



TERMS AND CONDITIONS

1. SAAS SERVICES AND SUPPORT; OWNERSHIP

1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services. The [Chargifi Service Level Agreement](#) applies to the provision of Services under this agreement,

1.2 As part of the registration process, Customer will identify an administrative username and password for Customer's Company account. Company reserves the right to refuse registration of, or cancel, passwords it deems inappropriate.

1.3 Company shall own and retain all right, title and interest in and to (a) the Services (as described in the Order Form) and Software (as defined below) and all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with the Services or the Implementation Services (as described in the Order Form) or related support provided by Company, and (c) all intellectual property rights related to any of the foregoing. For avoidance of doubt, the foregoing does not apply to Customer Data (as defined below).

2. REFERENCE ACCOUNT

Chargifi may ask the Customer to become a reference account in accordance with the terms of this Section 2 and such agreement to be confirmed in writing by the Client Notwithstanding anything to the contrary in this document, Chargifi may include Customer's name, logo or trademarks in marketing materials, customer lists, or other public communications. As a reference account, Chargifi may ask the Customer agrees to participate in case studies, interviews and / provide quotations to be published in Chargifi's marketing materials. In the event that the Customer agrees to act as a reference account, Chargifi will agree to act a reference account/ supplier for the Customer.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels. With respect to any Software that is distributed or provided to Customer for use on Customer or its affiliates' premises or devices, Company hereby grants Customer a non-exclusive, non-transferable, non-sublicensable, worldwide, fully paid-up license to use such Software during the Term only in connection with the Services.

3.2 Customer acknowledges and agrees that Chargifi's Software, related Services and any related download or technology ("Controlled Technology") may be subject to applicable import/export control and trade sanction laws, regulations, rules and licenses. Customer will be notified of any relevant information published by Chargifi at <https://chargifi.com/legal> and will comply with the foregoing, and with such further import / export restrictions that may govern the Controlled Technology. Customer will comply with any applicable laws, rules and regulations in connection with activity under this Agreement as directed by Chargifi.

3.3 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Company's standard

published policies then in effect including (a) [Chargifi's Privacy Policy](#) and (b) Chargifi's End User License Agreement which is attached hereto as Exhibit A (the "Policies") and all applicable laws and regulations. Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing. Customer may not assign, transfer or provide use of any license(s) granted under this Agreement to a third-party without Company's prior written consent.

3.4 Both Parties shall ensure that, in relation to this Agreement and general business practices, neither Party, nor any of their associated persons, engage in any activity, practice or conduct which may constitute an offence under any applicable anti-corruption laws. In particular, neither Party will, and will ensure that any associated persons do not offer, promise or pay to, or solicit or receive from any other person (including public and government officials) or company, any financial or other advantage which causes or is intended to cause another person to improperly perform their function or activities in order to secure or retain a business advantage.

3.5 In performing their obligations under the agreement, both parties shall (and ensure any other person who performs services and/or supplies goods within the supply chain in relation to this agreement shall), comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force; have and maintain throughout the term of this agreement its own policies and procedures to ensure its compliance. Chargifi shall provide the Customer with any reasonable assistance requested to enable it to perform any activity required by any regulatory body for the purpose of complying with any anti-slavery requirements. Each Party shall indemnify the other Party against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by or awarded against it as a result of any breach of this clause 3.5.

3.6 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

4. CONFIDENTIALITY

4.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical, or financial information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information" of the Disclosing Party). Confidential Information of Company includes information regarding features, functionality and performance of the Service. Confidential Information of Customer includes all Customer Data, as defined below. The Receiving Party agrees: (i) to take reasonable precautions to protect Confidential Information against unauthorized use or disclosure, (ii) not to use Confidential Information except as reasonably necessary in connection with the performance of this Agreement or otherwise in accordance with the Disclosing Party's prior written consent; and (iii) not disclose Confidential Information to any third parties other than the Receiving Party's employees, agents, and service providers who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder except with the Disclosing Party's prior written consent. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed

without use of any Confidential Information of the Disclosing Party or (e) is required to be disclosed by law.

5. CUSTOMER DATA

5.1 As used herein, "Customer Data" means information and data that is created or displayed within or uploaded to the Services by Customer or its users during or as part of usage of the Services.

5.2 Customer shall own all right, title and interest in and to the Customer Data, as well as any data derived from the Customer Data as part of the Services. Customer hereby grants to Company a non-exclusive, royalty-free license, to access, use, copy, and disclose Customer Data as necessary to provide the Services and the Implementation Services, or otherwise at Customer's direction. Customer represents and warrants that it has the valid and enforceable right to provide to Company all Customer Data and materials furnished hereunder for use in accordance with this Agreement. Customer represents, warrants and covenants that the Customer Data, at all times during the Term:

- (a) is provided to Company in accordance with all applicable laws, including without limitation laws related to audio and video recording, intellectual property, privacy and export control;
- (b) does not infringe any intellectual property rights;
- (c) does not violate the privacy, publicity, or other rights of third parties or any other law, statute, ordinance or regulation;
- (d) does not misrepresent the source of the Customer Data;
- (e) does not misrepresent Customer's identity; and
- (f) does not contain any viruses, Trojan horses, spyware, malware, worms, time bombs, or other harmful content intended to damage, detrimentally interfere with, intercept, or expropriate any system, or data.

If Customer becomes aware of any violation of this Agreement in connection with use of the Software or Services, Customer may contact Company at the contact information listed on the Order Form. Company may investigate complaints and violations and take actions it believes are appropriate, including, but not limited to issuing warnings, removing content or terminating accounts. However, because situations and interpretations vary, Company also reserves the right not to take any action. Customer is solely responsible for all data or other content loaded into or viewable under the Services.

5.3 Notwithstanding anything to the contrary herein, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and other information produced by Customer or its users through the Services, and data and insights derived therefrom) on an aggregated and anonymized basis, and Company will be free (during and after the term hereof) to (i) use such information and data internally to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (ii) disclose such data solely in aggregate and de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

6. PRIVACY AND DATA PROTECTION

6.1 Company and Customer shall comply with their respective obligations under all applicable privacy laws and regulations; (including the EU General Data Protection Regulation 2016/679 ("GDPR"), where applicable). The processes by which we comply with privacy laws and regulations are [here](#). respect to the processing of any Personal Data in connection with Company's provision and Customer's use of the Services. To the extent that Chargifi processes any "personal data" on Customer's behalf when performing its obligations under this Agreement, the Parties agree that Chargifi shall be the "data processor" and the Customer shall

be the "data controller". Provided, however, that Customer agrees that Customer Data will not contain any financial account identifiers (e.g., credit card numbers or bank account numbers), government issued identifiers (e.g., social security or driver's license numbers,) or other types of sensitive data that is subject to specific or elevated data protection requirements (such as the Gramm-Leach-Bliley Act or HIPAA ("Sensitive Personal Data")). Company shall have no liability under this Agreement for Sensitive Personal Data, notwithstanding anything to the contrary herein.

6.2 Use of the Services is also subject to Company's Privacy Policy, available at <https://chargifi.com/privacy-policy/>.

7. PAYMENT OF FEES

7.1 Customer will pay the Company any applicable fees described in the Order Form for the Services and Implementation Services in accordance with the terms therein (the "Fees"). If Customer's use of the Services differs from the Service Capacity set forth on the Order Form or otherwise requires the payment of adjusted fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the adjusted fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or the current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company's customer support department.

7.2 Company shall bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after receipt of the invoice by Customer. Unpaid amounts are subject to a finance charge of 1% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in termination of Service. Customer shall be responsible for all taxes associated with Services.

8. TERM AND TERMINATION

8.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term. In the event that the Customer wishes to terminate earlier than the Initial Service term, then the Customer agrees to a penalty payment equivalent to 6-months fees.

8.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment, fraud, negligence, willful default), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided, provided that if this Agreement is terminated part way through the Term due to Company's fraud, negligence, willful default or material breach ("material breach" being defined as a breach of Sections 4 and/or 9 of this Agreement), Company shall refund Customer for the pro-rata amount of any fees paid in advance that relate to the terminated part of the Term. Upon any termination, Company will make all Customer Data available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter Company shall delete stored Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

9. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall provide advance notice in writing or by e-mail of any scheduled service disruption. COMPANY DOES NOT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. FORCE MAJEURE.

In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for non-payment not caused by a force majeure event), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, pandemic, epidemic, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo or blackout.

11. INDEMNIFICATION

11.1 Company shall defend, indemnify, and hold harmless Customer and its respective officers, directors, employees, agents, successors, and assigns from and against any third party claims, demands, suits, actions, and proceedings, including any losses, damages, judgments, settlements, expenses (including reasonable attorneys' fees) and costs awarded by a court of final jurisdiction against Customer: (i) alleging that the use of the SaaS Services in accordance with this Agreement infringes or misappropriates a third party's patent rights, copyright, trademark, or trade secrets; or (ii) breaches of the confidentiality provisions hereto involving third party data. The foregoing shall not apply to the extent any such third-party claim is based on: (i) misuse or modification of the Services for any use other than its intended purpose or (ii) information or materials provided by or on behalf of Customer or any of its affiliates; (iii) Company's compliance with Customer's written direction with respect to the manner in which Services are to be performed or the content to be included in the Services; provided that Company shall cooperate with Customer as may be reasonably requested by Customer to mitigate any liabilities arising from any such claim; or (iv) Customer's breach of the Agreement.

11.2 Customer shall defend, indemnify, and hold harmless Company and its respective officers, directors, employees, agents, successors, and assigns from and against any third party claims, demands, suits, actions, and proceedings, including any losses, damages, judgments, settlements, expenses (including reasonable attorneys' fees) and costs awarded by a court of final jurisdiction against Company: (i) finding that materials provided by Customer in accordance with this Agreement infringes or misappropriates a third party's patent rights, copyright, trademark, or trade secrets; or (ii) breaches of the confidentiality provisions hereto involving third party data. The foregoing shall not apply to the extent any such third-party claim is based on information or materials provided by or on behalf of Company or any third parties not acting as an agent of Customer or any of its affiliates. Customer shall cooperate with Company as may be reasonably requested by Company to mitigate any liabilities arising from any such claim

12. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, NEITHER PARTY NOR ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES; OR (B) EXCEPT IN THE CASE OF FRAUD, NEGLIGENCE, WILLFUL MISCONDUCT OR MATERIAL BREACH ("MATERIAL BREACH" BEING AS DEFINED HEREIN IN SECTION 8.2) OF THIS AGREEMENT, FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO COMPANY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by either party except with the other party's prior written consent. Neither party may transfer or assign any of its rights and obligations under this Agreement without the other party's consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of England and Wales (unless contracted by Chargifi, Inc., in which case the laws of Delaware shall govern) without regard to its conflict of laws provisions.