

## TERMS OF SERVICE

**THESE TERMS OF SERVICE** (this “**Agreement**”) are entered into by and between Equisolve, Inc. (“**Equisolve**”) and the entity identified as “client” or “customer” in a Purchase Order Agreement (as defined below) (the “**Client**”) and are effective with respect to each such Purchase Order Agreement as of the last signature date set forth on each such Purchase Order Agreement (the “**Effective Date**”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Client and Equisolve (each a “**Party**” and, collectively, the “**Parties**”) agree as follows:

### 1. SERVICES.

- 1.1. Services.** This Agreement shall be incorporated by reference into each Purchase Order Agreement agreed to between the Parties from time to time. This Agreement, along with each respective Purchase Order Agreement, governs the respective rights and obligations of each Party with respect to the services to be provided by Equisolve to Client as expressly set forth within each such respective Purchase Order Agreement (collectively, the “**Services**”).

The term “**Purchase Order Agreement**” shall refer to the terms set forth under the heading “Purchase Order Agreement” in any proposal document signed by both Parties. Any change to such Purchase Order Agreement shall be agreed to in writing by both Parties.

A “**Website**” shall refer to a website provided by Equisolve to Client pursuant to the relevant Purchase Order Agreement.

- 1.2. Order of Precedence.** In the event of a conflict between terms of a Purchase Order Agreement and this Agreement, the Purchase Order Agreement shall control with respect to such conflict.
- 1.3. Performance of Services.** Equisolve will perform the Services in accordance with this Agreement (including all exhibits hereto, including the Service Level Agreement (the “**SLA**”) attached hereto as Exhibit A) and the Purchase Order Agreements.
- 1.4. Website Content.** With respect to a Website, a core aspect of Equisolve’s managed Services involves Equisolve’s posting of Content on an ongoing basis onto such Website (collectively, “**Updates**”), where such Content is based solely on public information issued or filed by Client. As such, Equisolve shall post the following Updates onto the Website: (i) the press releases issued by Client through the newswire services in then-current use by Client, (ii) the SEC filings from SEC.gov that are filed by Client based on Client’s CIK numbers, (iii) Client’s stock price data as set forth under Client’s stock ticker symbol, and (iv) updates based exclusively on content extracted from the aforementioned press releases or SEC filings after such press releases or filings have been made public, in the case of (i)-(iv) above, subject to prior consultation with Client during Client onboarding regarding Equisolve’s Update processes and any modifications of such processes requested by Client from time to time as agreed between the Parties (for the avoidance of doubt, Client may opt-out of such Updates at any time upon notice to Equisolve, which Equisolve shall effectuate without undue delay).

In addition, Equisolve may post other Content on behalf of Client upon receiving Client’s authorization with respect to such other Content. All content posted by Equisolve to a Website or otherwise provided by, or on behalf, of Client to Equisolve, in each case, in accordance with this Agreement, is referred to herein as the “**Content**.” Except as otherwise expressly provided in this Agreement, Client shall be responsible and liable for all Content posted onto its Websites.

### 2. FINANCIAL TERMS.

- 2.1. Fees.** In consideration for the Services, Client will pay Equisolve all undisputed fees specified in the applicable Purchase Order Agreement (the “**Fees**”). Client shall only dispute Fees in good faith and must notify Equisolve of any disputed Fees within thirty (30) days of receipt of the applicable invoice or else Client’s right to dispute the Fees within such invoice shall be waived. Equisolve reserves the right to increase Fees on a go-forward basis upon renewal of a Purchase Order Agreement, subject to ninety (90) days’ advance written notice to Client prior to the expiration of

the then-current term of such Purchase Order Agreement. Any such Fee increase shall not exceed three percent (3%) over the prior term's Fees.

- 2.2. Invoices and Payment.** Equisolve will invoice Client for the Fees in accordance with the terms of this Agreement and the applicable Purchase Order Agreement. Amounts paid to Equisolve for work completed are non-refundable. Client shall pay all undisputed invoices pursuant to the terms specified with the Purchase Order Agreement. All payments shall be made in U.S. dollars.

If Client has not paid an undisputed invoice for more than thirty (30) days past the due date, or Client has committed a material breach of this Agreement (and such breach has yet to be cured), Client shall be considered to not be in good standing and Equisolve may suspend its Services, including suspending any access to, or availability of, Websites, without Equisolve having liability to Client in relation to such suspension.

- 2.3. Taxes.** Client is responsible for any sales, use, excise, gross receipts, value-added, services, consumption, and other taxes and duties payable with respect to the provision of any Services (except for Equisolve's income taxes).

### **3. TERM AND TERMINATION.**

- 3.1. Term.** The term of this Agreement will begin on the Effective Date and continue in force unless and until terminated in accordance with this Article 3 (the "**Term**"). Any termination of this Agreement shall result in the contemporaneous termination of all Purchase Order Agreements.

- 3.2. Termination for Material Breach.** In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement (either in whole, or with respect to only the Purchase Order Agreements to which the breach relates) by giving thirty (30) days prior written notice of termination to the other Party; provided, however, that this Agreement will not terminate if the other Party has cured the breach within thirty (30) days of such other Party's receipt of such notice.

- 3.3. Termination If No Pending Purchase Orders.** At any time after all Purchase Order Agreements are expired or terminated, either Party can terminate this Agreement immediately upon written notice.

- 3.4. Termination for Insolvency.** This Agreement, and any or all Purchase Order Agreements, are terminable immediately without notice by a Party if the other Party: (i) voluntarily institutes insolvency, receivership, or bankruptcy proceedings, (ii) is involuntarily made subject to any bankruptcy or insolvency proceeding and such proceeding is not dismissed within sixty (60) days of the filing of such proceeding, (iii) makes an assignment for the benefit of creditors, or (iv) undergoes any dissolution or cessation of business.

- 3.5. Settlement of Payments.** Upon any early termination of this Agreement or any Purchase Order Agreement, Equisolve will invoice Client for, and Client shall pay, the undisputed Fees for Services provided up to the effective date of termination, as set forth in Article 2.

- 3.6. Survival.** The provisions of Article 2 ("Financial Terms"), Section 3.5 ("Settlement of Payments") (in each case of Article 2 and Section 3.5, to the extent payment obligations have not been satisfied), this Section 3.6 ("Survival"), Article 6 ("Intellectual Property and Privacy"), Article 7 ("Confidentiality"), Article 8 ("Representations and Warranties"), Article 9 ("Indemnification"), Article 10 ("Liability"), and Article 11 ("Miscellaneous Provisions") shall survive the expiration or termination of this Agreement for any reason.

- 4. User Accounts.** As applicable upon entering into a Purchase Order Agreement, Client shall provide a list of Client Personnel that are authorized by Client to both access and use Equisolve's content management system (the "**CMS**") and submit instructions to Equisolve in relation to the Services (each, an "**Authorized User**"). Equisolve will then create an account for each Authorized User for access to, and use of, the CMS. As between Client and Equisolve, Client is solely responsible and liable for (i) instructions given to Equisolve by Authorized Users, (ii) access to, and use of, Authorized Users' accounts, and (iii) violations by Client, Authorized Users, or Client Personnel of the use limitations set forth in Article 5 below. Client agrees that Client will not, and will not permit Authorized Users from, sharing or otherwise providing

Authorized User account information with or to anyone. If Client requires another person to access the account, Client will request the Equisolve assign an account to such other person (and thus such other person shall also become an Authorized User). For purposes of this Agreement, “**Personnel**” shall mean the affiliates, officers, employees, agents, contractors, consultants, vendors, or representatives of a Party or a Party’s affiliates.

5. **CMS Use Limitations.** Client agrees that Client shall not, and shall not permit its Authorized Users and Personnel from, (i) modifying, adapting, altering, translating, or creating derivative works of the CMS, (ii) disrupting or prohibiting access to, or use of, the CMS, (iii) building a product or service using similar ideas, features, functions, or graphics of, or otherwise contained within, the CMS, (iv) sublicensing, reselling, renting, leasing, transferring, or assigning the CMS or its use thereof, or offering the CMS on a time-share basis to any third party, (v) reverse engineering, decompiling, decoding, or disassembling the CMS, or (vi) otherwise attempting to derive the source code for the CMS or attempting to gain access to any underlying code used to implement or deploy the CMS.

## 6. **INTELLECTUAL PROPERTY AND PRIVACY.**

6.1. **License Grants.** Unless otherwise provided in this Agreement or a Purchase Order Agreement, neither Party transfers or licenses to the other Party any rights in, or to, its patents, patent applications, copyrights, trademarks, trade secrets, or other intellectual property rights (collectively, “**Intellectual Property Rights**”). Unless otherwise provided in a Purchase Order Agreement, to the extent any Intellectual Property Rights of Equisolve are incorporated into any Websites pursuant to this Agreement (the “**Equisolve IP**”), Equisolve hereby grants Client a royalty-free, non-exclusive, non-transferable license (except as provided herein), without the right to sublicense, to use the Equisolve IP in connection with Client’s use of such Websites for Client’s business purposes. For the avoidance of doubt, Equisolve retains ownership of the CMS, back-end code, data feeds, infrastructure, design templates, and intermediate materials (including, but not limited to, sketch files, Photoshop elements, stock photography, content documents, and design mock-ups). To the extent Client provides Equisolve with any Content, Client represents and warrants that it has all rights and licenses as needed for Equisolve to use the Content to perform the Services. Client hereby grants Equisolve a non-exclusive, non-transferable (except as provided herein), royalty-free license to use the Content to perform the Services.

6.2. **Website Analytics.** Upon Client’s request, Equisolve will integrate analytics, marketing, or advertising services provided by third-party companies (e.g., Google Analytics) (collectively, “**Analytics Services**”) for Client’s collection and use of information from, or in connection with, visitors to the Websites (“**Analytics Data**”). Analytics Services may use tracking technologies, such as cookies or pixels, for the collection of such Analytics Data. Client is solely responsible for obtaining all necessary consents (or having other valid legal grounds or bases), providing all necessary disclosures, and fulfilling all other legal obligations under applicable law for use of tracking technologies and Analytics Data by Client and the Analytics Services on the Websites.

6.3. **Email Lists.** Where Client sends an email list to Equisolve for Equisolve to send email communications pursuant to the Services, such email list shall only contain email addresses of individuals that have opted in to receive email communications from Client. Equisolve shall upload such email lists (or any portion thereof) to the extent documentation of such opt in has been provided or, where such documentation has not been provided, if, in Equisolve’s reasonable determination, use of such email list does not present a material risk of either generating spam complaints or otherwise affecting Equisolve’s ability to send emails. As between the Parties, Client shall bear sole responsibility and liability for Equisolve’s use of email lists uploaded on behalf by Client.

6.4. **Data Protection Addendum.** Equisolve and Client hereby agree to the Data Protection Addendum found [here](#), which shall be incorporated by reference herein.

## 7. **CONFIDENTIALITY.**

7.1. **Definition of Confidential Information.** “**Confidential Information**” means information disclosed by (or on behalf of) one Party (the “**Disclosing Party**”) to the other Party (the

“**Receiving Party**”) under this Agreement orally, electronically, or in writing that is, in each case, marked as confidential or would reasonably be considered confidential under the circumstances in which it is presented, including, without limitation, trade secrets, pricing, plans for new or existing products or services, information considered “material non-public information” (as such term is defined by law), documents and data related to customers, infrastructure, security (including cybersecurity), processes, procedures, and inventions. Confidential Information does not include information: (i) that was previously rightfully known by the Receiving Party free of any obligation to keep it confidential, (ii) that is or becomes publicly known through no wrongful act of the Receiving Party, (iii) independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party, (iv) in the public domain at the time of disclosure by the Disclosing Party, or (v) received from a third party that had a lawful right to disclose such information without any obligation to restrict its further use or disclosure.

**7.2. Restrictions on Use and Disclosure of Confidential Information.** The Parties acknowledge that during the performance of this Agreement, each Party may have access to certain of the other Party’s Confidential Information. Each Party agrees: (i) that all items of Confidential Information are proprietary to the Disclosing Party and will remain the Disclosing Party’s sole property, (ii) to use Confidential Information solely to perform its duties under this Agreement or as otherwise permitted under this Agreement, (iii) to hold in strict confidence and protect such Confidential Information from dissemination as if it were its own, (iv) to not make any disclosure of such Confidential Information to any person or entity without the express written consent of the Disclosing Party, except to its affiliates and its and their respective Personnel to whom disclosure is necessary for the performance of, or exercise of rights under, this Agreement and who are bound in writing by duties of confidentiality and nondisclosure at least as restrictive as those set forth herein, and (v) to return or destroy all Confidential Information that is in its possession upon termination or expiration of this Agreement. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Receiving Party gives the Disclosing Party reasonable notice and the opportunity to seek confidential treatment, a protective order, or similar remedies or relief prior to disclosure, to the extent allowed under applicable law.

**7.3. No Implied Licenses.** Nothing contained in this Article 7 will be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights or licenses to the Confidential Information of the other Party. Nothing contained in this Article 7 will be construed as limiting or diminishing in any respect the scope of any licenses granted under this Agreement.

## **8. REPRESENTATIONS AND WARRANTIES.**

**8.1. Mutual Representations and Warranties.** Each Party represents and warrants that as of the Effective Date and at all times thereafter:

- (a) this Agreement constitutes its valid and binding obligation and is enforceable against it in accordance with the terms of this Agreement; and
- (b) the execution and delivery of this Agreement by it and the performance of its obligations hereunder: (i) are not in violation or breach of, and will not conflict with or constitute a default under, any material contract, agreement, or any other commitment binding upon it; and (ii) will not conflict with, or violate in any material manner, any applicable law, rule, regulation, judgment, order, or decree of any government, governmental instrumentality, regulatory authority, or court.

**8.2. Ownership and Non-Infringement.** Each Party represents and warrants that none of the materials provided by such Party, or on such Party’s behalf, for use in connection with the performance of this Agreement or any Purchase Order Agreement, nor the possession or use of any of the foregoing by the other Party, or on such Party’s behalf, in each case as permitted under this Agreement, will infringe any copyright or trademark rights of any third party.

- 8.3. Service Warranty.** Equisolve represents and warrants to Client that the Services will be performed in a competent, workman-like manner, and in accordance with current industry standards.
- 8.4. DISCLAIMER.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS ARTICLE 8, ALL SERVICES, WEBSITES, AND ANY DELIVERABLES PROVIDED HEREUNDER ARE PROVIDED “AS IS” AND EACH PARTY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY REPRESENTATIONS OR WARRANTIES ARISING FROM A COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

## **9. INDEMNIFICATION.**

- 9.1. Mutual Indemnity.** Each Party (the “**Indemnitor**”) will defend, indemnify, and hold harmless the other Party and its affiliates and its and their respective Personnel (collectively, the “**Indemnified Parties**”) from and against any and all claims, actions, lawsuits, and investigations brought by a third party (“**Third Party Claims**”) and will pay any settlements, awards, fines and reasonable attorney’s fees and expenses and court costs associated with such Third Party Claims, in each case to the extent arising from or relating to the gross negligence or willful misconduct of Indemnitor or its Personnel in connection with this Agreement.
- 9.2. Equisolve Indemnity.** Equisolve will defend, indemnify, and hold harmless Client and its affiliates and its and their respective Personnel for all Third Party Claims, and will pay any settlements, awards, fines and reasonable attorney’s fees and expenses and court costs associated with such Third Party Claims, to the extent arising in connection with (a) Equisolve’s breach of the Data Protection Addendum incorporated by reference in Section 6.4 or (b) allegations that the Website, or component of a Website, as and in the form delivered by Equisolve to Client, infringes copyright or trademark rights.
- 9.2.1. Equisolve shall not have any liability or obligations to Client under this Section 9.2 (including Section 9.2.2 below) to the extent that any Third Party Claim is based upon (i) compliance with, or integration of, Content or instructions provided by, or at the direction of, Client, Authorized Users, or otherwise through an Authorized User’s account, (ii) modifications of the Website by anyone other than Equisolve where the unmodified version of the Website would not be infringing, or (iii) combination of the Website with any other products, software, or services not provided by Equisolve.
- 9.2.2. In the event that (i) any Website provided by Equisolve is held to infringe or misappropriate the copyright or trademark rights of a third party or (ii) Equisolve believes that there is a risk that any Website could be found to infringe the copyright or trademark rights of a third party, Equisolve will, if possible on commercially reasonable terms, at Equisolve’s own expense and option: (a) procure for Client the right to continue to use such Website, (b) replace the components of such Website that are at issue with other components with the same or similar functionality, or (c) suitably modify such Website so that it is non-infringing and includes the same or similar functionality. If none of the foregoing options are available to Equisolve on commercially reasonable terms, Equisolve may terminate the applicable Purchase Order Agreement to which such Website relates without further liability to Client, and in the event of such termination, Equisolve will refund to Client an amount equal to the fees paid by Client for the infringing version of the Website for the then-current period, less a deduction reasonably determined by Equisolve to account for Client’s use of such Website.
- 9.2.3. This Article 9 states Clients’ sole and exclusive remedy, and Equisolve’s sole and exclusive liability, regarding infringement or misappropriation of any Intellectual Property Rights of a third party.
- 9.3. Client Indemnity.** Client will defend, indemnify, and hold harmless Equisolve and its affiliates and its and their respective Personnel for all Third Party Claims, and will pay any settlements,

awards, fines and reasonable attorney's fees and expenses and court costs associated with such Third Party Claims, to the extent arising out of in connection with (a) any Content or the use thereof, (b) the acts, omissions, or instructions of Client, Authorized Users, or Client Personnel, including in relation to an Authorized User's account(including, in each case, any conduct of Equisolve undertaken in furtherance of any such instructions), or (c) any misuse of the Services by or on behalf of Client, Authorized Users, or Client Personnel.

- 9.4. Indemnity Procedures.** A Party seeking indemnification for a Third Party Claim under this Article 9 will give the Indemnitor written notice of the Third Party Claim promptly (and in any event no later than fifteen (15) calendar days after the service of the citation or summons), provided that the failure to give timely notice hereunder will not affect rights to indemnification hereunder, except to the extent that Indemnitor demonstrates actual damage caused by such failure. Indemnitor may elect to direct the defense or settlement of any such Third Party Claim by giving written notice to the Party seeking indemnity; such election will be effective immediately upon receipt by the Party seeking indemnity of such written notice of election. The Indemnitor will have the right to employ counsel reasonably acceptable to the Party seeking indemnity to defend any such Third Party Claim, or to compromise, settle, or otherwise dispose of the same, if the Indemnitor deems it advisable to do so, all at Indemnitor's expense, provided that the Indemnitor will not settle, or consent to any entry of judgment in, any such Third Party Claim without obtaining either: (i) an unconditional release of the Party seeking indemnity (and all of its other Indemnified Parties) from all liability with respect to all claims underlying such Third Party Claim or (ii) the prior written consent of the Party seeking indemnity. The Parties will fully cooperate with each other and will make available to each other any books or records useful for the defense of any such Third Party Claim.

## **10. LIABILITY.**

- 10.1. Liability Exclusion.** EXCEPT FOR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM SUCH OTHER PARTY'S RIGHTS) FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION RELATING TO LOST REVENUES OR PROFITS, VALUATIONS, LOSS OF USE, LOSS OF COST, OR OTHER SAVINGS OR LOSS OF GOODWILL OR REPUTATION) ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SERVICES, WEBSITES, OR ANY DELIVERABLES, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY, OR OTHERWISE).
- 10.2. Limitation on Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EQUISOLVE'S MAXIMUM CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SERVICES, THE WEBSITES, OR ANY DELIVERABLES, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE), WILL NOT EXCEED THE AGGREGATE AMOUNT OF THREE TIMES (3X) THE FEES PAID BY CLIENT TO EQUISOLVE DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE FIRST CLAIM ARISES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CLIENT AGREES THAT EQUISOLVE WILL NOT HAVE ANY LIABILITY UNDER THIS AGREEMENT IN CONNECTION WITH THE ACTS OR OMISSIONS (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR WILLFUL MISCONDUCT), OR CONTENT PROVIDED BY, (X) THE NEWSWIRE SERVICES IN THEN-CURRENT USE BY CLIENT OR (Y) THE U.S. SECURITIES AND EXCHANGE COMMISSION (SEC).
- 10.3. Exceptions.** Notwithstanding anything to the contrary, the exclusions and limitations of liability set forth in Section 10.1 and Section 10.2 will not apply: (i) to the extent that acts or omissions of a Party constitute fraud or willful misconduct, (ii) to damages attributable to a breach of a Party's

confidentiality obligations under Article 7 (Confidentiality), or (iii) to Client's payment obligations under this Agreement.

## 11. MISCELLANEOUS PROVISIONS.

- 11.1. Relationship of the Parties.** Each Party is an independent contractor of the other Party. Nothing in this Agreement will constitute (i) a partnership between, or joint venture by, the Parties or (ii) either Party being the agent of the other Party.
- 11.2. Arbitration.** The Parties agree that all controversies, claims, disputes, and matters in question arising out of, or related to, this Agreement, the breach of this Agreement, claims at law, tort claims, statutory claims, equitable claims, or any other matter or claim whatsoever shall be decided by binding arbitration before the American Arbitration Association, utilizing its Commercial Rules. Venue for any arbitration between the Parties shall be had, and is mandatory in, Fort Lauderdale, Broward County, Florida to the exclusion of all other places of venue, for all matters that arise under this Agreement. Judgment upon the award so rendered may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding any of the foregoing, each Party shall have the right, without waiving any right or remedy available to such Party under this Agreement or otherwise, to seek and obtain from any court of competent jurisdiction any interim or provisional relief that is necessary or desirable to protect the rights or property of such Party.
- 11.3. Governing Law.** This Agreement shall be governed by and construed solely and exclusively in accordance with the laws of the state of Florida without regard to any statutory or common-law provision pertaining to conflicts of laws.
- 11.4. Publicity.** Neither Party will make any public announcements related to these Terms or the Purchase Order Agreement without receiving the other Party's written consent or except as permitted under Section 11.5 below.
- 11.5. Portfolio.** Client authorizes Equisolve to include Equisolve's work on behalf of Client in Equisolve's portfolio pursuant to industry practices.
- 11.6. Force Majeure.** Except with respect to failure to pay any amounts due under this Agreement, non-performance of either Party will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts, orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing Party.
- 11.7. Assignment.** Neither Party will assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the consent of the other Party, assign or otherwise transfer this Agreement to any of its affiliates, or in connection with a merger, consolidation, sale of equity interests, sale of all or substantially all assets, or other change of control transaction, provided that in all cases, the assignee agrees in writing to be bound by the terms and conditions of this Agreement. Any assignment or other transfer not in accordance with this Section 11.7 will be null and void.
- 11.8. Successors and Assigns; Third Party Beneficiaries.** This Agreement is binding upon and will inure to the benefit of each Party and their respective permitted successors or assigns. Nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement.
- 11.9. Entire Agreement.** This Agreement (including any Purchase Order Agreement) sets forth the entire agreement and understanding of the Parties relating to the subject matter herein and merges all discussions, representations, covenants, promises, discussions, negotiations, and exchanges between them with respect thereto.
- 11.10. Modification and Waiver.** No modification of or amendment to this Agreement or any Purchase Order Agreement will be effective unless signed in writing by authorized representatives of both

Parties. No waiver of any rights is to be charged against any Party unless such waiver is in writing signed by an authorized representative of the Party so charged.

- 11.11. Notices.** All notices and other communications hereunder will be in writing and sent via email. If sent to Equisolve, all notices will be sent to [legalnotices@equisolve.com](mailto:legalnotices@equisolve.com). If sent to Client, all notices will be sent to the email address set forth in the applicable Purchase Order Agreement. All such notices shall be deemed effective upon receipt by the other Party.
- 11.12. Unenforceable Provisions.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect, and, if legally permitted, such offending provision will be replaced with an enforceable provision that as nearly as possible gives effect to the Parties' intent.
- 11.13. Counterparts.** This Agreement and any exhibit attached hereto may be executed in multiple counterparts (which may be exchanged by facsimile or .pdf file), each of which will be deemed an original and all of which together will constitute one instrument.

## **Exhibit A**

### **Service Level Agreement**

#### **99.99% Website Uptime**

Once the Website is live, the Website will be available 99.99% of the time in a given month. Equisolve's target uptime is 99.995%.

**Performance Credit:** Only if Client is in good standing, Equisolve will credit Client's account 5% of the monthly Fee for each thirty (30) minutes of downtime in excess of the permitted downtime, up to 100% of Client's monthly Fee for the Services. For clarity, credits are not cumulative, cannot be applied towards additional months of Service, and in no event will the total credit available to Client in a given month (regardless of the amount of downtime or the number of Websites affected) exceed 100% of Client's monthly Fee for the Services.

#### **Credit Requests**

To receive a credit under this SLA, Client is required to email [help@equisolve.com](mailto:help@equisolve.com) within seven (7) days of the applicable downtime and request a credit. Credit will only be given for incidents that are confirmed by Equisolve and its third-party monitoring system to have taken place.

#### **Exclusions**

The following are not covered by this SLA and are excluded from the uptime set forth above:

1. Downtime caused by Client or outside Equisolve's control, such as DNS outages when we do not host the DNS, or actions taken by Client or Authorized Users in the CMS;
2. Downtime due to account suspension for non-payment or breach of the Agreement;
3. Partial unavailability due to Internet connectivity issues on Client's networks or networks outside Equisolve's control;
4. Malicious attacks – if a third party initiates a “denial of service” or other form of disabling attack; or
5. Legal actions – If Equisolve is legally required to take down the Website.