



This Safety and Compliance Audit Agreement (“Agreement”) is between **KPA Services, LLC** (“KPA” or “Supplier”) and the entity which has accepted this Agreement through a webpage which references this Agreement (“Client”), hereinafter collectively referred to as “the Parties”. This Agreement sets forth the terms and conditions under which KPA will provide audit services to Client.

1. **KPA SERVICES**

- 1.1 **Services.** Supplier will provide to Client a Safety and Compliance Audit (the "Audit"), as described on the website <https://info.kpa.io/free-ehs-expert-consulting-offer-generic>
- 1.2 **Access.** Supplier may perform the Services at Client's premises, Supplier's premises or such other premises that Client and Supplier may deem appropriate. Client and Supplier shall make every reasonable effort to coordinate approved access to Client's premises, personnel and computer equipment for the purposes of performing the Services at Client's premises.
- 1.3 **Standard of Care.** Supplier shall perform Services in a professional and workmanlike manner. As Supplier's sole obligation and Client's sole and exclusive remedy for breach of this Section, Supplier will re-perform defective Services at no additional cost to Client.

2. **CLIENT RESPONSIBILITIES**

- 2.1 **Cooperation; Provision of Information.** Client acknowledges and agrees that Supplier's provision of Services is contingent on Client's timely cooperation and performance of its obligations under this Agreement. Client will provide to Supplier full and complete information regarding the conduct of Client's business for Supplier to evaluate Client's need for guidance with respect to safety and environmental issues. If Client fails to perform its obligations under this Agreement, Supplier will be excused from performing the affected Services until such obligations are performed.

3. **DISCLAIMERS**

- 3.1 **WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, SUPPLIER MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE RELATING TO THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, QUIET ENJOYMENT OR FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE. SUPPLIER DOES NOT

WARRANT, AND SPECIFICALLY DISCLAIMS, THAT THE SERVICES WILL BE ACCURATE, WITHOUT INTERRUPTION OR ERRORFREE. SUPPLIER PROVIDES THE SERVICES "AS IS," "AS AVAILABLE," AND WITH ALL FAULTS.

3.2 Other Disclaimers. Notwithstanding the generality of the foregoing, in connection with the performance of Services under this Agreement, Supplier and Client agree that: (a) Supplier does not give legal or tax advice or opinions; (b) Services do not provide any assurance or warranty that employees, contractors or other third parties will not make claims against Client for personal or bodily injury or property damage or protect Client from such claims; (c) Supplier's Services do not constitute a complete program of environmental and safety compliance; human resource compliance or; sales and finance compliance. Services are intended to assist Client in the establishment and implementation of such a program or programs, for which Client is ultimately responsible. Supplier does not warrant that Client's business operations, products, or services will comply with applicable law; (d) Supplier will not be responsible for, and Client is solely responsible for, the imposition on Client of any fines, penalties, fees or other mandatory impositions or damages imposed by governmental authorities; (e) Supplier will not be responsible for, and Client is solely responsible for, any costs associated with cleaning up or otherwise remediating any contamination which occurs as a result of a leak, spill or other release of hazardous materials of the Client; and (f) Supplier is not responsible for, and Client is solely responsible for, correcting workplace hazards. Supplier does not represent, warranty, or promise that the Services provided by it hereunder will protect Client from all claims or liabilities relating to environmental or safety matters; human resource matters or; sales and finance matters. This Agreement does not constitute insurance against environmental or safety risks. SUPPLIER IS NOT A PROVIDER OF LEGAL SERVICES. THE CONTENT OF SUPPLIER, OR ANY PART OF IT SHOULD NOT BE CONSTRUED AS PROVIDING LEGAL ADVICE TO ANY PERSON ACCESSING THE MANAGEMENT SYSTEM. SUPPLIER IS NOT INTENDED TO BE AND THE CLIENT SHOULD NOT ASSUME IT TO BE AN ALL-INCLUSIVE MECHANISM FOR LEGAL COMPLIANCE.

4. REPRESENTATIONS AND WARRANTIES

4.1 Of Each Party. Each party represents and warrants to the other party that it has the power and authority to enter into this Agreement.

4.2 Of Supplier. Supplier hereby covenants, warrants and represents to Client the following: (a) all products, equipment, services and other activities provided or to be provided by Supplier in connection with the Agreement including, without limitation, the services shall be provided and performed by Supplier in a good and workmanlike manner, and shall comply with all applicable laws and industry standards.

4.3 Of Client. Client represents and warrants that: (i) Client is and will be solely responsible for workplace safety and for compliance with environmental, safety, wage and hour, human resource management, workforce management, sales, finance, and advertising regulations, including retention of documents and employee training records, and (ii) Client will provide a safe workplace environment in which Supplier can provide Services.

5. OWNERSHIP

5.1 Materials. "Materials" means all Supplier formulae, algorithms, processes, process improvements, procedures, designs, ideas, concepts, research, discoveries, works, documents, materials, inventions and invention disclosures (whether or not patentable or reduced to practice), know-how, proprietary information and methodologies, trade secrets, technology, computer software (in both object and source code form), databases, specifications and all records thereof, including documentation, design documents and analyses, studies, programming tools, plans, models, flow charts, reports and drawings, and all intellectual property rights subsisting in each of the foregoing. Subject to the terms and conditions of this Agreement, Supplier grants to Client a non-exclusive, non-transferable, revocable, non-sublicensable right to use the Materials for Client's internal business purposes during the term of the Agreement. Client will not (i) sublicense, lease, sell, rent, loan or otherwise transfer (except in connection with a permitted assignment under this Agreement) the Materials to any third party; or (ii) otherwise use, modify or copy the Materials except as expressly allowed in this Agreement. All rights not expressly granted to Client are retained by Supplier. Supplier retains sole ownership of all Materials and related intellectual property rights to either of the foregoing.

5.2 Feedback. Client hereby grants KPA a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into Services any suggestions, enhancement requests, recommendations or other feedback provided by Client, including its employees, contractors and agents, relating to the Services.

6. CONFIDENTIAL INFORMATION. "Confidential Information" means all written or oral information, disclosed by either party to the other that has been identified as confidential or that by its nature ought reasonably to be considered confidential. Information relating to Services, pricing of Services, and KPA's documentation is the Confidential Information of KPA. During this Agreement, each party will have access to certain Confidential Information of the other. The receiving party agrees that it will not use or disclose to any third party any Confidential Information of the disclosing party, except as expressly permitted under this Agreement. Each party will maintain the confidentiality of

the other party's Confidential Information, and each party will use the same efforts to maintain such confidentiality as it uses to protect the confidentiality of its own confidential information, but in all events at least a reasonable degree of care. Each party agrees: (a) not to disclose the Confidential Information of the other to anyone except its employees, contractors and advisors ("Representatives") on a strict need to know basis and subject to a written duty of confidence, (b) to use the Confidential Information strictly for the performance or receipt of this Agreement, and (c) to use commercially reasonable efforts to protect the confidentiality of the other party's Confidential Information. This Section will not apply to Confidential Information that (i) is or becomes publicly available through no fault of the recipient, (ii) is already in the recipient's possession at the time of its disclosure without any duty of confidence, or (iii) is independently developed by the recipient without use of the disclosing party's Confidential Information. Each party may disclose Confidential Information to the extent required to comply with a court or governmental order, or to comply with applicable law. Each party will be responsible for the acts and omissions of its Representatives related to any breach of this Section. Each party agrees that any actual or threatened breach of this Section will constitute immediate, irreparable harm to the innocent party for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach.

7. INDEMNIFICATION.

7.1 Subject to Section 8.2 below, Supplier shall indemnify, defend and hold harmless Client, its agents, affiliates, employees, directors, officers and contractors (collectively, "Client Indemnified Party") from and against any and all loss, liability, damage, claim, suit, cost or expense, including reasonable attorneys' fees ("Losses"), incurred by Client Indemnified Party arising from any third party claim alleging Supplier's breach of the Agreement, or intentional torts or willful misconduct by Supplier.

7.2 Client shall indemnify, defend and hold harmless Supplier, its agents, affiliates, employees, directors, officers, agents and contractors (collectively, "Supplier Indemnified Party") from and against any and all Losses incurred by Supplier Indemnified Party arising from any third party claim: (a) by Client's customers or related to conditions at Client's premises, (b) alleging Client's breach of the Agreement, (c) alleging negligence or willful misconduct by Client, (d) alleging bodily injury, death of any person, or damage to real or tangible personal property caused by acts or omissions of Client or Client Indemnified Parties, or (e) alleging any failure by Client or Client Indemnified Parties to comply with any applicable federal, state, or local laws, regulations, or codes.

7.3 The indemnifying party may not agree to settle any claim without the indemnified party's express prior written consent.

8. LIMITATION OF LIABILITY.

8.1 EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT AND LIABILITY FOR INDEMNIFICATION, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, OR LOST PROFITS OR REVENUES ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT IT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

8.2 EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT AND LIABILITY FOR INDEMNIFICATION SET FORTH IN SECTION 7.2 , IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS ACTUALLY PAID TO SUPPLIER BY THE IMPLICATED FACILITY OF CLIENT PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM

9. TERM AND TERMINATION

9.1 Term. This Agreement will begin on the date in which it was accepted by Client through a webpage which references this Agreement and will terminate thirty (30) days thereafter.

10. GENERAL

10.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. Any waiver of any provision of this Agreement must be in writing and will not be deemed a waiver of any other provision. No waiver will be binding unless executed in writing by the party making the waiver. If any portion of this Agreement is determined to be or becomes unenforceable or illegal, then such portion will be reformed or eliminated to the minimum extent necessary for this Agreement to be enforceable and legal, and this Agreement will remain in effect in accordance with its provisions as modified by such reformation or elimination. This Agreement may be executed in counterparts, which taken together will form one legal instrument. The captions and headings of the sections and subsections of this Agreement are

for convenience of reference only and are not to be used in the interpretation of this Agreement.

- 10.2 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without reference to its conflict of law principles.
- 10.3 Arbitration.** Any controversy or claim arising out of or relating to this Agreement or its subject matter, or any breach of this Agreement, will be subject to binding arbitration under the commercial rules of JAMS and, if permitted by JAMS, by a single arbitrator, in Denver, Colorado. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.
- 10.4 Force Majeure.** Either party shall be excused from performance and shall not be liable for any delay in whole or in part (except for the payment of money), caused by the occurrence of any contingency beyond the reasonable control of the excused party or its subcontractors or suppliers. These contingencies include, without limitation, war, sabotage, insurrection, riot or other act of civil disobedience, act of public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms hereof, accident, fire, explosion, flood, severe weather or other act of God, shortage of labor, fuel, raw material or machinery or technical system failure.
- 10.5 Assignment.** Neither party may assign or transfer any rights or delegate any duties under this Agreement without the other party's prior written consent, except that KPA may assign or transfer this Agreement in connection with a sale or transfer of all or substantially all of KPA's assets, stock or business by sale, merger, consolidation, or similar transaction. Any purported assignment or transfer in violation of this Section will be void. Subject to the foregoing restrictions, this Agreement will bind and benefit the parties and their successors and permitted assigns. Client agrees that KPA may subcontract certain aspects of the Solution and the Services to qualified third parties, provided, however, that any such subcontracting arrangement will not relieve KPA of any of its obligations hereunder.
- 10.6 No Third-Party Beneficiaries.** Notwithstanding anything to the contrary contained herein, no party will be deemed as a third-party beneficiary to this Agreement.
- 10.7 Independent Contractor.** Each party is an independent contractor with respect to the other party hereunder. This Agreement will not be construed to (i) create any employment, partnership, joint venture, or agency relationship between the parties, or (ii) authorize any party to enter into any commitment or agreement binding on the other party. As an independent contractor, KPA shall be solely responsible for determining the means and methods for performing the Services, and KPA shall

have complete charge and responsibility for persons employed by KPA and engaged in the performance of the Services.

10.8 Non-solicit. Client will not, without the prior written consent of Supplier, directly or indirectly, employ, solicit for employment, offer any position of employment, or retain as an independent contractor, any employee or contractor of Supplier during the Term of this Agreement and for a period of one year thereafter. For this purpose, "solicitation" does not include contact resulting from indirect means such as public advertisement, placement firm searches or similar means not directed specifically at the employee or contractor to which the employee or contractor responds on his or her own initiative.

10.9 Notices. All notices or other written communications required by or permitted under this Agreement will be in writing and deemed validly given if delivered in person or by certified mail sent to the addresses set forth on the Cover Page or to such other address as a party may later specify in writing and will be effective upon receipt.