

TERMS AND CONDITIONS

BY CREATING AN ACCOUNT, SIGNING IN VIA A WEB BROWSER OR APPLICATION PROGRAMMING INTERFACE, AND/OR USING ANY SOFTWARE AND/OR APPLICATIONS (COLLECTIVELY, "SOFTWARE") PROVIDED TO YOU BY OR ON BEHALF OF EQUORUM CORPORATION ("eQuorum") IN CONNECTION WITH YOUR USE OF THE EQUORUM SERVICE ("ENGINE-BOX.COM" OR THE "SERVICE"), YOU ACKNOWLEDGE AND AGREE (1) YOU HAVE READ THESE SERVICES AND SUPPORT TERMS AND CONDITIONS (THE "AGREEMENT"); (2) YOU UNDERSTAND IT; (3) YOU ARE BOUND BY ITS TERMS AND CONDITIONS; AND (4) YOU MAY RECEIVE, WITHOUT FURTHER NOTICE OR PROMPTING, UPDATED VERSIONS OF THE SOFTWARE. IF YOU ACCESS THE SOFTWARE THROUGH ANY MEANS OTHER THAN AN UNMODIFIED WEB BROWSER, THEN IN ADDITION TO THIS AGREEMENT YOU ALSO ARE SUBJECT TO THE TERMS AND CONDITIONS OF EQUORUM'S API AGREEMENT (AS AMENDED FROM TIME TO TIME); AND YOUR USE OF EQUORUM'S SERVICE CONSTITUTES YOUR AGREEMENT TO THOSE TERMS AND CONDITIONS.

eQuorum knows your privacy is important and maintains a privacy policy (the "Privacy Policy") available on the company website, www.eQuorum.com, that describes our use and disclosure practices regarding any personal information you provide to us. PLEASE NOTE THAT THE TERMS OF THIS AGREEMENT ARE SUBJECT TO CHANGE BY EQUORUM IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, eQuorum will make a new copy of the Agreement available on its website and/or within the application(s).

Customer and its wholly owned subsidiaries and divisions ("Customer" or "You") agrees to purchase, and eQuorum Corporation, 6285 Barfield Road, Atlanta GA 30328, ("eQuorum"), agrees to provide online services (the "Services") and to furnish technical support services ("Support") in accordance with the terms and conditions contained in this agreement and the relevant Ordering Form(s) (also known as a Quotation(s)). Support shall be provided for the software products (the "Software") or Services listed on the Acceptance screen (if purchased online) or on one or more Quotations accepted by Customer.

1. TERM

This Agreement is effective on the date the Customer receives online access to the Services (the "Effective Date") and for the subscription period specified in the applicable Ordering Form (the "Initial Term") from the Effective Date. If notice of termination is not received ninety (90) days prior to the expiration of the Initial Term, this Agreement shall renew for additional one (1) year terms (each the "Renewal Term") until terminated by either party pursuant to one or more of the provisions of Section 13. For monthly subscriptions, notice of termination must be received fifteen (15) days prior to the end of the current monthly term.

The pricing during any Renewal Term shall be the same as that during the prior term unless eQuorum has given Customer written notice of a pricing increase at least 90 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed three percent (3%) of the pricing for the relevant Services in the immediately prior subscription term, unless the pricing in the prior term was identified in the Quotation as either "one-time" or "promotional."

2. SERVICES

Online Services provided to Customer are neither contingent on the delivery of any future functionality or features nor dependent on any oral comments made by any eQuorum employee regarding future features or functionality.

Unless specified in an Order Form, (i) Services are purchased as concurrent user subscriptions and may be accessed by no more than the specified number of concurrent users, (ii) additional concurrent user subscriptions may be added during the applicable subscription term in effect at the time the additional concurrent user subscriptions are added, and (iii) the added concurrent user subscriptions shall terminate on the same date as the pre-existing subscriptions. Concurrent user subscriptions are for designated users only and cannot be shared, however, more users can be established than the total number of concurrent subscriptions purchased by Customer. For named user subscriptions, only the user assigned to the subscription is permitted to use and access the Services.

In using the Services, the Customer shall: (i) ensure all users are in compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Customer data and of the means by which Customer acquires the data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify eQuorum promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with applicable laws and government regulations.

Customer shall not (i) make the Services available to anyone other than authorized users, (ii) sell, resell, or directly or indirectly rent, lease, or use for commercial purposes the Services, (iii) use the Services to store or transmit infringing, libelous or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights, (iv) use the Services to store or transmit malicious code, or (v) attempt to gain unauthorized access to the Services or their related systems or networks.

Customer shall not: (i) Attempt to copy, alter, modify, adapt, translate, or create derivative works of the Software or any supporting documents or manuals ("Documentation"); (ii) attempt to remove or alter any proprietary notice or legends appearing in the Service, Software, or Documentation; (iii) analyze the Service, Software or Documentation for purposes competitive to eQuorum, or access or otherwise use the Service, Software or Documentation in order to build a similar or competitive service offering; (iv) attempt to reverse engineer, disassemble, decompile or otherwise attempt to discover the source code of the Software, or create derivative works, compilations, or collective works thereof; (v) attempt to use any component of the Software on a standalone basis; (vi) attempt to export the Service, Software, or Documentation; (vii) disclose or make any password(s) available to any other person; (viii) use any robot, spider, scraper or other automated means to access the Service, or use any data mining, data gathering or extraction method; (ix) use the Service or Software in any unauthorized or inappropriate way whatsoever, as determined in eQuorum's reasonable judgment, including but not limited to, by trespass or burdening network capacity; (x) use the Service in any manner to, in eQuorum's sole judgment, harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of any other party; and (xi) post for public viewing data that violates, or encourages any conduct that would violate any applicable law or regulation or would give rise to civil liability, or that is in eQuorum's sole judgment defamatory, vulgar, obscene, libelous, objectionable or inappropriate, or likely to promote illegal, harmful or objectionable activities.

eQuorum may, but is not obligated to, monitor or review Your Data (see Section 14.(5) for definition of Your Data). Without limiting the foregoing, eQuorum shall have the right to remove any of your publicly accessible Data that violates this Agreement, with or without prior notice to you. If eQuorum becomes aware of any possible violations by Customer of any provision of this Agreement, eQuorum reserves the right to investigate such violations and may, at its sole discretion, suspend or terminate your license to use Engine-box.com, with or without prior notice to you.

Access to, and use of, the Service may be suspended temporarily for the duration of any scheduled maintenance or unscheduled downtime or unavailability of any portion, or all, of the Service for any reason, including as a result of power outages, system, or Internet failures or other interruptions. eQuorum also reserves the right to suspend your subscription (i.e., place a "Hold" on the account) anytime with or without notification in order to protect eQuorum and/or other Customers from what is believed to be fraudulent activity. eQuorum is not obligated to credit or discount a paid subscription for Holds placed on it by either a representative of eQuorum or by eQuorum's automated processes.

3. ADVANTAGE PROGRAM

All Services customers select one of the offered Advantage Program (the "Program") options (currently the Gold Advantage Plan, the Platinum Advantage Plan, or the Titanium Advantage Plan). The Advantage Plan selected starts on the Effective Date of this Agreement and is automatically renewed annually on each successive anniversary date. (The Gold level Advantage Program Plan is automatically included in all subscriptions to eQuorum online Services and is the default Plan if none is explicitly selected.) Advantage Program membership is required for continued access to the Services and other Program features. You may at any time upgrade or downgrade your Plan by providing written notice seven (7) days prior to the end of any month. Plan fees are prorated and applicable to any upgrade or downgrade. If this Agreement is terminated pursuant to any provisions of Section 13 you will not be charged a renewal fee.

eQuorum may offer a number of Advantage Program plans, including special promotional plans or subscriptions with differing conditions and limitations. The terms of your Advantage Program plan will be disclosed at the time you sign up or in other communications made available to you. We reserve the right to modify, terminate or otherwise amend our subscription plans at any time, in our sole discretion.

Customer Advantage Program plan will automatically continue (month-to-month for a paid monthly subscription, or year-to-year in the case of an annual paid subscription), unless and until you cancel your subscription or we terminate it. You must have Internet access and provide us with a current, valid accepted method of payment (as it may be updated from time to time, "Payment Method") in order to purchase and use a paid subscription. We will bill your Advantage Program plan fees to your Payment Method. If Advantage Program fees are not received prior to the monthly or annual anniversary date of the Effective Date (as applicable), access to the online services may be interrupted and/or discontinued.

4. SOFTWARE AND SERVICES UPDATES

eQuorum shall furnish updates for the Software and Services as follows:

- (1) Correction of substantial errors and defects in the Major Version of the Software or Services offered in the online system, as required to meet published specifications. Software and Services corrections incorporated into the standard version of the Software and Services ("Minor Versions") do not constitute a distinct product, as determined by eQuorum in its sole discretion.
- (2) Corresponding updates to Documentation.

eQuorum shall offer, from time to time, significant changes to the Software and Services ("Major Versions"), as indicated in the change of the software version designation (i.e., any change from X.# to Y.#). Existing Software and Services customers will automatically receive the update within thirty (30) days of its general availability.

5. SUPPORT AND LEVELS OF SERVICE

eQuorum shall furnish Support for the Services through access to eQuorum's Customer Support department in Atlanta, Georgia, via eQuorum's 800 number, the World Wide Web, email, and online chat. eQuorum will attempt to provide an immediate solution to any error or issue, which solution may be in the form of a workaround. Errors and issues may promptly be scheduled for correction and any updates, and any modifications or enhancements that result from such repair shall be identified to Customer.

Critical issues: Production problems have occurred where one or more processes or programs have experienced abnormal termination and these problems must be resolved before Customer can continue with normal business operations. eQuorum will use commercially reasonable efforts to respond to critical issues within thirty (30) minutes.

Serious issues: Production problems have occurred that (1) do not inhibit operations but impede its regular flow; or (2) have temporary solutions available while permanent solutions are found and implemented. eQuorum will use commercially reasonable efforts to respond to serious issues within eight (8) business hours.

Moderate issues: Production problems have occurred where: (1) specific functions do not conform to published specifications; (2) specific transaction scenarios give invalid or unexpected results; or (3) configuration does not conform to the defined environment. eQuorum will use commercially reasonable efforts to respond to moderate issues in sixteen (16) business hours.

Minor issues: Cosmetic production system problems. eQuorum will use commercially reasonable efforts to respond to minor issues within four (4) business days.

The Services are configured to handle most support issues on a remote basis except under catastrophic failure conditions. Such conditions are typically the result of hardware, telecommunications or third-party equipment failure at the Customer site, which is outside eQuorum's responsibility hereunder. Customer expressly acknowledges that nothing in this Agreement shall oblige eQuorum to provide onsite services under such conditions, or support hardware or software not manufactured by eQuorum (unless expressly set forth in an Order Form).

Premium Support services and pricing are described in the Advantage Program, if required, and identifies support services provided by eQuorum to the Customer in addition to those services described in Sections 5 and 6.

6. HOURS FOR SUPPORT, RESPONSE TIME

- (1) Support hours are 8:30 a.m. to 5:30 p.m. Eastern Time, Monday through Friday, excluding legal and eQuorum recognized holidays. Support performed outside the normal Support hours ("Overtime Support") to the extent available, will be provided at Customer's request unless this support is covered under a "Premium Advantage Plan" (e.g., a Platinum Advantage Plan). Overtime Support may be billed to Customer at eQuorum's then-current rates for billable Support. A minimum two (2) hour charge shall be assessed for each overtime support activity billed.
- (2) eQuorum agrees to provide Support within a reasonable period of time after receipt of a request for Support. eQuorum shall not be responsible for delays in providing Support for reasons or causes beyond its control.

7. CUSTOMER RESPONSIBILITIES

- (1) Customer shall promptly notify eQuorum's Customer Support staff upon failure or malfunction of the Services.
- (2) Customer shall be current in its payments to eQuorum for invoices issued by eQuorum to Customer.
- (3) Customer is responsible for obtaining and maintaining all of the hardware, software, Internet access, and other products and services needed to use the Service and for providing such information technology expertise as is required to install, support, and troubleshoot such components.
- (4) Customer is responsible for protecting and safeguarding any keys, certificates, passwords, access codes, user IDs or other login information (collectively, "Passwords") that are provided to Customer or that are generated in connection with your use of the Service. Customer is the only entity to which the right described in Section 15 extends, and therefore is not permitted to allow any other person to use Customer's Passwords to access the Service. Customer is fully and solely responsible for all activities that occur on the Service under its accounts and Passwords.

8. RELOCATION OF SOFTWARE OR SERVICES

If Services are provided on a Managed Hosting basis, the Customer shall have the right to relocate the access to the Services or the domain address used for access, with eQuorum consent. Should Customer desire to relocate the access to the Services to another computer system or to change the domain address, the Customer shall contact eQuorum for assistance to implement the changes.

9. INVOICE, PAYMENTS AND CHARGES

- (1) Advantage Program charges shall be billed to your Payment Method two (2) months in advance of the period for which the charges apply, 15 days prior to monthly renewal dates for month-to-month subscriptions. eQuorum reserves the right to change the timing of our billing. Invoices shall be due and payable in U.S. dollars prior to commencement of the applicable period. Late payments shall bear interest at one and one-half percent (1.5%) per month or maximum rate permitted by law, whichever is less.
- (2) You may change your Payment Method information at any time by contacting eQuorum Accounts Receivable. If a payment is not successfully settled, due to expiration, insufficient funds, or otherwise, and you do not change your Payment Method information or downgrade or cancel your subscription, Customer remains responsible for any uncollected amounts and authorizes eQuorum to continue billing the Payment Method, as it may be updated. This may result in a change to your payment billing dates. For certain Payment Methods, the issuer of your Payment Method may charge you a foreign transaction fee or other charges. Check with your Payment Method service provider for details.
- (3) If Customer provides a credit card on file, the card shall be charged on the anniversary date of the Effective Date at the applicable Plan rate. eQuorum will notify Customer at least 30 days in advance of the anniversary date of such billing.
- (4) Advantage Program charges are set forth in eQuorum's quotations, and on its website for online services, and include all Plan services and discounts.
- (5) Advantage Program charges for eQuorum Software shall remain fixed at the rate established upon the commencement of this Agreement and for the Initial Term and shall thereafter be subject to adjustment upon ninety (90) days' prior written notice to the Customer.

- (6) Customer shall reimburse eQuorum and/or its authorized reseller for all collection costs, including reasonable attorney's fees.
- (7) Except as expressly provided to the contrary, no fees, retainers, expenses, reimbursements or other amounts paid by Customer to eQuorum or its authorized reseller under this Agreement shall be refundable or creditable. At any time, and for any reason, eQuorum may provide a refund, discount, or other consideration to any or all of our subscribers ("credits"). The amount and form of such credits, and the decision to provide them, are at eQuorum's sole and absolute discretion. The provision of credits in one instance does not entitle Customer to credits in the future for similar instances, nor does it obligate eQuorum to provide credits in the future, under any circumstances.
- (8) You may downgrade your subscription, or cancel your subscription, at any time. If you cancel your subscription, you are responsible for downloading your Data, if you so choose, prior to 45 days after the effective cancellation date (see Section 14).

10. TAXES

Customer shall pay (or reimburse eQuorum), in addition to any and all charges which may accrue pursuant to this Agreement as a separate item, all taxes, however designated, including, but not limited to excise, sales, use, property, VAT, Customs fees, privileges and gross receipts or amounts legally levied in lieu thereof, based upon or measured by the charges now or hereafter imposed under the authority of any taxing jurisdiction (exclusive of taxes based upon eQuorum's net income, property or employees). If eQuorum is obligated to collect any taxes, the appropriate amount will be added to Customer's charges to the Payment Method.

11. INDEMNIFICATIONS; LIMITATIONS

- (1) Customer agrees to indemnify and hold eQuorum, its parents, subsidiaries, affiliates, officers, employees, agents, partners and licensors (collectively, the "eQuorum Parties") harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of: (a) Your Data; (b) your use of, or inability to use, the Service or any other eQuorum user's Data; (c) your violation of this Agreement; (d) your violation of any rights of another party, including other users; or (e) your violation of any applicable laws, rules or regulations. eQuorum reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with eQuorum in asserting any available defenses. Customer agrees that the provisions in this section will survive any termination of your subscription, this Agreement, or your access to the Services.
- (2) The Service is provided on an "as is" and "as available" basis, without warranty of any kind. EQUORUM SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. Without limiting the foregoing, eQuorum does not warrant that (i) the Service will meet your requirements; or (ii) the Service will operate without interruption or be error free. Furthermore, eQuorum is not responsible for delays, delivery failures, or any other unavailability, loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet. It is acknowledged that the Service may be subject to limitations, delays, and other problems inherent in the use of the Internet, servers that are hosted by third party providers, and such related network and communications infrastructure.
- (3) eQuorum's obligation to provide Support is subject to performance by Customer of its obligations under Section 7. Further: (i) eQuorum does not warrant and is not obligated to provide Support for operation with any specific equipment, other software, including third party relational database products, or operating systems, and assumes no responsibility for adapting the Services to operate with any specific equipment, other software, including third party relational database products, or operating systems; (ii) delays in performance by Customer of its obligations under Section 7 shall extend all related eQuorum obligations for a similar period; and (iii) any costs incurred by eQuorum as a consequence of Customer's failure to meet its obligations under Section 7 shall be reimbursed to eQuorum by Customer.
- (4) A minimum two (2) hour charge shall be assessed for all Support outside the scope of this Agreement and will be billed to Customer at eQuorum's then-current rates for billable Support. The following services are considered outside the scope of this Agreement (but available for applicable Advantage Program discounts): (i) services and repairs attributable to software not acquired from eQuorum; (ii) consulting services; (iii) making specification changes or performing services in connection with the reinstallation of the Services; (iv) services attributable to: unauthorized attempts by or for the Customer to maintain the Services; or fault or negligence of Customer, its agents or employees; or illegal, improper or careless use or misuse of the Services; (v) overtime Support

performed at Customer's request; including all travel, lodging and other expenses attributable to Overtime Support; (vi) on-site Support performed at Customer's request; including all travel, lodging and other expenses attributable to On-site Support; (vii) all expenses associated with Customer's relocation of any managed hosted Services; and (viii) any relational database product installation, performance tuning, database migration, and ongoing database product support, whether or not such database products are acquired from eQuorum, or provided by Customer or a third party.

- (5) Services may be subject to limitation, such as limits on disk storage, amount of data transferred for a given period, number of total files stored, or data transfer speed. Such limitations are specified in the Ordering Form.
- (6) EQUORUM'S LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE SERVICE, SOFTWARE OR DOCUMENTATION FURNISHED HEREUNDER SHALL NOT EXCEED THE GREATER OF ONE HUNDRED DOLLARS (\$100) OR THE AMOUNT YOU HAVE PAID EQUORUM IN THE PAST 12 MONTHS. IN NO EVENT SHALL EQUORUM BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, COVER, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING LOSS OF DATA OR PROFITS, WHETHER OR NOT EQUORUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT SUCH LIMITATIONS ARE FAIR AND REASONABLE IN LIGHT OF THE TERMS UNDER WHICH THE SERVICE IS BEING MADE AVAILABLE TO YOU. THIS LIMITATION WILL APPLY EVEN IF ANY REMEDY STATED HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. CERTAIN OF THE ABOVE LIMITATIONS MAY NOT APPLY IN SOME JURISDICTIONS, AND IN SUCH CASES EQUORUM'S LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT DESCRIBED ABOVE THAT IS PERMITTED BY APPLICABLE LAW.

12. ASSIGNMENT, SUBCONTRACT

Except as provided below, neither party shall have the right to assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party, which consent shall not be unreasonably withheld. Exceptions include:

- (1) eQuorum retains the right to subcontract Support to subcontractor(s) provided that such subcontractor(s) shall possess qualifications equivalent to those of eQuorum.
- (2) eQuorum shall be entitled to assign all or part of the payments due it under this Agreement.
- (3) Any assignment or transfer by either party to a successor in interest of all, or substantially all of such party's business by sale, merger, or reorganization, shall be permitted provided such successor in interest is expressly bound to perform such party's obligations under this Agreement.

13. TERMINATION

- (1) Either party has the right to terminate this Agreement if the other party is in default of any of its obligation hereunder and such default has not been cured within thirty (30) days after receipt of written notice of such default (or such additional cure period as the non-defaulting party may expressly authorize in writing).
 - a. Upon any termination by Customer for unresolved default, eQuorum shall refund Customer any prepaid fees covering the remainder of the term of all subscriptions after the effective date of the termination.
 - b. Upon any termination by eQuorum for unresolved default, Customer shall pay any unpaid fees covering the remainder of the term of all Ordering Forms after the effective date of the termination. In no event shall any termination relieve Customer of the obligation to pay any fees payable to eQuorum for period prior to effective termination date.
- (2) After the Initial Term of this Agreement, either party may terminate this Agreement upon ninety (90) days written notice prior to the end of the Renewal Term. For monthly subscriptions, notice of termination must be received fifteen (15) days prior to the end of the current monthly term.
- (3) eQuorum may immediately terminate this Agreement by written notice to Customer and may regard Customer as in default of this Agreement, if Customer becomes insolvent; makes a general assignment for the benefit of creditors; files a voluntary petition of bankruptcy; suffers or permits the appointment of a receiver for its business or assets, or initiates or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, which is not dismissed or discontinued within ninety (90) days; or has wound up or liquidated. In the event that any of the above events occur, Customer shall immediately notify eQuorum in writing of such occurrence.
- (4) Upon termination for any reason, Customer will cease use of the Services and eQuorum has the right to delete Customer Passwords and all related information.

- (5) Sections 9, 11, 13, 14, 15, 19, 20 and 21 shall survive any termination or expiration of this Agreement.

14. CONFIDENTIALITY; YOUR DATA; OTHER PEOPLE'S DATA.

- (1) As used herein, "Confidential Information" means all confidential information disclosed by a party to the other 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. Customer Confidential Information shall include Your Data, as defined below. eQuorum Confidential Information shall include the Software and Service. Confidential Information of each party shall include the specific terms and conditions of this Agreement and all Ordering Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by any party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the disclosing party, (ii) was known to the receiving party prior to its disclosure by the disclosing party without breach of any obligation owed to the disclosing party, (iii) is received from a third party without breach of any obligation owed to the disclosing party, or (iv) was independently developed by receiving party.
- (2) eQuorum and Customer each agree to use commercially reasonable efforts to maintain the other's Confidential Information in confidence and to not use or disclose any portion of the other Party's Confidential Information to Third Parties, except as reasonably necessary to perform this Agreement and as expressly authorized in this Agreement.
- (3) In hosting and otherwise using Confidential Information, eQuorum will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) and agrees (1) not to use any Confidential Information for any purpose outside the scope of this Agreement and the Privacy Policy, and (2) except as you otherwise permit in writing, to limit access to your Confidential Information to those of eQuorum and eQuorum's affiliates' employees, contractors, service providers and agents who need such access for purposes consistent with this Agreement, and who are subject to confidentiality obligations with eQuorum containing protections no less stringent than those herein.
- (4) eQuorum may disclose Confidential Information if it is compelled by law to do so, provided we give you prior notice of such compelled disclosure (to the extent legally permitted). You agree and acknowledge that eQuorum may access and disclose your Data to comply with any legal obligations or governmental or regulatory body request (including subpoenas or court orders), as part of a legal proceeding involving eQuorum and/or its affiliates, agents, licensors and each of their respective officers, directors and employees, or at your request. If disclosure is made at your request, you may be responsible for the cost of compiling and providing access to such Data.
- (5) As between eQuorum and Customer, Customer shall own all files, data, sets, images, documents, workflows, information or material that Customer enters into the Services or has been entered on its behalf ("Your Data" or "Data" or "Customer Data"). For purposes of clarity, Customer Data does not include eQuorum Data. By creating, submitting or transmitting to, posting or otherwise making your Data available to eQuorum and/or others, you acknowledge and agree that (1) you have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of your Data, (2) you will evaluate and bear all risks associated with your Data, and (3) under no circumstances will eQuorum and/or its affiliates, agents and licensors and each of their respective officers, directors, and employees be liable in any way for your Data as you transmit or otherwise use it, including but not limited to any errors or omissions.
- (6) eQuorum uses commercially reasonable efforts to provide you with continuous access to the Services, and to enable you to bulk download Your Data, eQuorum does not guarantee Your Data will be available or useable by you following the termination of your subscription or otherwise.
- (7) eQuorum uses commercially reasonable efforts to secure Your Data, but encourages the use of secure retention policies. Should a breach of security become evident, Customer is to report the incident immediately to Support, who, may or may not, restrict access to Your Data or the computer(s) where Your Data resides. Conversely, eQuorum will immediately report to the Customer should it note a security breach of the Software, Your Data, or associated databases or communications.
- (8) eQuorum's Service lets you specify the level at which access to and usability of your Data is permitted to other users. You are solely responsible for establishing the appropriate level of permissions to your Data, or if assisted by Support for approving any changes in level of permission.
- (9) eQuorum may access Customer account and Customer Data from time to time as eQuorum deems necessary, (1) as part of providing, maintaining, securing or modifying the Service for you and/or other users, (2) via automated tools intended to address or prevent a service, support or technical issue, (3) at your request or with your consent given to eQuorum's Support team and/or other personnel as part of addressing or preventing a service, support or technical issue, (4) in connection with legal obligations or proceedings as described below, (5) as otherwise described in eQuorum's Privacy Policy, (6) or as administration and invoicing related to Customer use of the Services. Except as permitted in this Agreement, eQuorum will not edit, delete or disclose the contents of Customer Data unless authorized by Customer or unless eQuorum is required to do so by law or in the good faith belief that such action is necessary to: (i) conform with applicable laws or comply with legal process served on eQuorum; (ii) protect and defend the rights or property of eQuorum; or (iii) enforce this Agreement.
- (10) Upon termination or expiration of this Agreement and for up to forty-five (45) days from the effective date of such termination or expiration (the "Transition Period"), Customer will be entitled to receive from eQuorum services necessary to enable Customer to obtain from another vendor, or to provide for itself, services to substitute for or replace the Services provided by eQuorum under this Agreement. During such Transition Period, eQuorum will make available services necessary for an orderly and seamless transition of Your Data to Customer or a another third party. Any Transition Period services or other related services from eQuorum will be provided by eQuorum at eQuorum's then current service rates. This Section summarizes eQuorum's entire obligation and responsibility to maintain Your Data following termination or expiration of this Agreement. At the earliest of forty-five (45) days from the effective date of termination or when Customer Data has been provided to Customer, eQuorum shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in eQuorum's systems or otherwise in our possession or under our control.
- (11) In your use of eQuorum's Service, you agree to respect others' intellectual property and other rights. In particular, you will not upload, submit or otherwise transmit any Data that: 1) infringes any patent, trademark, trade secret, copyright or other proprietary right of any person or entity; or 2) you do not have a right to transmit under any other law or contractual or fiduciary relationship (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or other nondisclosure agreements). eQuorum shall have the right to remove any Data that in its sole determination violates this Agreement or is otherwise illegal or offensive.

15. PROPRIETARY RIGHTS

- (1) Subject to the terms of this Agreement, eQuorum hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable, revocable right to use the Service.
- (2) Subject to the limited rights expressly granted hereunder, eQuorum reserves all rights, title and interest in and to the Services and Documentation, including online videos provided by eQuorum, including intellectual property rights as protected by the copyright laws of the United States and international treaties. No rights or interest in the Services are granted to Customer hereunder other than as expressly set forth herein.
- (3) eQuorum shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including users, relating to the operation of the Services.
- (4) eQuorum provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services including only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with eQuorum to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

16. ARBITRATION AGREEMENT; CLASS WAIVER; WAIVER OF TRIAL BY JURY.

- (1) All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with this Agreement or the use of any product or service provided by eQuorum that cannot be resolved informally or in small claims court shall be resolved by binding arbitration

on an individual basis under the terms of this Arbitration Agreement. This Arbitration Agreement applies to You and eQuorum, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under this Agreement.

- (2) Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute (“Notice”) describing the nature and basis of the claim or dispute, and the requested relief. After the Notice is received, You and eQuorum may attempt to resolve the claim or dispute informally. If You and eQuorum do not resolve the claim or dispute within 30 days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.
- (3) Arbitration shall be initiated through the American Arbitration Association (“AAA”), an established alternative dispute resolution provider (“ADR Provider”) that offers arbitration as set forth in this section. The rules of the ADR Provider shall govern all aspects of this arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with this Agreement. The AAA Consumer Arbitration Rules governing the arbitration are available online at www.adr.org or by calling the AAA at 1-800-778-7879. The arbitration shall be conducted by a single, neutral arbitrator. Any hearing will be held in a location within one hundred (100) miles of your residence, unless you reside outside of the United States, and unless the parties agree otherwise. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.
- (4) If non-appearance arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties.
- (5) If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of You and eQuorum, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and this Agreement. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon You and eQuorum.
- (6) THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. In the event any litigation should arise between you and eQuorum in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND EQUORUM WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.
- (7) ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.
- (8) If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.
- (9) Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.
- (10) This Arbitration Agreement will survive the termination of your relationship with eQuorum.
- (11) Notwithstanding the foregoing, either You or eQuorum may bring an individual action in small claims court and either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.
- (12) In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the

personal jurisdiction of the courts located in the State of Georgia, USA for such purpose.

17. PUBLICITY

Notwithstanding anything to the contrary, either party may advertise and publicize the existence and general nature (but not the specific terms) of the parties’ relationship hereunder.

18. INTERNATIONAL PROVISIONS

- (1) The Services eQuorum makes available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions.
- (2) For Services that Customer accesses from outside the United States or Canada, eQuorum will use best efforts, but shall not be obligated, to acquire Support from local eQuorum distributors, sales agents or other representatives under the terms and conditions in effect in such locations.
- (3) Without limiting the foregoing, by using the eQuorum Service, you represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. The provisions of this Section will survive the expiration or termination of this Agreement for any reason.

19. NOTICE

All notices required to be given hereunder shall be in writing. Notice shall be considered delivered and effective upon receipt when sent registered or certified mail, return receipt requested, addressed to the parties as set forth above. Either Party may at any time change the name or address to which notice shall be sent. eQuorum maintains its current mailing address at:

6285 Barfield Road
Suite 350
Atlanta, GA 30327

20. FORCE MAJEURE

eQuorum shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

21. GENERAL PROVISIONS

- (1) This Agreement does not create any employment relationship, partnership, joint venture or agency relationship or authorize any party to enter into any commitment or agreement binding on the other party.
- (2) No delay or failure in exercising any right hereunder and no partial or single exercise thereof will be deemed to constitute a waiver of such right or any other rights hereunder.
- (3) If any provision hereof is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement will be valid and enforceable to the fullest extent permitted by applicable law.
- (4) This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, USA.
- (5) This Agreement sets forth the entire agreement and understanding of the parties and supersedes all prior agreements between the parties relating to the subject matter of Agreement. No modification, promise or condition in connection with the subject matter hereof, shall be binding upon either party unless made in writing and signed by both parties on its behalf by its authorized representatives.