

EQUIIFI TERMS AND CONDITIONS

equipifi and Customer (each as defined in the Order Form between such parties) agree to be bound by these Terms and Conditions as of the Effective Date, as incorporated into the Order Form for the equipifi Services (such Order Form and these equipifi Terms and Conditions defined as the Agreement).

1. **Definitions.** Capitalized terms used in this Agreement shall have the meaning set forth in this Section 1 or as otherwise defined in this Agreement.

1.1 **"Aggregated Statistics"** means data and information related to or arising from Customer and End Users' use of the Service in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Service.

1.2 **"Active User"** means an End User who views the equipifi user interface through mobile banking, requiring an authentication connection between the mobile banking provider and equipifi. If an End User requires such an authentication connection at least once within a thirty (30) day period, such End User is an "Active User" for such month. If such End User does not enter equipifi's user interface requiring an authentication connection the following month, such End User will not be treated as an Active User for the following month.

1.3 **"Authorized User"** means Customer and its employees, consultants, contractors, and agents who are authorized by Customer to access and use the Service on behalf of the Customer under the rights granted to Customer pursuant to this Agreement.

1.4 **"Banking API"** means the software that equipifi makes available specifically for purposes of permitting the Banking Core System to access, operate with, communicate with and use the Service, and any updates equipifi may make available to such software from time-to-time.

1.5 **"Banking Core System"** means the core system of Customer that is utilized for banking purposes and any additional systems required to host and run the Banking API, as designated on the relevant Order Form.

1.6 **"BNPL Plan"** means the short-term financing or installment loan provided to Active Users by Customer pursuant to the equipifi Services provided herein.

1.7 **"Customer Data"** means Personal Data, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer, an Authorized User or End User through the Service. Customer Data excludes Aggregated Statistics.

1.8 **"Confidential Information"** means, with respect to equipifi, all information which equipifi protects against unrestricted disclosure to others, including but not limited

to: (a) the Services, Banking API, Documentation, including without limitation the following information regarding the Services, Banking API, and Documentation: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the Services or Documentation; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the Services; (b) the research and development or investigations of the equipifi; (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, marketing plans, forecasts and strategies; and (d) any information about or concerning any third party (which information was provided to equipifi subject to an applicable confidentiality obligation to such third party). With respect to Customer, "Confidential Information" means all information which Customer protects against unrestricted disclosure to others, including Customer Data, and which (1) if in tangible form, Customer clearly identifies as confidential or proprietary at the time of disclosure; and (2) if in intangible form (including disclosure made orally or visually), Customer identifies as confidential at the time of disclosure, summarizes the Confidential Information in writing, and delivers such summary within thirty (30) calendar days of any such disclosure.

1.9 **"Documentation"** means any user manuals and training materials, but not advertising or promotional materials, provided by equipifi for use with the Services.

1.10 **"End User"** means the Customer's banking clients.

1.11 **"Intellectual Property"** means all copyrights, trademarks, trade name, service marks, logo, corporate name trade secrets, patents, patent applications, moral rights, contractual rights of non-disclosure, or any other proprietary rights or other intellectual property rights (including, without limitation, any know-how, trade secret, trade right, formula, conditional or proprietary report or information, customer or membership list, any marketing data, and any computer program, software, database or data right), and license or other contract relating to any of the foregoing, and any goodwill associated with any business owning, holding or using any of the foregoing.

1.12 **"Personal Data"** means any data relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

1.13 **"Services"** means the software as a service offering and implementation and other professional services described on the applicable Order Form.

1.14 **"Third Party Products"** means any third-party products provided with or

incorporated into the Services.

2. Service Use and Access.

2.1 Access. Subject to and conditioned on Customer's payment of Fees and compliance with all other terms and conditions of this Agreement, equipifi hereby grants Customer a non-exclusive, non-sublicensable, revocable, non-transferable right to access and use the Services during the Term. Such use is limited to Customer's internal use necessary to offer the financial services made available pursuant to the Services to End Users. equipifi shall provide to Customer the necessary passwords and network links or connections to allow Customer to access the Services.

2.2 Documentation. Subject to the terms and conditions contained in this Agreement, the equipifi hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use any supporting Documentation, during the Term solely for the purposes in connection with its use of the Service.

2.3 Use Restrictions. Customer shall not use the Service for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation other than to Authorized Users or End Users; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (vi) allow any Person other than Authorized Users and End Users to access or use the Services; or (vii) use or access the Services or Documentation for purposes of creating or marketing a similar or competitive solution with the Services, whether directly or indirectly. Customer acknowledges that the Services may contain self-reporting technology by which the equipifi may receive information deemed relevant by the equipifi to providing improving the Services, monitoring compliance, and any other purposes as determined by the equipifi in its reasonable discretion. Customer shall not tamper with or attempt to disable such self-reporting technology.

2.4 equipifi's Rights. Except for the limited rights expressly stated in this Agreement, this Agreement does not grant any rights, implied, or otherwise, to equipifi's Intellectual Property, including its rights, title, and interest in and to the Services and its underlying software, and the Documentation. There are no implied licenses under this Agreement; any rights not expressly granted to Customer hereunder are reserved by equipifi. Customer shall not contest equipifi's ownership of the Services, nor shall Customer challenge the validity of equipifi's rights to the Services or Documentation.

2.5 Non-Exclusivity. The rights granted under this Agreement are non-exclusive.

Nothing in this Agreement shall be construed to prevent or restrict equipifi in any manner from using or granting licenses to others for the use of the Services.

2.6 Suspension. Notwithstanding anything to the contrary in this Agreement, equipifi may temporarily suspend Customer's and any Authorized User's access to any portion or all of the Services if: (i) equipifi reasonably determines, in its sole discretion, that (A) there is a threat or attack on any of its Intellectual Property; (B) Customer's or any Authorized User's use of equipifi Intellectual Property disrupts or poses a security risk to the equipifi Intellectual Property or to any other Person; (C) Customer, or any Authorized End User, is using the equipifi Intellectual Property for fraudulent or illegal activities or otherwise in breach of this Agreement; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or becomes the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) equipifi's provision of the Services to Customer or any Authorized User is prohibited by applicable law; or (ii) any vendor of equipifi has suspended or terminated the equipifi's access to or use of any third-party services or products required to enable Customer to access the Service (any such suspension a "**Service Suspension**"). equipifi shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Service following any Service Suspension. equipifi shall use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. equipifi will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension. equipifi reserves the right to include as part of the Service access restriction devices and methods designed to prohibit unauthorized access to its Intellectual Property rights in the Service.

2.7 Changes to Services. equipifi reserves the right to amend the Services, and any other service or material it provides on or through the Services, in its sole discretion; provided such change does not materially reduce the functionality provided by the Services.

2.8 Service Level Agreement: Support Service. Subject to the terms of this Agreement, equipifi will use commercially reasonable efforts to provide the Services to Customer in accordance with the Service Level Agreement, [available here](#). Subject to the terms of this Agreement, equipifi will use commercially reasonable efforts to provide Customer with reasonable technical support services in accordance with its standard practice and the Service Level Agreement.

3. Implementation and Professional Services.

3.1 Implementation and Professional Services. Customer may be required to purchase implementation services with the initial purchase of the Services, as set forth on an Order Form ("**Implementation Service**"). During the Term, equipifi agrees to perform the professional services described in an Order Form, or separate Statement of Work, mutually agreed upon and executed in writing by both Parties (collectively with Implementation Services

the "**Professional Services**"). Each Order Form or Statement of Work is incorporated into this Agreement by reference. equipifi will rely on the specific instruction, information and/or other software or product provided by Customer. equipifi is not responsible for default or delays caused by Customer's failure to provide accurate instructions, information, access to facilities or suitable product or application environment.

3.2 **Reasonable Access.** equipifi's obligations under this Section 3 are conditioned on Customer providing equipifi with the necessary access to Customer's Banking Core System, digital banking solutions, and facilities and computer systems (including remote access). equipifi will comply with and cause its personnel to comply with Customer's reasonable security regulations, working hours and policies while working on Customer's premises.

3.3 **Subcontracting.** equipifi may delegate any of its obligations under this Agreement to third-party subcontractors but will remain primarily responsible for the performance of all of its obligations set forth herein.

4. **Customer Responsibilities.**

4.1 **Authorized User Restrictions.** Customer is responsible and liable for all uses of the Service and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of its Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Service and shall cause Authorized Users to comply with such provisions. Customer acknowledges that each Authorized User account is personal to such Authorized User and agrees not to provide any other person with access to the Service or portions of it using any Authorized User's username, password, or other security information. The equipifi will treat all actions through an Authorized User's account as if conducted by such Authorized User, whether or not such user had knowledge of the unauthorized use of his or her account. Customer agrees to notify the equipifi immediately of any unauthorized access to or use of any username or password or any other breach of security. Customer is responsible for providing all equipment, utilities and telecommunications facilities necessary for the operation of the Service.

4.2 **Customer Data Responsibility.** Customer is solely responsible for keeping and maintaining its Customer Data and equipifi is not responsible for maintaining backup copies of such Customer Data. Except in connection with equipifi's confidentiality obligations under this Agreement, equipifi shall not be liable for any loss or deletion of Customer Data.

4.3 **Third-Party Products.** equipifi may from time to time make Third-Party Products available to Customer, which Third-Party Products may be embedded within the Service or separate from the Service. For purposes of this Agreement, such Third-Party

Products are subject to their own terms and conditions and the applicable flow through provisions. Customer hereby agrees to comply with any such Third Party Product end user license agreement or other terms provided by equipifi.

5. **Fees and Payment.**

5.1 **Fees.** Customer shall pay the subscription fees, implementation fees, and active user fees, for the Service as set forth on the applicable Order Form (the "**Fees**"). Any fees for Professional Services will be set forth in an Order or applicable Statement of Work. Unless otherwise set forth on an Order Form, Fees payable for the Service will start upon the Effective Date and will continue until termination of the Order Form. All Fees are due within thirty (30) days of the date of invoice. equipifi may adjust the Fees upon no less than sixty (60) days prior written notice; provided, however, Customer may elect to terminate this Agreement upon written notice prior to the end of such sixty (60) day period without penalty in the event that Customer refuses to accept such Fee adjustment.

5.2 **Early Payoff Credit.** If a user pays the full balance of a BNPL Plan within 45 days of origination, equipifi will provide a credit to the Customer for the equipifi BNPL Subscription Fees charged on that plan in the following months invoice.

5.3 **Default Fees.** If Customer fails to make any payment when due, without limiting equipifi's other rights and remedies, and such failure continues for five (5) days or more, equipifi may suspend Customer's and its Authorized Users' access to any portion or all of the Service until such amounts are paid in full. Fees and expenses not paid when due will accrue interest from the date due until paid at an annual rate equal to 1.5% per month, or the highest rate permissible under applicable law, whichever is less. equipifi will, in addition to any other remedy available to it, be entitled to its cost of collections, including attorneys' fees, if an amount due remains outstanding for more than 30 days.

5.4 **Fee Disputes.** If Customer disputes all or some of the Fees, Customer must provide written notice to equipifi within thirty (30) days of its receipt of the relevant invoice. The parties will use good faith efforts to resolve the fee dispute within a reasonable time, not to exceed sixty (60) days from Customer's receipt of the disputed invoice.

5.5 **Expenses.** Customer will reimburse the equipifi monthly in arrears for its reasonable documented travel, telephone and other actual out-of-pocket expenses that Customer has pre-approved in writing relating to Professional Services. equipifi will maintain complete and accurate records related to such expenses and, upon Customer's request, will submit copies of such records.

5.6 **Taxes.** All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on the equipifi's income.

6. Confidentiality.

6.1 Use Confidential Information. Confidential Information of the disclosing Party shall not be reproduced by the receiving Party in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of the other shall remain the property of the disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the other, each Party: (i) shall take commercially reasonable steps to keep all Confidential Information strictly confidential; and (ii) shall not disclose any Confidential Information of the other to any Person other than its bona fide individuals whose access is necessary to enable it to exercise its rights or otherwise perform its obligations hereunder. Confidential Information of either Party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder. Each Party shall destroy or return the Confidential Information of the other Party upon request.

6.2 Exceptions. The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (i) is independently developed by the receiving Party without reference to the disclosing Party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; (ii) has become generally available to the public without breach of this Agreement by the receiving Party; (iii) at the time of disclosure, was known to the receiving Party free of restriction; (iv) the receiving Party develops independently without any use of or reference to the Confidential Information of the disclosing Party; or (v) is required to be disclosed to governmental agencies having regulatory authority or other authority of the receiving Party, or is required by a court order to be disclosed or to provide such Confidential Information, provided that receiving Party shall use its best efforts, to the extent permitted by law to do so, to promptly give disclosing Party written prior notice to any disclosure under this clause (v) so that disclosing Party can seek a protective order.

7. Representations and Warranties.

7.1 Mutual Warranties. Each Party represents to the other Party that such Party has the power and authority to enter into this Agreement and that such Party is not a party to any restrictions, agreements or understandings whatsoever which would prevent or make unlawful such Party's acceptance of the terms set forth in this Agreement or such Party's performance hereunder. Each Party further represents that such Party's acceptance of the terms of this Agreement and the performance of such Party's obligations hereunder do not and will not (with the passage of time) conflict with or constitute a breach or default of any contract, agreement or understanding, oral or written, to which such Party is a party or by which such Party is bound.

7.2 equipifi Warranties. The Services performed by equipifi will (i) be performed in a timely, competent, professional and workmanlike manner, and (ii) substantially conform to the Documentation.

7.3 Disclaimer. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND BY EQUIIFI, EITHER EXPRESS OR IMPLIED. EXCEPT FOR THE EXPRESS WARRANTIES MADE BY EQUIIFI IN THIS SECTION 7, EQUIIFI DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY WARRANTY OF ANY KIND (STATUTORY, EXPRESS OR IMPLIED), INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, RESULTS OR EFFORTS. THERE IS NO WARRANTY THAT ANY INFORMATION, EQUIIFI'S EFFORTS, THE SERVICE, PROFESSIONAL SERVICES OR THE DOCUMENTATION WILL FULFILL ANY OF CUSTOMER'S PARTICULAR PURPOSES. EQUIIFI DOES NOT WARRANT THAT THE SERVICE, DOCUMENTATION, OR PROFESSIONAL SERVICES IT PROVIDES ARE ERROR FREE, WILL FUNCTION WITHOUT INTERRUPTION, WILL MEET ANY SPECIFIC NEED THAT CUSTOMER HAS OR THAT ALL DEFECTS WILL BE CORRECTED. TO THE EXTENT THAT A PARTY MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. CUSTOMER HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT.

7.4 Remedies. THE FOLLOWING ARE THE PARTIES' RESPECTIVE SOLE AND EXCLUSIVE OBLIGATIONS, AND SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO ANY ACTION FOR BREACH OF LIMITED WARRANTY UNDER THIS AGREEMENT: (I) CUSTOMER'S REMEDY FOR NON-CONFORMING SERVICES DISCOVERED DURING THE WARRANTY PERIOD SHALL BE THE RE-PERFORMANCE OF ANY DEFICIENT SERVICES AT EQUIIFI'S EXPENSE; OR (II) IF EQUIIFI IS UNABLE TO REMEDY ANY DEFICIENT SERVICES WITHIN 30 DAYS OF NOTICE OR SUCH ADDITIONAL TIME AS MAY BE AGREED UPON BY THE PARTIES, EQUIIFI WILL, AT ITS OPTION, PROVIDE A PRO RATA CREDIT OR REFUND OF ANY FEES PAID FOR THE SPECIFIC NON-CONFORMING SERVICES.

7.5 Geographic Location. equipifi provides the Service for use only by persons located in the United States and makes no claims that the Service or any of its content is accessible or appropriate outside of the United States. Access to the Service may not be legal by certain persons or in certain countries. If Customer or an Authorized User accesses the Service from outside the United States, it does so on its own initiative and is responsible for compliance with local laws.

8. Liability Restrictions.

8.1 Exclusion of Certain Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOSS OF INCOME, PROFITS, DATA, OPERATIONAL EFFICIENCY, USE OR INFORMATION, ARISING UNDER THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION OR THEORY OF RELIEF, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 Limitations of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL AMOUNT OF DIRECT DAMAGES RECOVERABLE FROM THE EQUIIFI UNDER THIS AGREEMENT IS LIMITED TO THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE SERVICE AND/OR PROFESSIONAL SERVICE PURCHASED UNDER THIS AGREEMENT

DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY, WHICHEVER THE CASE MAY BE.

8.3 Exceptions to Limitations of Liability and Damages. The foregoing shall not apply to a Party's liability for its (A) indemnification obligations under Section 9, or (B) its gross negligence or willful misconduct, or (C) matters for which liability may not be limited or excluded as a matter of applicable law.

8.4 Limitation of Actions. Except for indemnification claims, or claims relating to a breach of confidentiality obligations or intellectual property infringement, in no event may any cause of action related to this Agreement be brought by the Customer more than 1 year after the occurrence of the event giving rise to liability.

9. Indemnification.

9.1 equipifi Indemnification.

(a) equipifi shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("**Losses**") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Services, infringe or misappropriate such third party's US patents, copyrights, or trade secrets, provided that Customer promptly notifies equipifi in writing of the claim, cooperates with equipifi, and allows equipifi sole authority to control the defense and settlement of such claim.

(b) If a Third-Party Claim is made or appears possible, Customer agrees to permit equipifi, at equipifi's sole discretion, to (A) modify or replace the Service or component or part thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use. If equipifi determines that neither alternative is reasonably available, equipifi may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer.

(c) Section 9(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Services in combination with data, software, hardware, equipment, or technology not provided by equipifi or authorized by equipifi in writing; (B) modifications to Services not made by equipifi; (C) Customer Data; or (D) Third-Party Products.

9.2 Customer Indemnification. Customer shall indemnify, hold harmless, and, at equipifi's option, defend equipifi from and against any Losses resulting from any Third-Party Claim that the Customer Data, or any use of the Customer Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights and any Third-Party Claims based on Customer's or any Authorized User's (i) gross negligence or willful misconduct; (ii) use of the equipifi Intellectual Property in a manner not authorized by this Agreement; (iii) use of the equipifi Intellectual Property in combination with data, software, hardware, equipment, or technology not provided by equipifi or authorized by equipifi in writing; or (iv) modifications to the equipifi Intellectual Property not made by

equipifi, provided that Customer may not settle any Third-Party Claim against equipifi unless equipifi consents to such settlement, and further provided that equipifi will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

9.3 Sole Remedy. THIS SECTION 9 SETS FORTH CUSTOMER'S SOLE REMEDIES AND EQUIPIFI'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE EQUIPIFI INTELLECTUAL PROPERTY INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

10. Term and Termination.

10.1 Term. The term of this Agreement commences on the Customer's subscription date to the Service and continues for the term set forth on the Order Form (the "**Initial Term**"). After the Initial Term, the term of this Agreement shall automatically renew for successive one (1) year periods unless either Party provides no less than ninety (90) days prior written notice of its intention not to renew (each, a "**Renewal Term**"). The Initial Term, together with any Renewal Terms, shall hereinafter be referred to as the "**Term**."

10.2 Termination. In addition to any other express termination right set forth in this Agreement:

(a) equipifi may terminate this Agreement, effective on written notice to Customer, if Customer: (A) fails to pay any amount when due hereunder, and such failure continues more than fifteen (15) days after equipifi's delivery of written notice thereof; or (B) breaches any of its obligations under Section 2.4 or Section 6;

(b) Customer may terminate this Agreement pursuant to Section 5.1;

(c) either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; or

(d) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

10.3 Effect of Termination. Upon the termination or expiration of this Agreement the following terms shall apply: (i) all licenses granted under this Agreement will immediately

terminate; (ii) Customer must pay to the equipifi all fees and expenses accrued prior to the effective date of termination, including any and all Fees due hereunder; and (iii) Sections 2.4, 2.5, 5.3, 6, 7.3, 7.4, 8, 9, 10.3, 11, and 12 and any other provision of this Agreement that by its terms would survive shall survive the termination or expiration of this Agreement for any reason.

11. Intellectual Property and Data.

11.1 equipifi Intellectual Property. Customer acknowledges that, as between Customer and the equipifi, the equipifi and its licensors own all right, title, and interest, including all intellectual property rights, in and to the equipifi Intellectual Property, including without limitation, Aggregated Statistics.

11.2 Customer Data; Personal Data. equipifi acknowledges that, as between equipifi and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants to equipifi a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for equipifi to provide the Service to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics. For the avoidance of doubt, in no event will equipifi sell any Customer Data to third parties or use such Customer Data for any other purposes than as set forth in this Agreement. To the extent that equipifi processes Customer Data that includes Personal Data, equipifi will process such Personal Data on behalf of Customer as a “data processor” or “service provider” of Customer, in connection with applicable data privacy laws, solely to perform its obligations under this Agreement, including to provide security, support, or technical services, as permitted by applicable law, or as expressly permitted by the Customer or an End User. equipifi shall not sell Customer Personal Data. equipifi may share Personal Data with sub-processors in connection with the Services provided under this Agreement and Customer generally authorizes equipifi to engage and share Personal Data with subprocessors, provided that equipifi enters into binding contracts with such subprocessors including data privacy obligations as required by applicable law. Customer acknowledges that it shall not provide any “sensitive” Personal Data to equipifi through the Services.

11.3 Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, the equipifi may monitor Customer’s use of the Service and collect and compile Aggregated Statistics. As between the equipifi and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by the equipifi. Customer acknowledges that the equipifi may compile Aggregated Statistics based on Customer Data input into the Service. Customer agrees that the equipifi may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Customer, Authorized Users, End Users or either of their Confidential Information, including without limitation, any Personal

Data.

11.4 Security. equipifi shall maintain administrative, technical, and organizational security measures consistent with industry standards reasonably designed to protect Customer Data, including Personal Data, from unauthorized access, use, or processing. equipifi's security controls shall be consistent with industry standards and reasonable based on the nature of the data and information processed in the Services. Notwithstanding the foregoing, Customer acknowledges that transmission of data over the Internet is never fully secure and equipifi cannot guarantee uninterrupted or completely secure transmission.

11.5 Feedback. If Customer or any of its employees or contractors sends or transmits any communications or materials to equipifi by mail, email, telephone, or otherwise, suggesting or recommending changes to the Services or Documentation, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), equipifi is free to use such Feedback without any other or limitation, restriction or payment between the Parties governing such Feedback.

12. General.

12.1 Governing Law: Venue and Jurisdiction. This Agreement shall be governed by the laws of the State of Arizona without regard for its choice of law provisions. Each Party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts located within the State of Arizona, County of Maricopa for the purposes of any proceedings arising out of this Agreement.

12.2 Modifications. equipifi reserves the right to modify these Terms and Conditions, at any time, by providing notice of such modified Terms and Conditions to Customer. equipifi will post the modified Terms and Conditions on the equipifi website and Customer will be notified via email or other notification through the website or Services of the modified Terms and Conditions at least thirty (30) days prior to the effective date of the modified Terms and Conditions. The modified Terms and Conditions will be deemed accepted and become effective thirty (30) days after the effective date of such notice unless Customer provides equipifi written notice of rejection of the modifications during such thirty (30) day period. Customer's continued use of the Service following the effective date of the modified Terms and Conditions and silence during the notice period will constitute Customer's consent and approval to the modified Terms and Conditions, which are incorporated into the Customer's Agreement with equipifi and replace the prior version of the Terms and Conditions in its entirety. In the event Customer provides equipifi with notice of its rejection of the modified Terms and Conditions, the prior version of the Terms and Conditions shall remain in effect, valid and binding on Customer, as incorporated into the Customer's Agreement.

12.3 Severability. The provisions of this Agreement are independent of and severable from each other. No provision shall be affected or rendered unenforceable by virtue of the fact that any one of more of the other provisions hereof may be unenforceable

in whole or in part, unless the absence of such unenforceable provisions materially alters the right or obligations of either Party hereto. The Parties will endeavor in good faith negotiations to replace any unenforceable provision with a valid provision.

12.4 Equitable Relief. The Parties acknowledge and agree that it is impossible to measure in money the damages that will accrue to a party hereto by reason of the other party's breach of Section 6, and that such a breach will cause irreparable harm to the non-breaching party. In addition to any other right or remedy available at law or in equity, the non-breaching party may apply to any court of competent jurisdiction for specific performance or injunctive relief to enforce or prevent any breach of Section 6 without posting a bond or other security.

12.5 Attorneys' Fees. The prevailing party in any action will be entitled to recover from the non-prevailing party its reasonable legal fees and expenses incurred in connection with the action.

12.6 Notices. All legal notices under this Agreement to the equipifi must be delivered in writing by courier, electronic facsimile, electronic mail, or by certified or registered mail (postage prepaid and return receipt requested) to the address set forth in the Order Form. Notice will be deemed effective upon the earlier of actual receipt by the intended recipient or upon delivery by courier; acknowledgement of receipt by electronic transmission or 5 days after deposit with the U.S. Postal Service. Customer agrees that the equipifi will provide notices and messages to it either within the Service or sent to the contact information in the Customer's account. Customer is responsible for providing the equipifi with its most current e-mail address. If Customer has provided an invalid email, or such address is not capable of receiving notices, the equipifi's dispatch of such email will nonetheless constitute effective notice.

12.7 Relationship of Parties. The Parties hereto are independent contractors. Nothing in this Agreement shall be deemed to create an agency, employment, partnership, fiduciary or joint venture relationship between the Parties. Neither Party (nor any agent or employee of that party) is the representative of the other Party for any purpose and neither Party has the power or authority as agent, employee or in any other capacity to represent, act for, bind or otherwise create or assume any obligation on behalf of the other Party for any purpose whatsoever.

12.8 No Third-Party Beneficiaries. No Party will be deemed as a third-party beneficiary to this Agreement.

12.9 Assignment. Neither this Agreement nor any rights or obligations hereunder may be assigned or delegated by Customer without the prior written consent of the equipifi, which consent may not be unreasonably withheld. equipifi may assign this Agreement without the written consent of the Customer. This Agreement shall be binding on and inure to the benefit any permitted successor or assign.

12.10 Force Majeure. Except for any payment obligations hereunder, any delay in or

failure of performance by either Party under this Agreement shall not be considered a breach of this Agreement and shall be excused to the extent caused by any occurrence beyond the reasonable control of such party including, but not limited to fires, floods, epidemics, pandemics, famines, earthquakes, hurricanes and other natural disasters or acts of God; regulation or acts of any civilian or military authority or act of any self-regulatory authority; wars, terrorism, riots, civil unrest, sabotage, theft or, other criminal acts of third-parties.

12.11 Waiver and Modifications. All waivers must be in writing. Any waiver or failure to enforce a provision of this Agreement on one occasion shall not be deemed a waiver of any other provision or such provision on any other occasion. Except as otherwise set forth in these Terms, this Agreement may only be amended by a written document signed by both Parties.

12.12 Publicity. equipifi may identify Customer as a customer in its marketing and promotional materials and may verbally disclose the fact that Customer is a customer in its discussions with potential customers.

12.13 Entire Agreement. This Agreement, including all Order Forms and Statements of Work hereto, constitutes the entire, final and exclusive agreement between the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous, agreements, understandings and communications, whether, written and oral.

12.14 Counterparts. This Agreement may be signed in several counterparts, each of which shall constitute an original.

12.15 Exports. The Service utilizes software and technology that may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Service or the underlying software or technology to, or make the Service or the underlying software or technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Service or the underlying software or technology available outside the U.S.