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Terms of Use

HIGG CO LLC

PLATFORM TERMS OF USE

Effective Date: April 2021

This Platform Terms of Use (“**Terms**”) is a binding agreement between you (“**you**” or “**your**”) and Higg Co LLC (“**Higg Co**”) relating to your access to and use of the Platform and certain Tools (as such terms are defined below), including other web-based tools, services, and data made available to you by Higg Co (collectively, the “**Services**”). For clarity, to the extent applicable, references throughout these Terms to Higg Co’s licensors, include its licensors such as the Sustainable Apparel Coalition, Inc. (“**SAC**”).

PLEASE CAREFULLY READ THESE TERMS. IF YOU DO NOT AGREE WITH THESE TERMS IN THEIR ENTIRETY, DO NOT ACCESS, DOWNLOAD, OR USE THE SERVICES OR ANY COMPONENT THEREOF. BY CLICKING “ACCEPT THE TERMS” AND USING THE PLATFORM, UTILIZING THE SERVICES, ACCESSING, DOWNLOADING AND/OR USING THE TOOLS AND/OR ACCESSING ANY DATA OR INFORMATION MADE AVAILABLE THROUGH THE SERVICES, YOU REPRESENT AND WARRANT (I) THAT YOU ARE AT LEAST 18 YEARS OLD AND THAT YOU ARE LEGALLY ABLE TO ENTER INTO THESE TERMS, (II) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THESE TERMS, AND (III) YOU HAVE THE AUTHORITY TO ENTER INTO THESE TERMS PERSONALLY OR ON BEHALF OF THE ENTITY YOU HAVE NAMED AS THE USER UPON REGISTRATION (IF YOU WILL BE THE ACCOUNT ADMINISTRATOR (AS DEFINED BELOW)) OR ON BEHALF OF THE ENTITY THAT HAS NAMED YOU AS AN AUTHORIZED REPRESENTATIVE (AS DEFINED BELOW) UNDER SUCH ENTITY’S ACCOUNT, AND TO BIND THAT ENTITY TO THESE TERMS.

Higg Co reserves the right, from time to time, in its sole discretion, to revise, modify, or update these Terms. When changes are made, Higg Co will provide you with notice either by email or through the Platform. We will also update the “Last Updated” date at the top of the Terms. Higg Co may require you to provide consent to the updated Terms in a specified manner before further use of the Services. If you do not agree to any change(s) after receiving notice of such change(s), you agree to stop using the Services. Otherwise, your continued use of the Services constitutes your acceptance of such changes. PLEASE REGULARLY CHECK THE SERVICES TO VIEW THE CURRENT TERMS.

SECTION 1 The Services.

(a) **Platform.** Higg Co operates a proprietary web-based platform through which Higg Co provides access and use of certain Tools (defined below) that allows a variety of supply chain partners including but not limited to facilities or manufacturers (“**Facility**”), brands (“**Brand**”), retailers (“**Retailer**”), academic institutions (“**University**”), service providers (“**Service Provider**”), sourcing agents (“**Sourcing Agent**”), non-profits (“**NGO**”), and government agencies (“**Government Agency**”) (each a “**Supply Chain Partner**” and collectively, “**Supply Chain Partners**”) to measure, manage and share the sustainable footprint of certain materials, products, and/or supply chain operations (collectively, the “**Platform**”). How you access and use the Platform and Tools, and your rights and obligations in connection therewith, depends on (i) your user type, and (ii) the applicable Tool.

(b) **Users.** Your user type is determined by your interactions with the applicable Tool.

(1) User **Types.** There are two user types (collectively referred to as “**User**”):

(i) “**Contributors**” – depending on the Tool, this can be any Supply Chain Partner that contributes, submits, or posts User Content (as defined below) through the Platform.

(ii) “**Aggregators**” – depending on the Tool, this can be any Supply Chain Partner or authorized third party acting on behalf of one of the foregoing that has been given permission either by (A) a Contributor to access and use User Content and, if applicable, Scores (as defined below) in accordance with these Terms, or (B), in the case of MSI Scores (as defined below), Higg Co to access and use MSI Scores in accordance with these Terms.

(2) **Multiple User Types.** In some instances, you may be accessing and/or using a Tool (or multiple Tools) as both a Contributor and an Aggregator. In such instances, how you access and use the respective Tool, and your rights and obligations in connection therewith, are governed by the terms and conditions herein specific to that User type.

(c) **Tools, Modules and Services.** Currently, Higg Co offers the following measurement, management and sharing services through the Platform (each, a “**Tool**”):

(1) **Facility Environmental Module (“FEM”) or Facility Social & Labor Module (“FSLM”).** These modules are provided to Facility Contributors to measure the

environmental and social impacts of a facilities operations in order to make meaningful improvements. Impacts are measured at individual factories, not the parent company as a whole. Facilities conduct the assessments approximately once a year by contributing User Content in response to assessment questions, and, when available, these assessments can then be verified by SAC-approved (vFEM) or SLCP-approved (vFLSM) on-site assessors at an additional cost. FEM and FSLM also include capabilities to benchmark by facility type allowing facility managers to compare their performance against that of their peers. Further information and terms related to these modules are available at <https://howtohigg.org/>. To access and use FEM, FSLM, vFEM, vFSLM, or other facility modules as a Contributor, you must purchase a module or purchase access to the Platform. To access and use FEM, FSLM, vFEM, vFSLM, or other facility modules as an authorized Aggregator, you must purchase each share or purchase access to the Platform.

(2) **Brand Retail Module (“BRM”)**. This assessment is provided to Brands and Retailer Contributors and is meant to measure the environmental and social impacts of a Brand or Retailer’s operations in order to make meaningful improvements. Impacts are measured at individual brands or the parent company as a whole depending on how the Brand or Retailer complete BRM. Brands or Retailers conduct the assessments approximately once a year by contributing certain types of User Content in response to assessment questions, and, when available, these assessments can then be verified by SAC-approved (vBRM) on-site assessors at an additional cost. Further information and terms related to these modules are available at <https://howtohigg.org/>. To access and use BRM, vBRM, and other Brand and Retail modules as a Contributor, you must purchase access to a module or purchase access to the Platform. To access and use BRM, vBRM, or other Brand and Retail modules as an authorized Aggregator, you must purchase each share or purchase access to the Platform.

(3) **Product Tool Suite (“Product Tool Suite”)**. The Product Tool Suite may include three types of Tools:

(i) **Materials Sustainability Index (“MSI”)**. MSI is a cradle-to-gate index informed by life cycle assessment data to engage product design teams and the global supply chain of consumer products in environmental sustainability. Contributors can enter User Content regarding raw materials and production processes through the Platform to generate materials along with process, trim/component and packaging scores (or MSI Scores (as such term is defined below)) to make meaningful improvements. Users, whether Contributor or Aggregators, can access and use materials and production processes data, as well as MSI Scores to make decisions about material uses and make comparisons between materials. Further information and terms related to these modules are available at <https://howtohigg.org/>. To access MSI as a User whereby such User can save, publish and receive materials, you must purchase the ability to save materials and MSI Scores or purchase access to the platform.

(ii) **MSI Contributor (“MSI Contributor”)**. The MSI Contributor is a tool to collect material production data (“**Inventory Data**”) or previously reviewed LCIA

midpoints in accordance with MSI methodology (“**Submitted LCIA Midpoints**”) used to create materials and scores in the MSI. Submissions will be independently reviewed, and, upon acceptance by SAC, will be used to calculate impacts and generate MSI Scores for the submitted raw material or production process according to MSI methodology <https://msicontributor.higg.org>. Users may access and use this tool without cost, but there is cost associated with review and scoring. Results will be communicated to the Contributor for final written permission to publish in the MSI. At this point, Contributors who have been informed of their results may withdraw submission or continue with publication of their results.

(iii) **Product Module (“Product Module”)**. The Product Module engages designers and developers during the early concept and design phases, by assisting them to consider better materials and construction techniques that can improve the impact of a product’s entire life-cycle before that product is created. Contributors can submit User Content to assess a product and create Product Results (defined below) early in the product creation process. Users, whether Contributor or Aggregators, can access and use such product information and Product Results to the extent authorized by the applicable Contributor. Further information and terms related to these modules are available at <https://howtohigg.org/>. To access the Product Module as a User whereby such User can save, publish and receive product information, you must purchase the ability to save product information or purchase access to the Platform.

(d) **Management Services**. From time to time, you and Higg Co may agree to upgrade your Platform access and use rights to include additional Services or features for existing Tools, which may be subject to additional costs (“**Platform Upgrade**”). These terms, including any supplemental terms that may be provided in connection with an Order for a Platform Upgrade, govern your access and use of any such Platform Upgrades unless expressly agreed otherwise.

(e) **Sharing Services**. Contributors and Aggregators may generate and share information through communication toolkits (“**Toolkits**”) and public profiles (“**Profile Pages**”), about the sustainability of facilities, brands, materials and products. While Toolkits are static documents that users may share with their supply chain, each Profile Page has the ability to display a variety of claims or sustainability statements supported by Scores, User Content, Third Party Content and External Data. Toolkits and Profile Pages are only made public when the User publishes or directs Higg Co to publish the Toolkit or Profile Page. Further information and terms related to Toolkits and Profile Pages are available at <https://howtohigg.org/>. To access the Toolkits or Profile Pages as a User whereby such User can create, save, and publish Toolkits or Profile Pages, you must purchase the ability to publish Toolkits or Profile Pages or purchase access to the Platform.

(f) **Additional Services**.

(1) **Custom Services (“Custom Services”)**. From time to time, you and Higg Co may agree to additional services, requiring data exchange, or bespoke customizations of and developments related to the Tools or Services, which may be subject to the payment of additional fees and separate terms and conditions. In the event Higg Co, in its discretion, determines that such Custom Services require extensive customization or development

determines that such Custom Services require extensive customization or development effort, the Custom Services will be subject to a separate agreement, including terms related to any applicable fees for the Custom Services.

(2) **Higg Application Programming Interface (“API”).** Higg Co’s API allows authorized Aggregators to import and export a Contributor’s or their own User Content into the Aggregators’ internal systems. The terms governing Aggregators access and use of the API will be governed by separate agreement between the parties.

(3) **Third-Party Services.** From time to time, we may allow you to connect to or share information between other third-party services (e.g. OAR, SLCP) or allow such third parties to integrate their features or tools into the Platform (collectively, “**Third-Party Services**”). Your dealings or correspondence with third parties and your use of or interaction with any Third-Party Services (including any information shared between you and a Third-Party Service) are solely between you and the third party and may be subject to third-party terms. Higg Co does not control or endorse, and makes no representations or warranties regarding, any Third-Party Services, and your access to and use of such Third-Party Services is at your own risk.

SECTION 2 Access and Use of the Services. (a) Accounts.

(1) **Registration.** Accessing and using the Services requires registration and creation of an account on the Platform (“**Account**”). In registering for an Account on behalf of an entity as an account administrator (“**Account Administrator**”), you must identify your organization as either a Facility, Brand, Retailer, University, Service Provider, Sourcing Agent, NGO, or Government Agency. In order to establish an Account as an authorized representative of such entity (“**Authorized Representative**”), you must be designated as an authorized representative of the Account by the relevant Account Administrator and have the authority to bind the entity. In registering for an Account as an Authorized Representative, you must identify your organization and be granted access by the Account Administrator. In registering for an Account, you agree to (i) provide true, accurate, current and complete information as prompted by the Account registration page (“**Registration Data**”), and (ii) maintain and promptly update the Registration Data to keep it accurate, current and complete. You are entirely responsible for maintaining the confidentiality of your password.

(2) **Restrictions.** You may not use the Account, username, or password of someone else at any time. You agree to notify Higg Co immediately of any unauthorized use of your account, user name, or password. You may be held liable for any losses incurred by Higg Co due to someone else’s use of your Account or password. Higg Co is not liable for any loss that you incur as a result of someone else accessing your Account or using your password, either with or without your knowledge.

(b) Access Rights and Ownership.

(1) Access and Use Rights.

(i) **Services.** Subject to these Terms and any additional terms and policies referenced

herein, Higg Co hereby grants you a limited, non-exclusive, non-assignable, non-sublicensable, and non-transferable right, during the Term, to access and use the portion of the Services identified in your order or invoice (“**Order**”) for your internal business purposes. Any violation of these Terms will, at Higg Co’s discretion, immediately and automatically terminate the foregoing license without notice to you.

(ii) **Training Materials.** As part of the Services, Higg Co may make available or provide certain documentation, information, or other materials regarding the use of the Services (“**Training Materials**”). Higg and/or its licensors own and reserve all right, title, and interest in and to any and all Training Materials, as well as all know-how, ideas and other intellectual property rights embodied or reflected therein. For clarity, all Training Materials will be considered Higg Co’s and/or its licensors’ confidential information, and your use of such Training Materials is subject to the confidentiality obligations set forth herein.

(2) **Restrictions.** You may not use the Services in any manner or for any purpose other than as expressly permitted by these Terms or in a separate mutually acceptable, duly executed, and delivered written agreement between you and Higg Co that expressly supersedes the purposes set forth in these Terms. You will not, and will not permit any third party, to: (i) reverse engineer, decompile, disassemble, decode, decrypt, re-engineer, reverse assemble, reverse compile or otherwise translate, create, or attempt to recreate or replicate the methodology or the source code of or trade secrets in the Services or its structural framework (in whole or in part), or perform any process intended to determine the source code for or trade secrets in the Platform or Tools; (ii) modify, correct, adapt, translate, enhance or create derivative works or improvements based upon any Services, or otherwise change any Services; (iii) circumvent or attempt to circumvent any technological protection measures intended to restrict access to or use of any portion of the Services or the functionality of the Services; (iv) use the Services for any purpose that is illegal in any way or that advocates illegal activity; (v) alter, remove or obscure any copyright or trademark notice in the Services; (vi) except as expressly permitted by these Terms, make available any portion of the Services through electronic mail or the Internet; (vii) voluntarily or involuntarily in any form or manner assign, sublicense, transfer, pledge, copy, loan, publish, rent, sell, lease, lend, license, distribute or share or otherwise provide direct, remote, or other access to the Services or any right under these Terms to or with any other person or entity, including providing outsourcing or on-line services to third parties; (viii) use the Services to develop a competing product or for any other purpose that is to Higg Co’s commercial disadvantage; or (ix) access or use the Services in any manner, except as expressly provided in these Terms.

(3) **Ownership.** Except for the licenses granted herein, you acknowledge that you have no right, title or interest in or to the Services (or any portion thereof), including without limitation all rights in the patents, copyrights, trademarks, trade secrets and other intellectual property and proprietary rights therein. Notwithstanding any terms to the contrary in these Terms, Higg Co and/or its licensors own and reserve all right, title, and interest in and to all intellectual property rights embodied in or related to the Services. The

trademark, HIGG INDEX, is a registered trademark of SAC, to which Higg Co has a license in connection with providing the Services. You are prohibited from using this mark and other graphics, logos, trademarks and copyrights of SAC or Higg Co without the prior written consent of the SAC or Higg Co, respectively, in accordance with the Use and Sharing Restrictions (defined below).

(c) Fees and Payment

(1) **Payment Terms.** Your access and use of the Services, including any Tool, is contingent on your timely and full payment of the applicable fees set forth in the applicable Order. Higg Co reserves the right to suspend or limit your access to portions of the Services, including any Tools, should you fail to remit timely payment. You agree to pay all fees or charges to your Account in accordance with the fees, charges and billing terms in effect at the time a fee or charge is due and payable. You must provide Higg Co with a valid credit card (Visa, MasterCard or any other issuer accepted by us) (“**Payment Provider**”), or purchase order or payment information as a condition for signing up for certain Services, which are described in your invoice. Your Payment Provider agreement governs your use of the designated credit card, and you must refer to that agreement and not to these Terms to determine your rights and liabilities with respect to your payment method. By providing Higg Co with your credit card number, you agree that Higg Co is authorized to immediately invoice your Account and charge your payment instrument for all fees and charges due and payable to Higg Co hereunder when due, including upon the automatic renewal of any applicable Order and that no additional consent or notice is required. Any pre-paid fees are non-refundable. You agree to immediately notify Higg Co of any change in your billing address or credit card account used for payment hereunder. Higg Co reserves the right at any time to change its prices and billing methods, either immediately upon posting through the Services or by email delivery to you.

(2) **Taxes.** Higg Co’s fees are net of any applicable Sales Tax (as defined below). If any Services, or payment for any Services, under the Terms are subject to Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to Higg Co, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority. “**Sales Tax**” means any sales or use tax, and any other tax measured by sales, proceeds, that Higg Co is permitted to pass to its customers, that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax. You agree to make all payments of fees to Higg Co free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of fees to Higg Co will be your sole responsibility, and you will provide Higg Co with official receipts issued by the appropriate taxing authority, or such other evidence as Higg Co may reasonably request, to establish that such taxes have been paid.

SECTION 3 User Content; Scores (a) **Types of Content and Scores.**

(1) “**User Content**” means any data and information submitted by a Contributor through the Services. Below are examples of User Content that can be submitted through the Tools:

(i) **FEM and FSLM** – basic address, production information, and responses to environmental or social questions.

(ii) **BRM** – basic address, production information, and responses to environmental or social questions.

(iii) **MSI** – generally, information regarding raw or blended materials and production processes to generate materials along with process, material, trim/component, and packaging scores.

(iv) **MSI Contributor** – Inventory Data or Submitted LCIA Midpoints used to generate process scores.

(v) **Product Module** – information regarding raw materials, production processes, care instructions, transportation, packaging, distribution/sales, end of use, and quality of the product to create a product and generate Product Results (as defined below).

(2) A “**Score**” means any data and information, in the form of scores or impact results, produced by the Tools. Below are examples of Scores that are generated through the Tools:

(i) **FEM and FSLM** – Scores and results, including verified Scores, resulting from a Contributor’s use of FEM (“**FEM Score**”), and, when available, use of FSLM (“**FSLM Score**”).

(ii) **BRM** – Scores and results, including verified Scores, resulting from Contributor’s use of BRM (“**BRM Score**”).

(iii) **MSI** – A materials sustainability score assigned to a given process, material, trim/component or packaging (“**MSI Scores**”).

(iv) **Product Module** – Impact results attributable to a Contributor’s product resulting from Contributor’s use of the Product Module, such as kg CO₂e (“**Product Results**”).

(3) “**Third Party Content**” means data or information from a third party that a Contributor includes or otherwise incorporates in its User Content. You are responsible for your posting of Third Party Content. You agree that you will not post any third party’s sensitive financial information, intellectual property, information that the third party treats as confidential or proprietary information, and/or any other information that the third party may consider to be a trade secret. You hereby grant Higg Co a limited, worldwide, non-exclusive, transferable, sublicensable, royalty-free license to access and use all Third Party Content for any reason.

(4) “**External Data**” means data or information provided to Higg Co by a third party that is used to generate Scores, Toolkits, Profile Pages or other results.

(5) **Toolkits and Profile Pages.** For clarity, Toolkits and Profile Pages provide disclosures, impact results, and performance indicators attributable to a Contributor’s facilities, brands, materials and/or products by using User Content, Scores, Third Party Content, and External Data.

(b) How User Content Submitted and How User Content and Scores are Verified/Validated.

(1) **Submission of User Content.** In the event you are a Contributor, you will follow the User Content submission instructions available at <https://howtohigg.org/>.

(2) **Verification and Validation of User Content.** Additional terms applicable to verification and validation of Scores are available at <https://howtohigg.org/>.

(3) **Special Provisions Applicable to Users Outside the United States.** We strive to create a global community with consistent standards for everyone, but we also strive to respect local laws. The following provisions apply to Users outside the United States: (i) you consent to having your personal data transferred to and processed in the United States; and (ii) if you are located in a country embargoed by the United States, or are on the U.S. Treasury Department's list of Specially Designated Nationals, you will not engage in commercial activities through the Services.

(c) Rights and ownership.

(1) Ownership.

(i) **User Content.** Subject to the licenses granted herein each Contributor owns and reserves all right, title, and interest in and to all intellectual property rights embodied in or related to that Contributor's User Content submitted to the Services. To the extent you are a Contributor, you alone are responsible for your User Content. You assume all risks associated with your User Content, including, without limitation, any person or entity's reliance on its reliability or accuracy as well as any of your User Content that makes you personally identifiable.

(ii) **Scores.** Subject to the licenses granted herein, Higg Co and its licensors own and reserve all right, title, and interest in and to all intellectual property rights embodied in or related to the Scores and any results generated by the Services. To the extent you have any ownership interest in any Scores, or other results, you hereby irrevocably and unconditionally assign and transfer to Higg Co and its licensors all right, title, and interest in and to such Scores and other results automatically upon your submission. Without limiting the generality of the foregoing, in the case of Scores generated based on your User Content (and excluding MSI Scores), Higg Co shall only use your Scores (A) to provide you the Services, (B) to deliver your Scores to Aggregators and Authorized Third Parties at your direction, (C) to improve the Services and use for other internal business or research purposes, (D) in compliance with the SAC Communication Guidelines, (E) to research and publish industry data and trends, and generate industry insights, in each case, in an anonymized manner, (F) confirm SAC member participation and compliance, (G) to generate and publish Toolkits and Profile Pages at your direction; and (H) as otherwise mutually agreed upon between the parties. In no event will Higg Co modify or change your Scores, except that Higg Co shall have the right to delete or disregard any portion of Scores that Higg Co determines is inaccurate, inappropriate, violates applicable law or is otherwise

inconsistent with Higg Co's policies and/or purpose.

(iii) **Toolkits and Profile Pages.** Except for any of your User Content and any images, videos, or descriptions of the facility, brand, material or product provided by you, as between Higg Co and the User, Higg Co and its licensors own and reserve all right, title, and interest in and to all intellectual property rights embodied in or related to the Toolkits and Profile Pages (collectively, the "Profile Page Content"). To the extent you have any ownership interest in any Profile Page Content, you hereby irrevocably and unconditionally assign and transfer to Higg Co and its licensors all right, title, and interest in and to such Profile Page Content and other results automatically upon your submission.

(iv) **Feedback.** We encourage you to provide and share with us your questions, comments, suggestions, ideas, and feedback regarding the Services (collectively, "**Feedback**"). You agree that Higg Co has no obligations (including without limitation obligations of confidentiality, royalty, or accounting) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback, and you hereby irrevocably and unconditionally assign and transfer to Higg Co all right, title, and interest in and to such Feedback automatically upon your submission of the Feedback to Higg Co or any of its licensors.

(2) Licenses.

(i) **To Higg in Contributor's User Content.** To the extent you are a Contributor, you hereby grant Higg Co a non-exclusive, irrevocable, worldwide, perpetual, royalty-free, sublicensable (through multiple tiers), and transferable license to download, aggregate, analyze, use, reproduce, distribute, display, and prepare derivative works of the User Content in order to (A) provide you the Services, (B) deliver the User Content to Aggregators and Authorized Third Parties at your direction, (C) improve the Services and use for other internal business or research purposes, (D) to research and publish industry data and trends, and generate industry insights, in each case, in an anonymized manner, (E) confirm SAC member participation and compliance, (F) to generate and publish Toolkits and Profile Pages at your direction, and (G) as otherwise mutually agreed upon between the parties. Higg Co reserves the right, but has no obligation, to monitor or review User Content at any time. Without limiting the foregoing, Higg Co shall have the right to delete or disregard any portion of User Content that Higg Co determines is inaccurate, inappropriate, violates applicable law or is otherwise inconsistent with Higg Co's policies and/or purposes. Unless otherwise specified, you waive all rights to claim that Higg Co infringed on your proprietary rights, intellectual property rights, rights of privacy and publicity, moral rights, and rights of attribution in connection with your User Content. You represent and warrant that you have all necessary rights and licenses to grant us the foregoing license.

(ii) **To Higg in Contributor's Marks.** To the extent you are a Contributor, you hereby grant Higg Co a non-exclusive, irrevocable, worldwide, perpetual, royalty-free, sublicensable (through multiple tiers), and transferable license to use, reproduce,

distribute and display publicly the trademarks, service mark, logos, symbols and other indicia of origin (“**Contributor Marks**”) to identify you in your Toolkits and Profile Pages. Unless otherwise specified, you waive all rights to claim that Higg Co infringed on your proprietary rights, intellectual property rights and rights of attribution in connection with the Contributor Marks. You represent and warrant that you have all necessary rights and licenses to grant us the foregoing license.

(iii) **To Contributor in Scores, Toolkits and Profile Pages.** To the extent you are a Contributor, and subject to your compliance with these Terms and pursuant to a valid Order, Higg Co hereby grants you a non-exclusive, irrevocable, worldwide, perpetual, royalty-free, sublicensable (through multiple tiers), and transferable license to (A) analyze, use, and reproduce your applicable FEM Scores, FSLM Scores, BRM Scores, Product Results, Toolkits and Profile Pages solely for your internal business purposes, and (B) share such Scores Toolkits, and Profile Pages, provided that such sharing, whether to the public or with a third party, complies with the Use and Sharing Restrictions (as defined below), including any applicable SAC Communication Guidelines.

(iv) **To Aggregators in User Content, Scores, Toolkits, and Profile Pages.** To the extent you are an Aggregator and a Contributor has elected to share its User Content, related Scores, Toolkits, and/or Profile Pages with you, and subject to your compliance with these Terms and pursuant to a valid Order, Higg Co hereby grants you, under the rights granted to Higg Co by such Contributor, a limited, non-exclusive, non-assignable, non-sublicensable, and non-transferable license, to (A) access and use such Contributor’s User Content and their related Scores, Toolkits, and/or Profile Pages solely for your internal business purposes or other purposes as determined by the applicable Contributor or as permitted in the SAC Communication Guidelines, and (B) download such Contributor’s User Content, their related Scores, Toolkits, and/or Profile Pages directly or through an API integration, provided that you have entered into a separate API agreement with Higg Co.

(v) **To Users in MSI Scores.** Subject to these Terms, Higg Co hereby grants you a limited, non-exclusive, non-assignable, non-sublicensable, and non-transferable license, to access, use, and share the MSI Scores in accordance with the Use and Sharing Restrictions.

(3) **Use and Sharing Restrictions.**

(i) **Sharing.** The use and sharing restrictions, including the SAC Communication Guidelines, applicable to User Content, Scores, Toolkits, and Profile Pages are available at <https://howtohigg.org/> (“**Use and Share Restrictions**”). You shall not share Scores, Toolkits, or Profile Pages externally, whether to the public or with a third party, except as expressly permitted under the SAC Communication Guidelines. You shall NOT share another Contributor’s User Content or Scores, Toolkits, or Profile Pages except as expressly permitted under the SAC Communication Guidelines and by the Contributor sharing with you.

the Contributor sharing with you.

(ii) **Disclaimer.** While certain portions of the Services allow you to disable sharing with third parties at any time, you understand and acknowledge that data or information shared with any Aggregator or third party and/or published by such Aggregator or third party prior to such action will remain unaffected. If you would like an Aggregator to destroy or return any User Content, Scores, Toolkits, or Profile Pages in their possession, you understand and agree that you must work directly with such Aggregator and that you will not hold Higg Co responsible for a Aggregator's refusal to return or destroy User Content, Scores, Toolkits, or Profile Pages previously made available by you.

(d) **Copyright Infringement / Digital Millennium Copyright Act Notice**

(1) Higg Co is committed to respecting and protecting the legal rights of copyright owners. As such, Higg Co adheres to the following notice and take down policy, in full compliance with Section 512(c)(3) of the DMCA (17 U.S.C. 512 et seq.). If you believe any of the User Content or other content available through the Services infringes upon your intellectual property rights, please submit a notification alleging such infringement (hereafter a “**DMCA Takedown Notice**”). To be valid, a DMCA Takedown Notice must (i) be provided to Higg Co's designated agent, (“**Copyright Agent**”), as set forth below, and (ii) include the following:

- (i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (ii) 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;
- (iii) Identification of the material claimed to be infringing or to be the subject of infringing activity and that is to be removed or access disabled and information reasonably sufficient to permit the service provider to locate the material;
- (iv) Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;
- (v) A statement that you have 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
- (vi) A statement that, under penalty of perjury, the information in the notification is accurate and you are authorized to act on behalf of the owner of the exclusive right that is allegedly infringed.

(2) Higg Co's Copyright Agent to receive DMCA Takedown Notices is:

Email: **notices@higg.com** Address: 264 Arlington Ave Kensington, CA 94707
 Telephone Number: +1-707-241-3042 Designated Agent: Del Hudson, Higg Co VP
 Marketing and Communications

(c) For clarity, only DMCA Takedown Notices should go to the Copyright Agent; any other

(3) For clarity, only DMCA Takedown Notices should go to the Copyright Agent, any other feedback, comments, online purchases or other communications should be directed to the applicable customer service links posted through the Services. You acknowledge that in order for Higg Co to be authorized to takedown any content, your DMCA Takedown Notice must comply with all of the requirements of this Section.

SECTION 4 Confidentiality.

(a) **Confidential Information.** “**Confidential Information**” means any and all proprietary or confidential data and information disclosed by a party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”), 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. The obligations of the parties set forth in Section do not apply to Confidential Information that (1) is or becomes publicly known through no act or omission of the Receiving Party, (2) was rightfully known by Receiving Party without confidential or proprietary restriction before receipt from the Disclosing Party, (3) becomes rightfully known to Receiving Party by a third party without confidential or proprietary restriction from the Disclosing Party, or (4) is independently developed by the Receiving Party without the use of or reference to the Confidential Information of the Disclosing Party.

(b) **Nondisclosure and Nonuse.** Each party (1) will maintain in confidence the Confidential Information of the other party, (2) will not use or grant the use of the Confidential Information of the other party except to the extent reasonably necessary in connection with such party’s activities as expressly authorized by these Terms, and (3) will not disclose the Confidential Information of the other party except on a need-to-know basis to such party’s affiliates and their respective directors, officers, employees, consultants, and advisors, to the extent such disclosure is reasonably necessary in connection with such party’s activities as expressly authorized by these Terms. To the extent that disclosure to any person is authorized by these Terms, prior to disclosure, a party will obtain written agreement (or legal or other fiduciary obligation) from such person to hold in confidence and not disclose, use or grant the use of the Confidential Information of the other party except as expressly permitted under these Terms. Each party will notify the other party promptly upon discovery of any unauthorized use or disclosure of the other party’s Confidential Information. Each party agrees that the terms and conditions of any Order entered into under these Terms will be treated as Confidential Information of both parties and will not be disclosed to any third party, provided, however, that each party may disclose the terms and conditions of such Order: (x) to such party’s legal counsel, accountants, banks, financing sources and their advisors; (y) in connection with the enforcement of these Terms or rights under these Terms; or (z) in connection with an actual or proposed equity investment, merger, acquisition or similar transaction.

(c) **Permitted Disclosure.** The confidentiality and non-disclosure obligations under this Section will not apply to the extent that a party is required to disclose information by applicable law, regulation, rule (including rule of a stock exchange or automated quotation system), or order of a governmental agency or a court of competent jurisdiction or legal process, including tax authorities (in each case as determined by the party’s legal counsel); provided, however, that the

party will provide advanced written notice of such disclosure to the other party, consult with the other party with respect to such disclosure and provide the other party sufficient opportunity to object to any such disclosure or to request confidential treatment or a protective order (if applicable).

(d) Notice of Immunity Under the Defend Trade Secrets Act of 2016. Notwithstanding any other provision of these Terms, neither party shall be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that: (1) is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. If a party files a lawsuit alleging retaliation by the other party for reporting a suspected violation of law, such party may disclose the other party's trade secrets to such party's attorney and use the trade secret information in the court proceeding if such party: (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

SECTION 5 Disclaimers of Warranties.

(a) Disclaimer. You acknowledge and agree that the disclaimers and limits set forth in these Terms reflect the reasonable and fair allocation of risk between you and Higg Co and are an essential basis of this contract between you and Higg Co. Your use of the Services and the information you obtain through the Services is at your own risk. NEITHER HIGG CO, NOR ANY OF ITS MEMBERS, AFFILIATES, VENDORS AND LICENSORS, MAKES ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, ABOUT THE QUALITY, ACCURACY, RELIABILITY, AVAILABILITY, COMPREHENSIVENESS, ADEQUACY, COMPLETENESS, SECURITY OR TIMELINESS OF THE SERVICES, CUSTOM SERVICES, TRAINING MATERIALS, OR ANY CONTENT OR INFORMATION THEREIN (COLLECTIVELY, "**MATERIALS**"), OR THAT THE MATERIALS OR SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE MATERIALS, SERVICES OR THE SERVERS THAT MAKE IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE MATERIALS WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS. HIGG CO AND ITS MEMBERS, AFFILIATES, VENDORS AND LICENSORS SHALL HAVE NO LIABILITY FOR ANY ERRORS, MISTAKES, INACCURACIES OR OMISSIONS IN THE SERVICES OR MATERIALS, WHETHER PROVIDED BY HIGG CO OR ITS MEMBERS, AFFILIATES, VENDORS OR LICENSORS OR ANY OTHER PERSON OR ENTITY. THE SERVICES AND MATERIALS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY LAW, HIGG CO, FOR ITSELF AND ITS MEMBERS, AFFILIATES, VENDORS AND LICENSORS, DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

(b) **Accuracy of Scores, Toolkits, and Profile Pages.** The accuracy, timeliness, truthfulness and legitimacy of any Score, TOOLKIT, AND PROFILE PAGE is based on the information provided, and acts and/or omissions of the company to whom the score, TOOLKIT, OR PROFILE PAGE pertains, and is therefore outside of the control of Higg Co AND ITS MEMBERS, AFFILIATES, VENDORS AND LICENSORS. Accordingly, Higg Co AND ITS MEMBERS, AFFILIATES, VENDORS AND LICENSORS make no representations, warranties or guarantees with respect to any Score(s), TOOLKIT(S), OR PROFILE PAGE(S). In the event you publicly post, display or otherwise disclose any Score, TOOLKIT, OR PROFILE PAGE, you agree that you will indemnify, defend and hold harmless Higg Co AND ITS MEMBERS, AFFILIATES, VENDORS AND LICENSORS from and against any damages, judgments, liabilities, losses, penalties, settlements, costs and expenses (including reasonable attorneys' fees) arising from, or related to, your Score, TOOLKIT, OR PROFILE PAGE.

(c) **No Reliance.** You understand and agree that you are solely responsible for choosing to publish Toolkits and Profile Pages and you should not use Services' results, answers, Scores, Toolkits, or Profile Pages as a sole or contributing factor in making business decisions regarding any supply chain partners, and you agree to defend, indemnify, and hold harmless the Indemnified Parties (as defined below) from third-party Claims arising from your business decisions directly or indirectly or wholly or partly based on Services' results, answers, Scores, Toolkits, and Profile Pages.

SECTION 6 Limitation of Liability.

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL HIGG CO OR ITS MEMBERS, AFFILIATES, VENDORS, LICENSORS, AGENTS OR ANY OTHER CONTRIBUTOR TO THE TOOLS BE LIABLE TO ANY PERSON OR ENTITY FOR ANY DAMAGES OF ANY KIND WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH (A) THESE TERMS; (B) THE USE, DISCLOSURE, DISPLAY, OR MAINTENANCE OF REGISTRATION INFORMATION OR FEEDBACK PROVIDED THROUGH THE SERVICES, INCLUDING ANY PERSONAL INFORMATION; (C) THE USE OR MISUSE OF THE SERVICES BY ANY PERSON OR ENTITY; (D) ANY OF THE CONTENT OR OTHER MATERIALS MADE AVAILABLE THROUGH THE SERVICES; OR (E) OTHERWISE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT HIGG CO OR ANY OF ITS MEMBERS, AFFILIATES, VENDORS, LICENSORS, AGENTS OR ANY OTHER CONTRIBUTOR TO THE INDEX IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AS USED IN THIS SECTION, "**DAMAGES**" MEANS DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, RELIANCE, EXEMPLARY AND/OR SPECIAL DAMAGES, INCLUDING LOST PROFITS OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION. YOUR RIGHT TO ACCESS AND USE THE SERVICES IS CONDITIONED UPON YOUR ACCEPTANCE OF THESE TERMS, INCLUDING BUT NOT LIMITED TO ITS DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY. YOU AGREE THAT YOUR EXCLUSIVE REMEDY SHALL BE TO IMMEDIATELY STOP USING THE SERVICES. YOU AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION WILL SURVIVE ANY TERMINATION OR EXPIRATION OF THESE TERMS AND WILL APPLY EVEN IF ANY

LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. IN ANY CASE, NOTWITHSTANDING ANYTHING IN THESE TERMS OR ANY ORDER TO THE CONTRARY, THE AGGREGATE LIABILITY OF HIGG CO OR ANY OF ITS MEMBERS, LICENSORS, VENDORS, AGENTS, OR ANY OTHER CONTRIBUTOR TO THE HIGG INDEX OR TOOLS WILL NOT EXCEED ONE HUNDRED DOLLARS (\$100).

SECTION 7 Indemnity.

You will defend, indemnify, and hold harmless Higg Co and its members, affiliates, vendors, licensors, , and any other Users of the Services and their respective officers, directors, members, managers, employees, consultants, advisors, agents, and representatives (collectively, the “**Indemnified Parties**”), from any and all claims, liability, damages, losses, suits, expenses, and/or costs (including reasonable attorneys’ fees) (collectively, “**Claims**”) suffered by any Indemnified Party arising from or relating to (a) your access or use of the Services, (b) your violation of these Terms, (c) your violation of any applicable law or regulation, including violation of international, federal and state, and local antitrust statutes, rules or regulations, (d) your anti-competitive practices, or (e) your User Content or any Third Party Content. Higg Co will endeavor to notify you promptly of any such Claim and will provide you with reasonable assistance, at your expense, in defending any such Claim.

SECTION 8 Term and Termination.

(a) **Term.** The term of these Terms commences on the date you accept these Terms and remain in full force and effect until you cease using the Services (the “**Term**”), unless terminated earlier in accordance with the terms herein. The initial term of any Order entered into pursuant to these Terms will be set forth in the applicable Order and will automatically renew for subsequent periods equal to the length of such initial Order term, unless otherwise terminated by either party by providing 30 days written notice to the other party prior to the expiration of the then current Order term. You acknowledge that you will not receive notice of a renewal date for such Orders and you expressly waive the application of New York General Obligation Law section 5-903, and any similar laws, prior to the start of any Order renewal term.

(b) **Termination.** Either party may terminate these Terms in the event the other party materially breaches any provision of these Terms and does not fully cure such breach within 30 days of the non-breaching party’s notice. You agree that all terminations for cause by Higg Co shall be made in Higg Co’s sole discretion, and that Higg Co shall not be liable to you or any third party for any termination of your Account.

(c) **Effect of Termination.** Upon termination of any Service and/or these Terms, your right to use such Services will automatically terminate immediately.

SECTION 9 General.

(a) **Arbitration.** Any controversy arising under or related to these Terms, and any disputed claim by any party against another under these Terms, excluding any dispute relating to patent validity

or infringement arising under these Terms, shall be settled by arbitration in accordance with the then existing Commercial Arbitration Rules of the International Chamber of Commerce (the “**Rules**”). Upon request by a party, arbitration will be by a panel of three arbitrators within 30 days of such arbitration request. Each party shall select one arbitrator, and the final arbitrator shall be appointed by the arbitrators designed by each party. The arbitration shall be conducted in English. Judgment upon the award rendered by the panel shall be final and non-appealable and may be entered in any court having jurisdiction thereof. In order to conduct discovery, and in addition to the discovery provisions provided under the Rules, the parties expressly incorporate into any arbitration occurring under these Terms the discovery rules provided for in the Federal Rules of Civil Procedure of the United States of America. Any arbitration shall be held in San Francisco, CA, unless the parties hereto mutually agree in writing to another place. Notwithstanding the foregoing, nothing in this provision shall be construed to bar a party from seeking equitable relief in order to preserve the status quo or prevent irreparable harm.

(b) Governing Law. These Terms and your use of the Services shall be construed in accordance with and governed by the laws of the United States and the State of California, without regard to their rules regarding conflicts of law. You irrevocably consent to the exclusive jurisdiction and venue of the state or federal courts in San Francisco, California, USA for all disputes arising out of or related to the use of the Materials or these Terms that are not required to be arbitrated per Section 9.2, and you hereby submit to the personal jurisdiction of such courts. Higg Co and you agree that the Uniform Computer Information Transaction Act (UCITA), or any version of UCITA adopted by any state, including California, will not govern or be used to interpret these Terms. The United Nations Convention on Contracts for the International Sale of Goods (UNCCISG) does not apply to these Terms.

(c) Miscellaneous. These Terms constitute the entire agreement between Higg Co and you regarding your access and use of the Services, and supersede any prior agreements between you and Higg Co concerning these matters. If any of these Terms is found to be inconsistent with applicable law, void, or unenforceable for any reason, the remaining portions (and any partially-enforceable provisions) shall not be affected thereby and shall remain valid and enforceable to the maximum possible extent. Higg Co’s failure to enforce any of these Terms will not be deemed a waiver of such term or any other terms herein or a consent to any subsequent breach of the same or another term. You may not assign or transfer your rights and obligations under these Terms without the prior written consent of Higg Co. Higg Co may assign or transfer its rights and obligations under these Terms at any time and without notifying you. Any of the Terms that are, by their nature, intended to survive termination shall survive termination, including without limitation SECTION 2(a)(2) (Restrictions), SECTION 2(b)(2) (Restrictions), SECTION 2(b)(3) (Ownership), SECTION 2(c)(2) (Taxes), SECTION 3(a)(4) (Third Party Content), SECTION 3(c) (Rights and Ownership), SECTION 3(c)(3) (Use and Sharing Restrictions), SECTION 4 (Confidentiality), SECTION 5 (Disclaimers of Warranties), SECTION 6 (Limitation of Liability), SECTION 7 (Indemnity), and SECTION 9 (General). Section titles are for convenience only and have no legal effect. The Indemnified Parties are third-party beneficiaries to these Terms.

(d) English Language Controls. These Terms were written in English (US). To the extent any

translated version of these Terms conflicts with the English version, the English version shall govern and control.

(e) **Contact info.** If you have any questions concerning these Terms or the Tools or other Materials, please contact us through the Higg Co website: www.higg.com or at notices@higg.com, or Attn: Terms of Use Questions, 264 Arlington Ave, Kensington, CA 947070.

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