**SAAS SERVICES**

**TERMS OF SERVICE**

IMPORTANT – READ THIS CAREFULLY BEFORE USING OR ACCESSING THESE PROPRIETARY SERVICES.

BY AGREEING TO AN ORDER, CLICKING "I AGREE" TO AN ORDER, SUBMITTING A CREDIT CARD PAYMENT FORM, OR BY OTHERWISE ACCESSING OR USING THE SYSTEM OR THE SERVICES, CUSTOMER AGREES TO BE BOUND BY THIS AGREEMENT.

These Terms of Service ("Terms"), along with the Order (defined below) and other documents incorporated by reference (collectively, "Agreement") create an agreement between Ravacan, Inc., a Delaware corporation ("Ravacan") and the business entity or person identified on the Order for whom you ("You") are acting ("Customer"). This Agreement governs Customer's access to and use of the System (defined below) and the Services (defined below). You are entering into this Agreement for Customer's access and use of the Services in accordance with this Agreement. You represent and warrant that You are entering into this Agreement on behalf of Customer and that You have the authority to bind Customer to this Agreement.

The Order is considered an offer and Ravacan is willing to provide the Services to Customer only on condition that You accept all the terms in this Agreement on behalf of Customer. Any different or additional terms and conditions set forth in any purchase order, confirmation, statement of work, order form or similar ordering document are rejected and shall have no force or effect on the Agreement unless it is an amendment or addendum to the Agreement signed by authorized representatives of both parties.

If Customer has entered into a signed written agreement or other online agreement with Ravacan for the Services prior to this Agreement, then this Agreement shall supersede and take precedence over any such earlier agreement. This Agreement shall be the entire agreement between the parties regarding the Services and any earlier agreement is hereby terminated.

This Agreement is entered into and effective as of the Order Effective Date (set forth in the Order). The parties agree as follows:

**1. DEFINITIONS**.

**1.1** "**Affiliate**" means, with respect to a party, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity, where "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity through the ownership of 50% or more of the outstanding voting securities (but only for as long as such entity meets these requirements).

**1.2** "**Content**" means content, data, and information.

**1.3** "**Customer Content**" means Content that is provided or made available by Customer (a) through Customer's use of the System or as part of or in connection with Customer's receipt of Services, and includes any reports produced by the System from Customer data, or (b) that Ravacan enters into the System for Customer.

**1.4** "**Customer Users**" means Customer's and its Affiliates' employees and independent contractors who are authorized by Customer to use the Services on behalf of Customer and Customer Affiliates.

**1.5** "**Documentation**" means any user materials, instructions, and specifications made available by Ravacan to Customer for the Service.

**1.6** "**Implementation Services**" means integration and on-boarding services for the System identified in the Order.

**1.7** "**Order**" means any written order document executed by Ravacan and Customer identifying the Services Customer is purchasing and setting forth certain terms and conditions relating to the Services into which these Terms are incorporate to for this Agreement.

**1.8** "**Ravacan Content**" means Content that is owned by Ravacan or any of its licensors that is provided or made available by Ravacan through of the System or as part of or in connection with Ravacan's provision of Services. Ravacan Content does not include Customer Content.

**1.9** "**Services**" means, collectively, Implementation Services, System Access, Support Services, and the other services made available on, by or through the System by Ravacan as described in this Agreement.

**1.10** "**Software**" means Ravacan's proprietary collaboration software for direct procurement teams made available through remote access by Ravacan to Customer and Users as part of the System, including any modified, updated, or enhanced versions of such software that may become part of the Software.

**1.11** "**Supplier**" means a Customers supplier, vendor, or contract manufacturer.

**1.12** "**Supplier Users**" means a Supplier's employees and independent contractors who are authorized by Customer to use the Services on behalf of a Supplier.

**1.13** "**Support Services**" means the technical support and Software maintenance described Ravacan's support terms located on the Site.

**1.14** "**System**" means the Software, Ravacan's database, and all third party software, hardware and systems accessed or utilized by Ravacan, in connection with providing access to Software to Customer under this Agreement. System does not include Customer's connectivity equipment, internet and network connections, hardware, software and other equipment as may be necessary for Users to connect to and obtain System Access or to access or utilize the Services.

**1.15** "**System Access**" means access to the System pursuant to this Agreement.

**1.16** "**Usage Data**" means any Content, analytics, statistics or other data that is collected or produced by the System in connection with the use of the Services in an aggregated format not identifiable to Customer or any particular User or Users, and may include, but is not limited to, usage patterns, traffic logs and user conduct associated with the System.

**1.17** "**User Data**" means any data about a User that may be provided in connection with the use of the System or collected by the System as a result of User's use of the System and may include, but is not limited to, name and email addresses.

**1.18** "**Users**" means Customer Users and Supplier Users.

**2. SERVICES.**

**2.1 Provision of Services**. Subject to the terms and conditions of this Agreement, Ravacan shall provide the Services to Customer and its Users.

**2.2 Cooperation.** Customer shall supply to Ravacan the Customer Content along with access and personnel resources reasonably requested by Ravacan that are necessary for Ravacan to provide the Services as set forth in this Agreement.

**2.3 Resources.** Customer is solely responsible for, at its own expense, acquiring, installing and maintaining all connectivity equipment, internet and network connections, hardware, software, and other equipment as may be necessary for its Users to connect to and obtain System Access.

**3. GRANT OF RIGHTS**.

**3.1 Access Rights; Customer's Use of the System.** Subject to the terms and conditions of this Agreement, Ravacan hereby grants to Customer, during the Term (as defined below), a non-exclusive, non-sublicensable right to access and use the System for Customer's and its Affiliates' internal business purposes in accordance with the Documentation and the terms and conditions of this Agreement. Ravacan and its licensors reserve all rights in and to the System not expressly granted to Customer under this Agreement.

**3.2 Restrictions on Use**. Customer shall not (a) reproduce, display, download, modify, create derivative works of or distribute the System, or attempt to reverse engineer, decompile, disassemble or access the source code for the System or any component thereof; (b) use the System, or any component thereof, in the operation of a service bureau to support or process any Content of any party other than Customer or Customer Affiliates; or (c) permit any party, other than the then-currently authorized Users to independently access the System.

**3.3 Users.** Under the rights granted to Customer under this Agreement, Customer may permit independent contractors and employees of its Affiliates and Suppliers to become Users in order to access and use the System in accordance with this Agreement; provided that Customer shall be fully responsible for Users' compliance with the applicable provisions of this Agreement. Customer shall be liable for the acts and omissions of all Customer Affiliates, Suppliers, and Users to the extent any of such acts or omissions, if performed by Customer, would constitute a breach

of, or otherwise give rise to liability to Customer under, this Agreement. Customer shall not, and shall not permit any User to, use the System, Software or Documentation except as expressly permitted under this Agreement.

**4. FEES AND PAYMENT TERMS**.

**4.1 Price.** Customer shall pay Ravacan the fees set forth in the applicable Order ("**Fees**") in accordance with the terms of this Agreement. Unless otherwise set forth in the Order, all Fees shall be paid annually in advance. Fees are exclusive of, and Customer shall pay all taxes, fees, duties, and other governmental charges arising from the payment of any fees or any amounts owed to Ravacan under this Agreement (excluding any taxes arising from Ravacan's income or any employment taxes). Fees for any Services requested by Customer that are not set forth in an Order will be charged as mutually agreed to by the parties in writing.

**4.2 Overage.** If Customer exceeds (a) the quantity of Users purchased by Customer on an applicable Order, or (b) any another specified usage limitations as set forth in the Documentation, then, within 30 days after the end of the applicable period, Ravacan shall provide Customer with an invoice for the applicable Fees for such excess quantity or the usage in excess of such limitations, and such invoice shall include a report detailing the quantities of the Users and excess usage on monthly basis during the preceding period. Customer shall pay to Ravacan all undisputed amounts set forth in such invoice in accordance with Section 4.3. If Customer has a good faith dispute of any overage fees contained in such invoice, Customer shall notify Ravacan and the parties will discuss any disputed amounts in good faith in an effort to seek resolution within 60 days after Ravacan's receipt of such notice.

**4.3 Payment.** Except as otherwise expressly set forth in an Order, Customer shall pay to Ravacan all correctly invoiced Fees within 30 days following receipt of the applicable invoice for such Services. If Customer disagrees with any Fees set forth in an invoice, it shall notify Ravacan of the dispute within 30 days after receipt of such invoice. All payments received by Ravacan are non-refundable except as otherwise expressly provided in this Agreement. Customer shall make all payments in United States dollars.

**5. TERM AND TERMINATION.**

**5.1 Term.** This Agreement commences on the Effective Date and continues until all Orders have terminated ("Term").

**5.2 Order Term.** The initial term of the Order shall begin on the Order Effective Date and continue for one year ("**Initial Order Term**"). The Order will automatically renew for additional one-year periods (each, a "**Renewal Order Term**"), unless a party gives the other party written notice of its intent to not renew at least 30 days prior to the end of the Initial Term or the then-current Renewal Term. The Initial Term and each Renewal Term are collectively referred to as the "**Order Term**."

**5.3 Termination for Cause.** A party may terminate the Order and this Agreement upon notice if the other party breaches any material provision of this Agreement and does not cure such breach (provided that such breach is capable of cure) within 30 days after being provided with written notice of such breach.

**5.4 Effects of Termination.** Upon termination of this Agreement: (a) all amounts owed to Ravacan under this Agreement before such termination will be due and payable in accordance with Section 4, (b) all rights granted in this Agreement will immediately cease, (c) Customer shall promptly discontinue all access and use of the System and return or erase, all copies of the Documentation in Customer's possession or control and (d) Ravacan shall return or erase all Customer Content within thirty (30) days, except that Ravacan may retain Customer Content in Ravacan's archived backup files. In the event of termination due to Ravacan's breach, Ravacan will refund to Customer all Fees paid in advance for the Order Term or portion thereof for which Services are not provided. Sections 1, 5.4, 6, 8, 9, 10, and 11 and all payment obligations shall survive expiration or termination of this Agreement.

**6. PROPRIETARY RIGHTS**.

**6.1 Customer.** As between the parties, Customer owns all right, title and interest in Customer Content, including all intellectual property rights therein. Any rights not expressly granted to Ravacan hereunder are reserved by Customer, its licensors and suppliers.

**6.2 Customer Content License Grant.** Customer hereby grants to Ravacan, during the Term, a limited, non-exclusive, non-transferable (except as permitted by Section 11.2), non-sublicensable license to use the Customer Content solely for the limited purpose of performing the Services for Customer under this Agreement.

**6.3 Ravacan.** All proprietary technology utilized by Ravacan to perform its obligations under this Agreement, and all intellectual property rights in and to the foregoing, as between Customer and Ravacan, are the exclusive

property of Ravacan. Ravacan or its third party licensors retain ownership of all right, title and interest to all copyrights, patents, trademarks, trade secrets and other intellectual property rights in and to the System, including without limitation the Software, Ravacan's database (and all data therein except for Customer Content and Usage Data), Documentation, customizations and enhancements, and all processes, know-how, and the like utilized by or created by Ravacan in performing under this Agreement. Any rights not expressly granted to Customer hereunder are reserved by Ravacan.

**6.4 User Data**. Customer retains ownership of all right, title and interest in and to the User Data. Customer grants Ravacan a license to use the User Data only as necessary to perform its obligations in accordance with the terms of this Agreement.

**6.5 Usage Data.** Ravacan may publish, share or otherwise distribute Usage Data, provided that (a) such Usage Data is aggregated with data from other Ravacan customers or users in a manner that does not reasonably allow Usage Data to be separated from such aggregate data and identified as relating to Customer or any User or Users and (b) if the Usage Data is not aggregated and/or the Usage Data can be identified as relating to Customer, then Ravacan may (i) only use such Usage Data for internal purposes and (ii) Ravacan may not publish, share or otherwise distribute such Usage Data. Ravacan retains ownership of all right, title and interest in and to the Usage Data. Ravacan may use Usage data in connection with its performance of its obligations in this Agreement and for any other lawful business purpose, including, but not limited to, benchmarking, data analysis and to improve Ravacan's services, systems, and algorithms.

**6.6 Publicity.** Subject to Customer's prior approval, not to be unreasonably withheld, Company may issue one press release announcing that Customer is a customer of Company within a reasonable time after signing this Agreement. Customer shall consider in good faith any requests by Company to serve as a reference account.

## 7. WARRANTY; DISCLAIMERS.

**7.1 System Access.** Ravacan warrants that the System will perform in accordance with the Documentation and this Agreement and that the System and Services will be provided in accordance with all applicable laws, rules and regulations. Ravacan does not warrant that the System will be completely error-free or uninterrupted. If Customer notifies Ravacan of a reproducible error in the System that indicates a breach of the foregoing warranty (each, an "Error") within 30 days after Customer experiences such Error, Ravacan shall, at its own expense and as its sole obligation and Customer's exclusive remedy: (a) use commercially reasonable efforts to correct or provide a workaround for any such Error; or (b) if Ravacan is unable to provide a correction or workaround for any such Error within 30 days after receiving notice of an Error from Customer, Customer may terminate this Agreement upon notice to Ravacan and, Ravacan shall refund the amounts paid by Customer for System Access for the period during which the System was not usable by Customer. The warranties set forth in this Section 7.1 do not cover or apply to (i) any Error caused by Customer or its Users, (ii) any Error or unavailability of the System caused by use of the System in any manner or in any environment inconsistent with its intended purpose, (iii) any of Customer's hardware or software if modified or repaired in any manner which materially adversely affects the operation or reliability of the System, or (iv) any equipment or software or other material utilized in connection with the System used by Customer contrary to manufacturer's instructions.

**7.2 Right to Customer Content.** Customer represents and warrants that it has the right to (a) use the Customer Content as contemplated by this Agreement and (b) grant Ravacan the license in Section 6.2.

**7.3 Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 7, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND AND EACH PARTY SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

## 8. INDEMNIFICATION.

**8.1 Claims Against Customer.** Ravacan shall defend any claim, suit, or action against Customer brought by a third party to the extent based on an allegation that the Software infringes any intellectual property rights of such third party (each, a "**Customer Claim**"), and Ravacan shall indemnify and hold Customer harmless, from and against damages, losses, liabilities, and expenses (including reasonable attorneys' fees and other legal expenses) (collectively, "**Losses**") that are specifically attributable to such Customer Claim or those costs and damages agreed to in a settlement of such Customer Claim. The foregoing obligations are conditioned on Customer: (a) promptly notifying

Ravacan in writing of such Customer Claim; (b) giving Ravacan sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at Ravacan's request and expense, assisting in such defense. In the event that the use of the System is enjoined, Ravacan shall, at its option and at its own expense either (a) procure for Customer the right to continue using the System, (b) replace the Software with a non-infringing but functionally equivalent product, (c) modify the Software so it becomes non-infringing or (d) terminate this Agreement and refund the amounts Customer paid for System Access that relate to the period during which Customer was not able to use the System. Notwithstanding the foregoing, Ravacan will have no obligation under this Section 8.1 with respect to any infringement claim based upon: (1) any use of the System not in accordance with this Agreement; (2) any use of the System in combination with products, equipment, software, or data that Ravacan did not supply or approve of if such infringement would have been avoided without the combination with such other products, equipment, software or data; or (3) any modification of the System by any person other than Ravacan or its authorized agents or subcontractors. This Section 8.1 states Ravacan's entire liability and Customer's sole and exclusive remedy for infringement claims or actions.

**8.2 Claims Against Ravacan.** Customer shall defend any claim, suit, or action against Ravacan brought by a third party to the extent that such claim, suit or action is based upon Customer's or Ravacan's use of any Customer Content in accordance with this Agreement ("**Ravacan Claim**") and Customer shall indemnify and hold Ravacan harmless, from and against Losses that are specifically attributable to such Ravacan Claim or those costs and damages agreed to in a settlement of such Ravacan Claim. The foregoing obligations are conditioned on Ravacan: (a) promptly notifying Customer in writing of such Ravacan Claim; (b) giving Customer sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at Customer's request and expense, assisting in such defense. Notwithstanding the foregoing, Customer will have no obligation under this Section 8.2 or otherwise with respect to any Ravacan Claim to the extent based upon Ravacan's use of the Customer Content in violation of this Agreement.

**9. LIMITATIONS OF LIABILITY.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, OR FOR ANY LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID OR OWED BY CUSTOMER TO RAVACAN UNDER THIS AGREEMENT DURING THE INITIAL TERM OR RENEWAL TERM, AS THE CASE MAY BE, DURING WHICH THE EVENTS GIVING RISE TO SUCH LIABILITY OCCURRED. THE LIMITATION OF LIABILITIES SET FORTH IN THIS SECTION 9 SHALL NOT APPLY TO A PARTY'S OBLIGATIONS UNDER SECTION 8, TO LIABILITY ARISING FROM A PARTY'S BREACH OF SECTION 10, OR TO LIABILITY ARISING FROM A PARTY'S VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

**10. CONFIDENTIALITY**.

**10.1 Definitions.** "Confidential Information" means all information disclosed by one party ("Discloser") to the other party ("Recipient") under this Agreement during the Term. Confidential Information includes information that is marked or identified as confidential and, if not marked or identified as confidential, information that should reasonably have been understood by Recipient to be proprietary and confidential to Discloser or to a third party, whether or not such information is designated as confidential. Ravacan's Confidential Information includes Software, System, and Documentation. Customer's Confidential Information includes Customer Content.

**10.2 Protection.** Recipient shall not use any Confidential Information for any purpose not expressly permitted by this Agreement, and shall not disclose Confidential Information to anyone other than Recipient's employees and independent contractors who have a need to know such Confidential Information for purposes of this Agreement and who are under subject to confidentiality obligations no less restrictive than Recipient's obligations under this Section 10. Recipient shall protect Confidential Information from unauthorized use, access, and disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

**10.3 Exceptions.** Recipient shall have no confidentiality obligations under Section 10.2 above with respect to any information of Discloser that Recipient can document: (a) was already known to Recipient prior to Discloser's disclosure; (b) is disclosed to Recipient by a third party who had the right to make such disclosure without violating

any confidentiality agreement with or other obligation to the party who disclosed the information; or (c) is, or through no fault of Recipient has become, generally available to the public; or (d) is independently developed by Recipient without access to or use of Confidential Information. Recipient may disclose Confidential Information if required to as part of a judicial process, government investigation, legal proceeding, or other similar process, provided that, to the extent permitted by applicable law, Recipient gives prior written notice of such requirement to Discloser. Recipient shall take reasonable efforts to provide this notice in sufficient time to allow Discloser to seek an appropriate confidentiality agreement, protective order, or modification of any disclosure, and Recipient shall reasonably cooperate in such efforts at the expense of Discloser.

**10.4 General Skills and Knowledge.** Nothing in this Agreement prohibits Ravacan from utilizing any skills or knowledge of a general nature gained or created by Ravacan during the course of providing the Services, including, information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Ravacan.

**10.5 Data Protection**. To the extent that Customer Data contains personal data (e.g., information relating to an individual), Ravacan shall implement and maintain during the Term of this Agreement reasonable and appropriate administrative, technical, and physical security measures to protect Customer Data that are appropriate to the nature of the information.

**11. GENERAL**.

**11.1 Independent Contractor.** Ravacan acknowledges that it is an independent contractor, and neither Customer nor Ravacan is intended to or should be construed to be an agent, partner, joint venture or employee of the other. Neither party has any authority to bind or otherwise obligate the other party in any manner, and neither party may represent to anyone that it has a right to do so.

**11.2 Assignment.** Neither party may assign or transfer, by operation of law or otherwise, this Agreement or any of its rights under this Agreement to any third party without the other party's prior written consent, such consent shall not be unreasonably withheld or delayed; except that a party may assign this Agreement without consent from the other party by operation of law or otherwise to (a) an Affiliate (b) any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any attempted assignment or transfer in violation of the foregoing will be void. This Agreement does not confer any rights or remedies upon any person or entity not a party hereto.

**11.3 Force Majeure.** Except for payment obligations, neither party will be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder as a result of any cause which is beyond the reasonable control of such party.

**11.4 Notices.** To be effective, notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, or certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address for each party first set forth on the signature page and will be effective upon receipt, except that electronic mail may be used to distribute routine communications and to obtain approvals and consents but may not be used for any other notices.

**11.5 Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the State of California without reference to its choice of law rules. The parties hereby submit to the exclusive jurisdiction of, and waive any venue objections against, state or federal courts sitting in New York, New York in any litigation arising out of this Agreement or the Services.

**11.6 Remedies.** Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Each party acknowledges and agrees that any actual or threatened breach of Sections 2.1 or 10 will constitute immediate, irreparable harm to the non-breaching party for which monetary damages would be an inadequate remedy, that injunctive relief is an appropriate remedy for such breach, and that if granted, the breaching party agrees to waive any bond that would otherwise be required. If any legal action is brought by a party to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other legal expenses, in addition to any other relief it may receive from the non-prevailing party.

**11.7 Compliance with Laws.** Each party shall comply with those laws and regulations in jurisdictions within the United States that are specifically applicable to the applicable party.

**11.8 Waivers.** To be effective, any waivers must be in writing and signed by the party to be charged. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**11.9 Severability.** If any provision of this Agreement is, for any reason, held to be unenforceable, the other provisions of this Agreement will be unimpaired, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law (unless such modification is not permitted by law, in which case such provision will be disregarded).

**11.10 Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

**11.11 Entire Agreement.** This Agreement, including the Order, constitute the final and entire agreement between the parties regarding the subject hereof and supersedes all other agreements, whether written or oral, between the parties concerning such subject matter. No terms and conditions proposed by either party shall be binding on the other party unless accepted in writing by both parties, and each party hereby objects to and rejects all terms and conditions not so accepted. To the extent of any conflict between the provisions of this Agreement and the provisions of the Order, the provisions of the Order shall govern. No amendment to this Agreement will be effective unless in writing and signed by the parties.