defects arising from fair wear and tear, willful damage, negligence, abnormal use, failure to follow Products environment or operating instructions, voltage fluctuations, lightning, water damage, faulty installation or adjustments, improper maintenance, misuse or alteration or repair of the Products other than by the listed Seller or their authorized representative.

(b) The Customer shall notify Supply Clinic in writing within the Warranty Period. Supply Clinic shall not have any liability with respect to the Products under the above warranties (or any other warranty, condition or guarantee) unless: (i) written notification is received within Warranty Period, that reasonably describes in detail the defect or non-conformity alleged; (ii) Customer provides Supply Clinic a reasonable opportunity after receiving the written notice to examine such Products and Customer (if

requested to do so by Supply Clinic) returns such Products to applicable Seller's place of business (or such other location as directed by such Seller) at Supply Clinic's cost for the examination to take place; (iii) the defects did not arise because Customer failed to follow the relevant instructions as to the storage, use or maintenance of the Products; and (vi) Customer did not alter such Products without the prior written consent of the applicable Seller.

(c) Supply Clinic's liability to the Customer in respect of the Products, both generally and specifically under the warranty provisions, including as regards any defect in their quality, performance, condition or functionality or failure to meet any agreed specification for which Supply Clinic may be liable under this Agreement shall be limited to the replacement or repair of the Products or repayment of the price paid by the Customer for such Products (in the absolute discretion of Supply Clinic), and without further liability to the Customer in respect thereof. The foregoing shall be Customer's sole and exclusive remedy with respect to any warranty claims directed to Supply Clinic pursuant to this Section 7.2.

7.3. If the Customer fails to strictly comply with this Agreement including, but not limited to, time of performance in relation to such matters as payment, then, without prejudice to all other rights of Supply Clinic, the warranties contained in this Section 7 shall from the date of such non-performance terminate and for the purposes of this Agreement shall be deemed excised.

## 8. INDEMNIFICATION

8.1. **Supply Clinic's Obligations.** Subject to this Agreement, Supply Clinic shall: (i) defend Customer, its officers, directors and employees against any Claims that the Standard Suite used in accordance with this Agreement and the applicable Order Form infringe any issued patent, copyright, trademark or misappropriation of any trade secret of, such third party; and (ii) pay any court-ordered award of damages or settlement amount which may include any expense, liability, loss, damage, costs or reasonable attorneys' fees, each to the extent payable to a third party, to the extent arising from such Claims. Notwithstanding the foregoing, if Supply Clinic reasonably believes that Customer's use of any portion of the Standard Suite is likely to be enjoined by reason of any Claims then Supply Clinic may, at its expense and in its sole

discretion: (i) procure for Customer the right to continue using the Standard Suite; (ii) replace the same with other Products of substantially equivalent functions and efficiency that are not subject to any Claims of infringement; or (iii) modify the applicable Standard Suite so that there is no longer any infringement, provided that such modification does not materially and adversely affect the functional capabilities of the Standard Suite as set out herein or in the applicable Order Form. If (i), (ii), and (iii) above are not available on commercially reasonable terms in Supply Clinic's judgment, Supply Clinic may terminate the affected Standard Suite and provide Customer as its sole remedy (other than indemnification) a refund to Customer the Subscription Fees paid by Customer covering the remaining portion of the applicable Term for the affected Standard Suite after the date of termination. The foregoing indemnification obligation of Supply Clinic shall not apply: (1) if the Standard Suite is modified by any party other than Supply Clinic (or someone acting at Supply Clinic's direction), but solely to the extent the alleged infringement is related to such modification; (2) the Standard Suite is combined with other non-Supply Clinic products, applications, or processes not authorized by Supply Clinic, but solely to the extent the alleged infringement is related to such combination; (3) to the extent the Claim arises in connection with any unauthorized use of the Standard Suite, or use that is not in strict compliance with this Agreement, all applicable laws, and/or related Documentation; (4) to any third party products, processes or materials that are not provided by Supply Clinic; (5) to any Claims arising as a result of the content of the Customer Data; or (6) where Customer continues allegedly infringing activity after being notified therefor or after being informed of modifications that would have avoided the alleged infringement. THIS SECTION SETS FORTH SUPPLY CLINIC'S SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

8.2. **Customer's Obligations.** Customer shall defend Supply Clinic, its officers, directors, and employees against any expense, liability, loss, damage or costs (including reasonable attorneys' fees), each to the extent payable to a third party, incurred in connection with Claims made or brought against Supply Clinic by a third party arising from or relating to (i) the Customer Data, (ii) a dispute between Customer and its Sellers arising from Customer's use of the

Standard Suite to exchange information with or conduct business with such Seller, or (iii) the negligence, willful misconduct or violation of applicable law by Customer. To the extent affected by the following, Customer's indemnification obligation shall not apply: (1) if the Customer Data is modified by Supply Clinic or by any party under Supply Clinic's control, without Customer's authorization but solely to the extent the Claim is caused by such modification or (2) to any use or disclosure of the Customer Data by Supply Clinic not contemplated by this Agreement.

8.3. **Process.** Each party's indemnity obligations are subject to the following: (i) the indemnified party shall promptly notify the indemnifier in writing of any Claims; (ii) the indemnifier shall have sole control of the defense and all related settlement negotiations with respect to any Claims (provided that the indemnifier may not settle any Claims that require the indemnified party to admit any civil or criminal liability or incur any financial obligation without the indemnified party's consent, which consent shall not be unreasonably withheld); and (iii) the indemnified party shall cooperate fully to the extent necessary at the indemnifier's cost in such defense and settlement.

## 9. **DISCLAIMER AND LIMITATIONS OF LIABILITY**

9.1. **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SUPPLY CLINIC DOES NOT MAKE ANY OTHER REPRESENTATION, WARRANTY, OR GUARANTY, AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES PROVIDED OR OFFERED HEREUNDER. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES PROVIDED TO CUSTOMER HEREUNDER ARE PROVIDED STRICTLY ON AN "AS IS" BASIS AND ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9.2. **LIMITATIONS OF LIABILITY.** TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY'S TOTAL AND AGGREGATED LIABILITY ARISING OUT OF OR RELATED

TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM CUSTOMER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY UNDER THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION SHALL NOT APPLY TO CUSTOMER'S OBLIGATION TO PAY FEES LEGALLY OWED UNDER THIS AGREEMENT, EACH PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, OR INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

9.3. **EXCLUSION OF DAMAGES.** IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THE AGREEMENT FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE), REGARDLESS OF THE CAUSE, ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.4. **GROSS NEGLIGENCE; WILLFUL MISCONDUCT.** NOTHING HEREIN SHALL LIMIT A PARTY'S LIABILITY FOR ITS (A) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (B) FRAUD OR FRAUDULENT MISREPRESENTATION, OR (C) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE.

9.5. The Customer acknowledges that, in using the Standard Suite and in entering into any agreement with a Seller, it has not relied on any representation from or on behalf of Supply Clinic, and that all such representations are set forth in this Agreement. The parties acknowledge that any representations with respect to the Products are fully set forth on the Standard Suite and that Supply Clinic does not make any representations regarding such Products except as set forth in this Agreement.

## 10. **TERM; TERMINATION**

10.1. **Term.** The Agreement commences on the Effective Date and continues until all Order Forms subject to this Agreement have expired or terminated, unless this Agreement is earlier terminated in accordance with this Section 10. User subscriptions

commence on the subscription Effective Date specified in the relevant Order Form and continue for the Term specified therein. Unless otherwise provided in the Order Form, User subscriptions shall automatically renew for additional periods of one year on the same terms unless either party gives the other notice of non-renewal or a new price quote at least 30 days prior to the end of the relevant Term.

**10.2. Termination.** A party may immediately terminate this Agreement for cause: (i) upon 30 days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Upon any termination for cause by Customer, Supply Clinic shall refund any prepaid fees (including Subscription Fees) covering the remainder of the Term after the date of the notice of a material breach within thirty (30) days of the effective date of termination. Upon termination for cause by Supply Clinic, in addition to Customer's obligation to pay any other fees accrued or payable as of the effective date of the notice of a material breach, Customer shall pay to Supply Clinic a termination fee in an amount equal to three months' worth of Standard Suite Subscription Fees. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to Supply Clinic prior to the date of the notice of a material breach.

**10.3. Transition Services.** Upon termination of the Agreement, at Customer's election, Supply Clinic shall provide Transition Services, provided that the scope and fees of the Transition Services shall be mutually agreed to by the parties in a statement of work prior to commencing Transition Services. Notwithstanding the provisions of this subsection, in no event shall Supply Clinic be required to disclose any of its Confidential Information or provide a license under any of its intellectual property to Customer or any third party as part of the Transition Services. For the avoidance of doubt, Customer shall continue to pay the subscription fees for the use of the Standard Suite during the transition period.

**10.4. Survival.** Upon expiration or termination of the Agreement, Sections 1 (Definitions), 3.2 (Restrictions),

4.1 (Billing and Payment of Fees), 5 (Proprietary Rights), 6 (Confidential Information), 8 (Indemnification), 9 (Disclaimer and Limitations of Liability), 10 (Term; Termination), and 11 (General Provisions) of this Agreement shall survive.

## **II. GENERAL PROVISIONS**

**11.1. Compliance with Laws and Export Control.** Each party shall comply with all applicable laws and government regulations, including the export laws and regulations of the United States and other applicable jurisdictions, in connection with providing and using the Standard Suite. Without limiting the foregoing, (i) each party represents that it is not named on any government list of persons or entities prohibited from receiving exports, and (ii) Customer shall not, and shall ensure that Users do not violate any export embargo, prohibition, restriction or other similar law in connection with this Agreement.

**11.2. Notice.** Except as provided elsewhere in this Agreement, either party may give notice by written communication (i) via e-mail to the e-mail address set forth below, (ii) hand delivered in person, (iii) sent by certified or registered first-class mail, postage pre-paid, or (iv) sent by nationally recognized express courier service: (i) if to Customer, to Customer's address on record in Supply Clinic's account information or (ii) if to Supply Clinic, to 180 N Michigan Ave Ste. 2010, Chicago, IL 60601, addressed to the attention of: CEO; Email: notice@supplyclinic.com. Such notice shall be deemed to have been given upon receipt, if hand delivered or sent by email, three (3) business days after mailing if sent by mail, and one (1) business day after dispatch if sent by express courier.

**11.3. Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**11.4. Dispute Resolution.** This Agreement shall be governed by Illinois law and controlling United States

federal law, without regard to the choice or conflicts of law provisions of any jurisdiction and without regard to the United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement shall be submitted to and finally settled by arbitration in Chicago, Illinois, using the English language in accordance with the Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Services, Inc. (JAMS) then in effect, by one or more commercial arbitrator(s) with substantial experience in the industry and in resolving complex commercial contract disputes. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, each party shall have the right to institute an action in any court of proper jurisdiction for injunctive relief. The prevailing party in any dispute arising under this Agreement shall be awarded its reasonable attorney fees and costs. Each party waives its right to a jury trial in any court action arising between the parties under this Agreement or otherwise related to this Agreement, whether made by claim, counterclaim, third party claim, or otherwise.

11.5. **Entirety.** The Agreement comprises the entire agreement between Customer and Supply Clinic and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. No text or information set forth on any other purchase order, preprinted form or document shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and

effect. Customer agrees that Customer's purchase of any subscription is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Supply Clinic with respect to future functionality or features. No joint venture, partnership, employment, or agency relationship exists between Customer and Supply Clinic as a result of the Agreement or use of the Standard Suite. The failure of a party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision.

11.6. **Force Majeure.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excluding Customer's failure to pay amounts owed when due), when and to the extent such failure or delay is caused by or results from a Force Majeure Event. The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

11.7. **Trial Use.** Supply Clinic may provide Customer with a limited Trial period for no or nominal consideration, as set forth in an Order Form. The following terms apply for any Trial use: (i) Notwithstanding any other provisions set forth herein, all Trial use is provided "AS-IS" without warranty of any kind, express or implied; (ii) unless Customer has otherwise notified Supply Clinic and agreed upon subscription use terms, the Trial will automatically terminate at the end of the Trial use period; and (iii) any Customer Data entered into the Standard Suite during such Trial will be permanently deleted and lost upon expiration of the Trial. Further, Supply Clinic's warranties, obligations and support requirements shall not apply to Customer's use during such Trial. For clarification, Supply Clinic shall not be responsible for any direct, indirect, consequential or other damages for such Trial use and Customer's sole remedy for any failure of the Standard Suite shall be to terminate the Trial.

## **EXHIBIT A – DATA PROCESSING ADDENDUM**

This Data Processing Addendum forms part of the Supply Clinic Agreement between Customer and Supply Clinic.

### **1. SUBJECT MATTER AND DURATION**

This Addendum reflects the parties' commitment to abide by Data Protection Laws concerning the Processing of Customer Data in connection with Supply Clinic's execution of the Agreement. All capitalized terms that are not expressly defined in this Addendum will have the meanings given to them in the Agreement. If and to the extent language in this Addendum conflicts with the Agreement, this Addendum shall control.

This Addendum will become legally binding upon the Effective Date of the Agreement. Supply Clinic will Process Customer Data until the relationship terminates as specified in the Agreement. Supply Clinic's obligations and Customer's rights under this Addendum will continue in effect so long as Supply Clinic Processes Customer Data.

### **2. DATA USE AND PROCESSING**

2.1 Documented Instructions. Supply Clinic and its Third Parties shall Process Customer Data only in accordance with the documented instructions of Customer or as specifically authorized by this Addendum, the Agreement or any applicable Order Form.

2.2 Supply Clinic's Use of Third Parties. To the extent necessary to fulfill Supply Clinic's contractual obligations under the Agreement, Customer hereby authorizes Supply Clinic to engage Third Parties. Supply Clinic agrees to enter into a written agreement with Third Parties regarding such Third Parties' Processing of Customer Data that imposes on such Third Parties data protection and security requirements for Customer Data that are compliant with Data Protection Laws.

2.3 Personal Data Inquiries and Requests. Where required by Data Protection Laws, Supply Clinic agrees to provide reasonable assistance and comply with reasonable instructions from Customer related to any requests from individuals exercising their rights in Customer Data granted to them under Data Protection Laws.

2.4 Data Exchange Disclosures. Customer may instruct Supply Clinic or otherwise use the Standard Suite to disclose Customer Data to a Supply Clinic Seller for such Seller's own marketing purposes. This Addendum does

not govern, and Supply Clinic shall not be liable for the Processing of Customer Data by any Supply Clinic Seller.

### **3. INFORMATION SECURITY PROGRAM**

Supply Clinic agrees to implement appropriate technical and organizational measures designed to protect Customer Data in accordance with Data Protection Laws.

### **4. SECURITY INCIDENTS**

4.1 Notice. Upon becoming aware of a Security Incident, Supply Clinic agrees to provide written notice without undue delay and within the time frame required under Data Protection Laws to Customer's Designated POC. Where possible, such notice will include all available details required under Data Protection Laws for Customer to comply with its own notification obligations to regulatory authorities or individuals affected by the Security Incident.

### **5. DATA DELETION**

At the expiry or termination of the Agreement, Supply Clinic will, at Customer's option, delete or return all Customer Data (excluding any back-up or archival copies which shall be deleted in accordance with Supply Clinic's data retention schedule), except where Supply Clinic is required to retain copies under applicable laws, in which case Supply Clinic will isolate and protect that Customer Data from any further Processing except to the extent required by applicable laws.

### **6. CONTACT INFORMATION**

Customer and Supply Clinic agree to designate a Designated POC.