

# *General Terms & Conditions*

This CONTENT SUBSCRIPTION AGREEMENT is between Brightfield Group, LLC, a Florida limited liability company and the agreed party (“Client”).

Brightfield Group, LLC (“**Brightfield Group**”) has established this password-protected, restricted access portal (“**Portal**”) for clients to whom Brightfield Group has issued a username and password (“**Log-in Credentials**”). This Content Subscription Agreement (“**Agreement**”) sets forth the terms and conditions applicable use of the Portal and the data, information and content made available in the Portal (collectively, “**Reports**”). Each Client (defined below) is bound by the terms of this Agreement. The date Brightfield Group issues Log-in Credentials to Client is the effective date of this Agreement (“**Effective Date**”). Client and Brightfield Group may be referred to individually as a “**Party**” and collectively as the “**Parties**” to this Agreement.

As a condition to using this Portal and by logging into the Portal, Client agrees to be bound by, and to comply with, all of the terms of this Agreement. If Client does not agree with or does not wish to be bound by this Agreement, Client’s sole and exclusive remedy is to log out of the Portal and to discontinue all use of the Portal.

## **Section 1. - Definitions**

Capitalized terms not otherwise defined herein shall have the following meanings:

1.1 “Business Day” means any day which is not a Saturday, Sunday or national public holiday in the United States.

1.2 “Client” means the legal entity to whom Brightfield Group has issued Log-in Credentials, and any overseas office or branch of such entity.

1.3 “Derivative Works” means a modification of a Report consisting of no more than ten percent (10%) of the original data contained in such Report.

1.4 “External User” means a third party to whom Client wishes to disclose Reports.

1.5 “Internal Users” means Client’s employees and third-party consultants that Client has contractually engaged to perform services for Client and which are bound by duties of confidentiality no less restrictive than such duties in this Agreement.

1.6 “Subscription Term” means the period starting on the Effective Date and continuing for twelve (12) consecutive months. If the Agreement is renewed, “Subscription Term” will also refer to such renewal period.

1.7 “Users” means all External Users and Internal Users.

## **Section 2. - Grant of Rights, Payment of Subscription Fees, and Additional Services**

2.1 Subject to the terms and conditions of this Agreement and timely payment of all Subscription Fees, Brightfield Group hereby grants to Client a limited, non-exclusive, revocable, non-transferable, non-sublicensable right during the Subscription Term to allow Internal Users to use, copy, display and create Derivative Works of Reports solely in connection with Client’s internal business operations and solely among other Internal Users. Client shall not, and shall ensure Internal Users do not, provide any report to any External User except as expressly permitted by Brightfield Group in writing as set forth in this Section 2.1. Client shall not permit any External Users to use Reports without Brightfield Group’s prior written consent, which may be withheld or conditioned by Brightfield Group in its sole discretion; provided, that Brightfield Group will set forth any conditions on the use of Reports by External Users in writing as an addendum to this Agreement (an “Addendum”), and Client shall be bound by such Addendum. Any request to permit any External User to use Reports shall be made by Client in writing, and Client shall provide Brightfield Group with all information it requests in connection with its decision whether to consent to such request or to establish conditions on any consent to such request. No External User shall use or disclose any Report except as expressly permitted by Brightfield Group in writing. Client is responsible for Users’ compliance with this Agreement. Nothing in this Agreement shall obligate Brightfield Group to provide, update or continue to provide any Reports. The Client shall

ensure that any permitted reproduction or other communication of all or any portion of a Report includes the following notice: "Brightfield Group, LLC. All rights reserved."

2.2 Client acquires absolutely no rights or licenses in or to the Portal, including, without limitation, any data, information, content, text, graphics, user interfaces, visual interfaces, "look and feel" of the Portal, photographs, trademarks, logos, sounds, music, audio, video, artwork, software and computer code, and material therein (collectively, the "Portal Content") other than the limited license to Reports as set forth in Section 2.1. As between Brightfield Group and Client, Brightfield Group exclusively retains all right, title and interest in and to the Portal, Portal Content and Reports, including all intellectual property rights therein.

2.3 Client will pay Brightfield Group the Subscription Fees and any other amounts owing under this Agreement, plus any applicable sales, use, excise, or other taxes. Subscription Fees are based on the purchase of access to Reports and not on actual usage of any Reports. All amounts payable under this Agreement are denominated in U.S. dollars, and Client will pay all such amounts in U.S. dollars. Subscription Fees will be invoiced annually and are non-refundable. Client will pay all the first invoice for Subscription Fees on or before the Effective Date and any subsequent invoices within thirty (30) days of the date of the applicable invoice. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Client will reimburse any costs or expenses (including, but not limited to, collection agency fees, reasonable attorneys' fees and court costs) incurred by Brightfield Group to collect any amount that is not paid when due. Amounts due from Client under this Agreement may not be withheld or offset by Client for any reason. If Client fails to timely pay any Subscription Fees, Brightfield Group may, without limitation to any of its other rights or remedies, suspend Client's access to the Portal until Brightfield Group receives all amounts due.

2.4 If requested by Client, Brightfield Group may provide research services ("Services") pursuant to a separate, written agreement signed by the Parties ("Other Terms"). In the event such Services are requested and the Parties agree to Other Terms, Client will promptly provide Brightfield Group with all relevant information which it has in its possession about

the market which it has engaged Brightfield Group to research. Brightfield Group will use this information solely for comparing and validating this information against Brightfield Group's own findings; provided, however, such obligation to provide Brightfield Group with market information will not apply if the Client has stipulated in the Other Terms that it wants Brightfield Group to carry out a "blind study" – i.e. to research the relevant market and to provide the research deliverables without knowledge of, or reference to, any information about that market which is in the Client's possession. When carrying out the Services, Brightfield Group shall not disclose the identities of any individuals, whether respondents, interviewees, or other sources to the Client (either by including such information in the research results or by otherwise communicating the same to the Client) unless such individuals grant permission at the time of interview. The Client acknowledges that Brightfield Group may make known to individuals, whether respondents, interviewees, or other sources, that Brightfield Group is carrying out the Services on behalf of an unnamed Brightfield Group client. All dates for completing Services, all deliverables to be provided, any compensation to be paid, and all other terms and conditions relating to such Services will be set forth in the Other Terms. The Other Terms will be subject to this Agreement, and if there is any conflict between the Other Terms and this Agreement, this Agreement will control unless the Other Terms expressly identify the specific provision(s) of this Agreement that shall be superseded by the Other Terms. Any deliverables provided pursuant to Services performed under Other Terms will be considered a "Report" and part of the "Reports" under this Agreement. Any change to Services or amendment to the Other Terms may only be made by written request of Client to Brightfield Group (a "Request"), which Brightfield Group will accept, decline or condition, in a written response, in its sole discretion (a "Response"). If Client rejects the Response, the Parties will continue performing under the Other Terms. If Client accepts the Response without change, Client promptly will sign the Response and return it to Brightfield Group and such signed Response will serve as a mutually agreed amendment to the Other Terms.

### **Section 3. - Restrictions on Use**

3.1 Client will not in connection with Client's use of the Portal, any Portal Content or Reports: (a) violate any applicable local, state, national or international law, statute, ordinance, rule or regulation, including without limitation those relating to competition or antitrust; (b)

interfere with or disrupt the computer networks of Brightfield Group or attempt to do so; (c) forge headers or in any manner manipulate identifiers in order to disguise the origin of any information; (d) download, upload, post, transmit, publish, or distribute any material that infringes, violates, breaches or otherwise contravenes the rights of Brightfield Group or any third party, including any copyright, trademark, patent, rights of privacy or publicity or any other proprietary right; (e) interfere with or disrupt the use of the Portal by any other customer or user or reverse look-up, trace or seek to trace any information on any other user of or visitor to the Portal, or any other customer of Brightfield Group; (f) probe, scan or test the vulnerability of the Portal or any network connected to the Portal or attempt to gain unauthorized entry or access to the computer systems of any other person or entity; (g) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Portal or Brightfield Group's systems or networks, or any systems or networks connected to the Portal or to Brightfield Group; (h) download, upload, post, transmit, publish or distribute any material or information that constitutes or encourages conduct that would constitute a criminal offense, give rise to other liability, or otherwise violate applicable law; or (i) infringe upon Brightfield Group's intellectual property rights in the Portal, Portal Content or Reports.

3.2 Client may not use any linking, deep-linking, framing or page-scraping technology, robots, spiders or other automatic devices, programs, algorithms or methodologies, or any similar or equivalent manual processes, to access, acquire, copy, distribute, display or monitor any portion of the Portal or any Portal Content or Reports, or in any way reproduce or circumvent the navigational structure or presentation of the Portal or any Portal Content or Reports, to obtain or attempt to obtain any materials, documents or information through any means not purposely made available through the Portal.

3.3 Unless expressly permitted in this Agreement, an Addendum or Other Terms, Client hereby agrees and acknowledges that Client is expressly prohibited from: (a) making available all or any portion of the Reports to any other person or entity; and (b) using Reports in the provision of any services to third parties.

#### **Section 4. - Modifications by Brightfield Group**



The Portal and Portal Content are subject to modification by Brightfield Group in its sole discretion. Brightfield Group also may make changes to any products or services offered on the Portal (including Reports), or to the applicable prices for any such products or services (including Reports), at any time, without notice.

## **Section 5. - Term, Renewal and Termination**

5.1 This Agreement will commence upon the Effective Date and continue until the Subscription Term has expired or is otherwise terminated in accordance with the terms of this Agreement. The Agreement will automatically renew for an additional twelve (12) consecutive months unless either Party gives written notice of non-renewal at least sixty (60) days prior to the end of any 12-month term. Brightfield Group's pricing in effect as of the date of renewal will be the new rate for the Subscription Fees applicable to such renewal period.

5.2 Brightfield Group may terminate this Agreement if Client does not cure its material breach of this Agreement within thirty (30) days of receiving written notice of the material breach from Brightfield Group. Termination in accordance with this Section 5.2 will take effect when Client receives written notice of termination from Brightfield Group, which notice must not be delivered until Client has failed to cure its material breach during the 30-day cure period. In the event of termination as a result of Client's uncured material breach, Client shall continue to be obligated to pay for all Subscription Fees owed as of the effective date of termination. Termination of the Agreement shall be in addition to and not in lieu of any equitable remedies available to Brightfield Group.

## **Section 6. - Security and Access**

6.1 Client shall solely be responsible for any and all necessary equipment and connections from Client's own computer systems to the Portal. Brightfield Group shall have no responsibility for any such equipment or connections. Client shall ensure that Client has implemented security systems and procedures to prevent the unauthorized access to or misuse or disruption of the Portal or Reports.

6.2 Client shall maintain the confidentiality of Log-in Credentials. Log-in Credentials may not be transferred to or shared with anyone other than Client's authorized Users in accordance with the terms of this Agreement. The Portal is a restricted site, and Client is not permitted to allow anyone (other than authorized Users) to log-in using Client's Log-in Credentials or to view the Portal during a session when Client is logged in to the Portal. Client shall notify their account manager immediately if Client becomes aware of any unauthorized use of Client's Log-in Credentials or if the confidentiality of Client's Log-in Credentials may have become compromised. Client shall log out of any session when Client finishes use of the Portal. Client is responsible for all activity that occurs under Client's Log-in Credentials, including all acts or omissions of Users.

6.3 Without limiting any other right or remedy of Brightfield Group, Brightfield Group has the right (but not the obligation) to immediately suspend or terminate Client's ability to access and use the Portal if, in Brightfield Group's sole discretion, (a) Client's use may cause harm to the Portal or disrupt the ability of other users to use and access the Portal, (b) fraudulent, unauthorized or illegal use of the Portal is or may be occurring, (c) such suspension or termination is necessary or advisable to protect the Portal or Brightfield Group's Confidential Information, (d) Brightfield Group may be required by law to suspend or terminate access, or (e) Client's use of the Site is in violation of any other agreement between Client and Brightfield Group. Client may be unable to access the Portal from time to time in the event Brightfield Group or its contractors are performing maintenance to or updating the Portal, and such inability to access the Portal may be due to scheduled or unplanned maintenance or updates.

## **Section 7. - Intellectual Property**

7.1 Client acknowledge that the Portal, Portal Content and Reports were developed, mined, compiled, prepared, revised, selected and arranged by Brightfield Group and others (including certain third party information sources which are believed to be reliable (each a "Data Provider")) through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort and money, and constitute valuable intellectual property and trade secrets of Brightfield Group or such relevant Data Provider. Client hereby agrees to use commercially reasonable efforts to protect the

proprietary rights of Brightfield Group or the relevant Data Provider in the Portal, Portal Content and Reports. Client irrevocably agrees and acknowledges that, as between Client and Brightfield Group, the Portal and Portal Content, as may be amended from time to time, is the sole and exclusive property of Brightfield Group, and shall not be considered works for hire. Client shall honor and comply with all reasonable written requests made by Brightfield Group to protect its contractual, statutory and common law rights in the Portal, Portal Content and Reports. Client agrees to notify Brightfield Group in writing promptly upon becoming aware of any unauthorized use of the Portal, Portal Content or Reports, or any claim that any or all of the Portal, Portal Content or Reports infringes upon or constitutes any unlawful use of any copyright, database right, trademark, or other proprietary, intellectual property, contractual, statutory or common law rights of a third party.

7.2 Client shall not use any of Brightfield Group's trademarks, trade names or service marks in any manner, and in no event in a manner accessible by or available to any third party unless specifically authorized in writing by Brightfield Group with the requirement that Client provide proper attribution to Brightfield Group including in all materials the words "Brightfield Group, LLC. All rights reserved." Client acknowledges that Client has no ownership or license rights in or to any of these names or marks. The Client shall at the request and expense of Brightfield Group do all such things as may be reasonably required to assist Brightfield Group in taking or resisting any legal proceedings in relation to any infringement of Brightfield Group's intellectual property or proprietary rights.

7.3 The Portal, Portal Content and Reports are protected as a collective work or compilation under U.S. copyright and other laws and treaties. All data, information, articles, columns and other elements making up the Portal Content and Reports are copyrighted works and Brightfield Group hereby reserves all rights.

7.4 Brightfield Group respects the intellectual property rights of others and complies with safe harbor provisions of the Digital Millennium Copyright Act ("DMCA"). Anyone who believes that their work has been reproduced on the Portal in a way that constitutes copyright infringement may notify Brightfield Group's designated copyright agent in accordance with Title 17, United States Code, Section 512(c)(2), by providing the following information:



- (a) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (b) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- (c) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;
- (d) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- (e) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (f) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**Notifications of claimed infringement should be forwarded to Brightfield Group's designated agent as follows:**

Milton Vescovacci

Shareholder – Polsinelli PC

1111 Brickell Avenue, Suite 2800

Miami, FL 33131

T:305.921.1806 F: 305.675.3110

mvescovacci@polsinelli.com

[www.polsinelli.com](http://www.polsinelli.com)

After receiving a valid DMCA notification of claimed infringement, Brightfield Group will process and investigate the claim and will take appropriate actions under the DMCA, including expeditiously removing or disabling access to any material claimed to be infringing or claimed to be the subject of infringing activity. Brightfield Group will take reasonable steps promptly to notify the user who submitted the material that Brightfield Group has removed or disabled access to such material.

If Client posted or submitted material to the Portal which Brightfield Group removed or disabled access to pursuant to a DMCA notification of claimed infringement, and Client believes such material is not infringing and the material was removed or disabled as a result of a mistake or misidentification, Client may send a counter-notification containing the following information in writing to Brightfield Group's designated agent listed above:

(g) Client's physical or electronic signature;

(h) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;

(i) A statement under penalty of perjury that Client has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and

(j) Client's name, address, and telephone number, and a statement that Client consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if Client's address is outside of the United States, for any judicial district in which Brightfield



Group may be found, and that Client will accept service of process from the person who provided the notification of claimed infringement or an agent of such person.

If a valid counter-notification is received by Brightfield Group's designated agent, Brightfield Group will send a copy of the counter-notification to the original complaining party informing that person that Brightfield Group will replace the removed material or cease disabling access to it in 10 Business Days. Unless Brightfield Group's designated agent first receives notice from the original complaining party that such party has filed an action seeking a court order to restrain the alleged infringement, Brightfield Group will replace or restore access to the material in 10 to 14 Business Days after Brightfield Group's designated agent's receipt of the counter-notification, at Brightfield Group's sole discretion.

## **Section 8. - Links to Third Party Websites**

The Portal may contain links to websites of third parties. These links are provided to Client as a convenience, and Brightfield Group is not responsible for the content of any linked website. In addition, a link to any non-Brightfield Group website does not imply that Brightfield Group endorses or accepts any responsibility for the content or use of such a website. It is Client's responsibility to read and comply with the terms of use of any website Client visits.

## **Section 9. - Disclaimer of Warranties and Limitation of Liability**

9.1 Client acknowledges that the data and information in the Portal, Portal Content and Reports may be mined and compiled on an "AS IS" basis from third party sources that are believed to be reliable. Brightfield Group does not make any representations or warranties concerning the completeness, accuracy or timeliness of such data and information or the rights in such data and information such sources may or may not possess. THE PORTAL, PORTAL CONTENT AND REPORTS ARE MADE AVAILABLE TO CLIENT ON AN "AS IS" BASIS WITHOUT REPRESENTATION AND WARRANTIES. THE REPORTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IT IS CLIENT'S SOLE RESPONSIBILITY TO ENSURE THE COMPLETENESS AND ACCURACY OF ANY REPORTS OBTAINED FROM BRIGHTFIELD GROUP (INCLUDING, VIA THE PORTAL), AND FOR OBTAINING ANY PROFESSIONAL ADVICE THAT MAY BE WARRANTED, DESIRABLE OR NECESSARY. NEITHER BRIGHTFIELD GROUP, ITS AFFILIATES,

NOR ANY DATA PROVIDER MAKE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY, TIMELINESS OR COMPLETENESS OF THE PORTAL, PORTAL CONTENT OR REPORTS OR AS TO THE RESULTS TO BE ATTAINED BY CLIENT FROM THE USE OF THE REPORTS. CLIENT HEREBY ACKNOWLEDGES THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, AND THAT IT HAS NOT RELIED UPON ANY WARRANTY, GUARANTY OR REPRESENTATION MADE BY BRIGHTFIELD GROUP, ITS AFFILIATES, OR ANY DATA PROVIDER, EXCEPT THE REPRESENTATIONS EXPRESSLY MADE BY BRIGHTFIELD GROUP IN THIS AGREEMENT.

9.2 NEITHER BRIGHTFIELD GROUP, ITS AFFILIATES NOR ANY DATA PROVIDER SHALL IN ANY WAY BE LIABLE TO CLIENT OR ANY CLIENT OF CLIENT FOR ANY INACCURACIES, ERRORS OR OMISSIONS, REGARDLESS OF CAUSE, IN THE PORTAL CONTENT OR REPORTS PROVIDED HEREUNDER OR FOR ANY DAMAGES (WHETHER DIRECT OR INDIRECT) RESULTING THEREFROM. WITHOUT LIMITING THE FOREGOING, BRIGHTFIELD GROUP SHALL HAVE NO LIABILITY WHATSOEVER TO CLIENT, WHETHER IN CONTRACT (INCLUDING UNDER AN INDEMNITY), IN TORT (INCLUDING NEGLIGENCE), UNDER A WARRANTY, UNDER STATUTE OR OTHERWISE, IN RESPECT OF ANY LOSS OR DAMAGE SUFFERED BY CLIENT AS A RESULT OF OR IN CONNECTION WITH ANY OPINIONS, RECOMMENDATIONS, FORECASTS, JUDGMENTS, OR ANY OTHER CONCLUSIONS, OR ANY COURSE OF ACTION DETERMINED, BY CLIENT OR ANY CLIENT OF CLIENT, WHETHER OR NOT BASED ON THE PORTAL, PORTAL CONTENT OR ANY REPORT.

9.3 TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL BRIGHTFIELD GROUP, ITS AFFILIATES OR ANY DATA PROVIDER HAVE ANY LIABILITY TO CLIENT OR ANY THIRD PARTY ACCESSING THIS PORTAL AND/ OR THE PORTAL CONTENT OR REPORTS THROUGH CLIENT, ARISING FROM CONTRACT (INCLUDING UNDER ANY INDEMNITY), IN TORT (INCLUDING NEGLIGENCE), UNDER ANY WARRANTY (EXPRESS OR IMPLIED) UNDER STATUTE OR OTHERWISE, IN EACH CASE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES WITH RESPECT TO THE SUBJECT MATTER OF THE AGREEMENT, THE PORTAL CONTENT, REPORTS AND / OR THE PORTAL, INCLUDING, BUT NOT LIMITED TO, IN RESPECT OF ANY LOSS OF PROFITS, LOSS OF REVENUE, LOST BUSINESS, LOSS OF OPPORTUNITY REGARDLESS OF WHETHER SUCH DAMAGES COULD HAVE BEEN FORESEEN OR PREVENTED OR ADVISED TO BRIGHTFIELD GROUP. IN THE EVENT BRIGHTFIELD

GROUP IS HELD LIABLE FOR DIRECT DAMAGES, BRIGHTFIELD GROUP'S MAXIMUM AGGREGATE LIABILITY TO THE CLIENT IN RESPECT OF ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY ADDENDUM OR OTHER TERMS) OR ANY SERVICES OR REPORTS, SHALL IN NO CIRCUMSTANCES EXCEED THE TOTAL AMOUNT OF SUBSCRIPTION FEES PAID BY CLIENT TO BRIGHTFIELD GROUP PURSUANT TO THIS AGREEMENT.

9.4 The Reports are intended only for professionals in the Consumer Packaged Goods industry and are not, and should not be construed as financial, legal, tax, medical or other advice of any kind. Client assumes sole and exclusive responsibility for any use of the Reports to provide, in whole or in part, any advice, recommendations, guidance, publications or alerts made available to Client's clients or other third parties to the extent any of the foregoing is expressly permitted hereunder.

9.5 Anything that Client posts or otherwise makes available using the Portal is referred to herein as "User Content." By providing Brightfield Group with User Content, Client hereby grants to Brightfield Group an unlimited, transferable, irrevocable, sublicensable, nonexclusive, worldwide, perpetual, royalty-free, fully paid-up license to use, reproduce, modify, edit, adapt, publish, translate, display, remove, retain, process, analyze, distribute and create derivative works of and compilations containing User Content in all media now known or hereafter developed. Client hereby represents, warrants and covenants to Brightfield Group that Client is the sole and exclusive owner of the User Content and has the right to provide the User Content to Brightfield Group, that the provision of such User Content does not violate any agreement to which Client is bound, and that any User Content that Client provides to Brightfield Group: (a) is not false, inaccurate or misleading; (b) does not contain any malware, viruses, Trojan horses, worms, or other automatic devices that are intended to damage, detrimentally interfere with or intercept any data or information from the Portal; and (c) does not infringe or misappropriate any third party's intellectual property, publicity, privacy, confidentiality or other proprietary rights. Brightfield Group has the right (but not the obligation), in its sole discretion, to remove or delete User Content from the Portal, including, without limitation, if such User Content violates this Agreement, the intellectual property rights of any third party, or any terms or conditions of third parties that operate the Portal. Without limiting the foregoing, Client agrees it will not provide any User Content that: (i) may create a risk of harm, loss, physical or mental injury, emotional distress,

death, disability, disfigurement, or physical or mental illness to Client or any other person; (ii) may create a risk of any other loss or damage to any person or property; (iii) seeks to harm or exploit children by exposing them to inappropriate content, asking for personally identifiable details or otherwise; (iv) may constitute or contribute to a crime or tort; (v) contains any information or content that Brightfield Group or its licensors deem to be unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, profane, or otherwise objectionable; (vi) contains any information or content that is illegal (including, without limitation, the disclosure of insider information under securities law or of another party's trade secrets); (vii) contains any information or content that Client does not have a right to make available under any law or under contractual or fiduciary relationships; or (viii) contains any information or content that Client knows is not correct and current.

## **Section 10. - Indemnification**

Client will indemnify, defend and hold harmless Brightfield Group and its affiliates, directors, officers, agents employees, successors, assigns and all Data Providers, and each of their affiliates, directors, officers, agents, employees, members, partners, successors and assigns ("Brightfield Group Indemnities") from and against any and all losses, liabilities, damages, costs (including reasonable attorneys' fees) and expenses arising as a result of any claims, suits or proceedings (collectively, "Claims") brought by any third party against any Brightfield Group Indemnities arising from or relating to: (a) Client's use of the Portal and/or Portal; (b) actual or alleged injury or illness to any person (including death) or damage to property to the extent caused in whole or in part by Client or third parties acting on Client's behalf of under Client's direction; (c) infringement, misappropriation or other violation of any third party's intellectual property or proprietary rights, rights to privacy or rights to publicity arising from or relating to User Content or any use of the Portal under Client's Log-in Credentials other than as expressly permitted by this Agreement; (d) non-fulfillment or breach by Client of any agreement or obligation under this Agreement; (e) the inaccuracy or breach of any representation, warranty or covenant made by Client in this Agreement; or (f) Client's violation of law or willful misconduct. The Brightfield Group Indemnities shall have the right to participate in the defense of any Claims and to employ counsel, at its own expense,

separate from the counsel employed by Client. The Brightfield Group Indemnities will reasonably cooperate (at Client's expense) in the defense and shall have the right to approve any proposed settlement or compromise. Notwithstanding anything herein to the contrary, Client shall not consent to, and no Brightfield Group Indemnities shall be required to approve, any settlement, compromise or judgment that (x) Client does not fully pay for, (y) provides for injunctive or other non-monetary relief affecting any other Brightfield Group Indemnities or includes any statement or implication of any wrongful or improper act or omission by any Brightfield Group Indemnities, and (z) does not include an unconditional release from all liability of each Brightfield Group Indemnities with respect to such Claims by each third party that has asserted a Claim, or has a right to assert a Claim.

## **Section 11. - Violation of this Agreement**

11.1 Client agrees that Brightfield Group may, in its sole discretion and without prior notice, terminate Client's access to the Portal or certain Portal Content (including Reports) and/or block Client's future access to the Portal or certain Portal Content (including Reports) if Brightfield Group determines that Client has violated this Agreement or other agreements or guidelines which may be associated with Client's use of the Portal. Client also agrees that any violation by Client of this Agreement will constitute an unlawful and unfair business practice, and will cause irreparable harm to Brightfield Group, for which monetary damages would be inadequate, and Client consents to Brightfield Group obtaining any injunctive or equitable relief that Brightfield Group deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Brightfield Group may have at law or in equity.

11.2 Client agrees that Brightfield Group may, in its sole discretion and without prior notice, terminate Client's access to the Portal, for cause, which includes (but is not limited to): (a) requests by law enforcement or other government agencies, (b) a request by Client (self-initiated account deletions), (c) discontinuance or material modification of the Portal or any service offered on or through the Portal, or (d) unexpected technical issues or problems.

11.3 If Brightfield Group does take any legal action against Client as a result of Client's violation of this Agreement, Brightfield Group will be entitled to recover from Client, and

Client agrees to pay, all reasonable legal costs of such action, in addition to any other relief granted to Brightfield Group. Client agrees that Brightfield Group will not be liable to Client or to any third party for termination of Client's access to the Portal as a result of any violation of this Agreement.

## **Section 12. - General**

12.1 Except for obligations to pay Subscription Fees, neither Party shall be liable for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions, wars, insurrections, declared national emergencies, government orders, power outages, and/or any other cause beyond the reasonable control of the Party whose performance is affected (including mechanical, electronic, internet service provider or communications failure).

12.2 As used herein, "Confidential Information" means all confidential information disclosed by or otherwise obtained from Brightfield Group, whether orally, visually 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. Brightfield Group's "Confidential Information" includes, without limitation, all Reports, the results of any Services, and the terms and conditions of this Agreement. However, "Confidential Information" does not include any information that (i) is or becomes generally known to the public without breach of any obligation Client owes to Brightfield Group, (ii) was known to Client prior to its disclosure by Brightfield Group (which knowledge must be demonstrated by contemporaneous written evidence) without breach of any obligation owed to Brightfield Group, (iii) is received from a third party without breach of any obligation owed to Brightfield Group, or (iv) was independently developed by Client without the use of or reference to Brightfield Group's Confidential Information. Client shall (a) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) and shall not disclose or use any Confidential Information for any purpose outside the scope of this Agreement, and (ii) limit access to Confidential Information to those Users that are expressly authorized to receive it pursuant to this Agreement or an Addendum and who are bound by confidentiality obligations no less stringent than those herein. Client may disclose Confidential Information if it is compelled by

law to do so, provided the Client gives Brightfield Group prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Brightfield Group's cost, if Brightfield Group wishes to contest the disclosure.

12.3 There is no joint venture, partnership, agency or fiduciary relationship existing between the Parties and the Parties do not intend to create any such relationship by this Agreement.

12.4 If any provision in or any part of this Agreement shall be found to be illegal or unenforceable under any enactment or rule of law then that provision or part shall to that extent be deemed not to form part of this Agreement and the remaining provisions shall continue in full force and effect.

12.5 Client's access to and use of the Portal are governed by and will be construed in accordance with laws of Illinois, without regard to the principles of conflicts of laws of other jurisdictions. Each Party submits to the exclusive jurisdiction of the federal and state courts in Cook County, Illinois for the purposes of determining any dispute arising out of the Agreement, its construction or the transactions contemplated by it.

12.6 This Agreement and the Terms of Service appearing at the Brightfield Group's website constitute the entire agreement between the Parties regarding the specific subject matter hereof and supersedes any other prior or contemporaneous agreement (oral or written) regarding such subject matter. This Agreement may not be modified except by a writing signed by a duly authorized representative of each of the Parties. If there is any conflict between this Agreement and the Terms of Service, the Terms of Service shall control.

12.7 Client may not assign this Agreement or delegate any of its duties or obligations under this Agreement without the prior written consent of Brightfield Group and any purported assignment without such consent shall be null and void. Brightfield Group may assign this Agreement or delegate or subcontract its duties or obligations under this Agreement, in whole or in part, to any third party without limitation.

12.8 Failure by either Party to enforce any rights under this Agreement shall not be construed as a waiver of such rights, and a waiver by either Party of a default hereunder in one or more

instances will not be construed as constituting a continuing waiver or as a waiver in other instances.