



Sponsor Terms & Conditions

Version number: 2.1

Effective date: 23 February 2023

1. Interpretation

1.1 In this agreement, unless the context otherwise requires:-

Business Hours	9am to 5pm Monday to Friday excluding bank holidays in England
End User Terms	the end user terms and conditions for the Service located at https://zenplans.com/end-user-terms/ (or any replacement URL), as may be amended from time to time
Future Access	a Sponsor-Delegate's right to access a User's digital estate plan on a User's death or incapacity where so authorised by a User
Order Form	the order form to which these terms and conditions are attached (if applicable)
Privacy Policy	the Supplier's Privacy Policy located at https://zenplans.com/privacy-policy/ (or any replacement URL), as may be amended from time to time
Service	the Zen Plans digital estate planning service web app
Sponsor-Authorised User	a person authorised by the Sponsor to access the Sponsor part of the Service (including professional managers and individual team users)
Sponsor-Delegate	a Sponsor staff member authorised by a User to act as a delegate
Start Date	the start date specified in the Order Form or otherwise agreed in writing between the parties or, if applicable, the date when the Sponsor agrees to these terms online
User	a person or organisation who registers for the Service as a plan-holder via a tracked link provided by the Supplier to the Sponsor
in writing	all forms of visible reproduction in permanent form (including email unless otherwise stated)

1.2 Words in the singular shall include the plural and vice versa. References to a “person” shall include any individual, firm, unincorporated association or body corporate. References in this agreement to Clauses and Schedules shall be to clauses and schedules of this agreement. Any reference in this agreement to any provision of a statute shall be construed as a reference to that provision, as amended, re-enacted or extended at the relevant time. The word “including”, unless the context otherwise requires, shall mean “including without limitation”. The headings in this agreement are for convenience only and shall not affect its interpretation.

2. Supply of the Service to Users

2.1 The Supplier shall contract to supply the Service to Users in accordance with the End User Terms.

2.2 The Supplier warrants that it shall deliver a standard of service to Users that is broadly comparable with the service that the Supplier provides to its other users.

2.3 Both parties shall take reasonable steps to make clear to Users that contractually the Service is supplied to the User by the Supplier and not the Sponsor. The Sponsor is entitled at any time to terminate any contract between the Supplier and a User by giving notice in writing to the Supplier insofar as permitted to do so under the End User Terms and unless otherwise agreed in writing by the Supplier and the Sponsor.

3. Sponsor’s access to the Service

3.1 The Sponsor agrees and undertakes:

3.1.1 to take reasonable care to keep login information for the Service secure and confidential and to ensure that login details are not shared between different individuals;

3.1.2 to promptly notify the Supplier in writing if it becomes aware of any apparent breach of security such as loss or misuse of a password;

3.1.3 to procure that Sponsor-Delegates and Sponsor-Authorised Users comply with this agreement in respect of access to the Service; and

3.1.4 that the Sponsor is liable for all acts or omissions of

- a)** Sponsor-Delegates and Sponsor-Authorised Users; and
- b)** other persons who access the Service using the Supplier’s account, identity or login details (except insofar as the Supplier is at fault).

3.2 If the Sponsor accesses the Service (whether as a Sponsor-Delegate or a Sponsor-Authorised User), the Sponsor agrees to be bound by and comply with the “Behaviour when using our Service” section of the End User Terms (or any replacement section). If the Sponsor accesses the Service as a Sponsor-Delegate, the Sponsor agrees in addition to be bound by any obligations in the End User Terms that expressly apply to delegates, for example in relation to Future Access. For the avoidance of doubt, Sponsors or Sponsor-Delegates shall not otherwise be bound by the End User Terms, even if the Sponsor-Delegate has ticked acceptance thereto.

3.3 The Supplier is entitled to suspend access to the Service by the Sponsor or any individual Sponsor-Delegate or Sponsor-Authorised User if:

3.3.1 any fee payable by the Sponsor is more than 14 days overdue;

- 3.3.2 acting reasonably, the Supplier considers that it such steps are necessary to protect the Supplier or any user of the Service;
- 3.3.3 the Supplier is required to do so by applicable law or regulation or to comply with an order, instruction or request from a competent authority; or
- 3.3.4 the relevant Sponsor-Delegate or Sponsor-Authorised User acts inappropriately towards any member of the Supplier's staff.

The Supplier shall give the Sponsor written notice of any suspension including reasons therefor as soon as reasonably practicable.

- 3.4 The Supplier does not warrant to the Sponsor that the Sponsor's access to the Service will be uninterrupted or error-free.
- 3.5 The Supplier shall be entitled to suspend the Sponsor's access to the Service for repair, maintenance, improvement or other technical reason. The Supplier agrees to take reasonable steps to (a) provide at least 24 hours' notice in advance of routine (i.e., non-emergency) maintenance; (b) keep routine suspensions to a minimum; and (c) undertake such work outside Business Hours.

4. Support

- 4.1 The Service includes support to Sponsors only if the Supplier opts in its discretion to provide such support and, if so, by the specified contact methods. Any support service is only intended to address configuration and proper use of, or any errors or interruptions arising from, the Service.
- 4.2 Unless the Supplier states otherwise, any support that the Supplier does opt to provide is only available by email during Business Hours and the Supplier does not guarantee any particular response times or outcomes. Any response times given are in Business Hours unless the Supplier states otherwise. The Supplier is entitled to withdraw or change any support service at any time.
- 4.3 In any event, the Supplier is not obliged to supply support if any payment due by the Sponsor is overdue by at least 14 days.

5. Payment

- 5.1 The Sponsor shall pay the Supplier's annual fee in instalments payable monthly in advance unless otherwise stated in an Order Form or otherwise agreed in writing.
- 5.2 If the Sponsor fails to pay any monthly instalment within 14 days of the due date, all remaining instalments for the current term become immediately due and payable.
- 5.3 Unless otherwise stated in this agreement, all amounts exclude VAT which shall be separately payable where due.
- 5.4 The Supplier is entitled to change the amount of its fees to take effect on the next contract rollover date by giving at least 30 days' notice in writing to the Sponsor.
- 5.5 The Sponsor shall make all payments due to the Supplier without any withholding, deduction, counterclaim or setoff.

- 5.6** If any amount owed by the Sponsor is overdue, the Supplier may charge interest (both before and after judgement) on the amount unpaid at the rate for the time being that would be applicable if the debt were a qualifying debt under the Late Payment of Commercial Debts (Interest) Act 1998.

6. Term and termination

- 6.1** This agreement shall take effect on the date of second signature hereof (if there is an Order Form) or from the date of the Supplier's confirmation email (if no Order Form) and, subject to earlier termination in accordance with this agreement, it shall continue in force for 12 months from the Start Date and shall roll over for subsequent 12-month terms unless either party gives notice in writing to the other to end the contract at least seven days before the end of the then-current 12-month term.

- 6.2** This agreement may be terminated forthwith by any party giving to the other notice in writing (not email) in the event that:

6.2.1 the other party is in material default of its obligations under this agreement and (where that default is capable of remedy) has failed to substantially cure such default within 28 days after notice in writing is given to the defaulting party specifying the default; or

6.2.2 the other party suffers, or threatens to suffer, any form of insolvency, receivership, administrative receivership, administration or ceases, or threatens to cease, to carry on business.

- 6.3** The Sponsor acknowledges that the End User Terms shall contain a provision whereby the Supplier's contracts with Users shall terminate on the date of termination of this agreement.

- 6.4** Upon the expiration or termination of this agreement:

6.4.1 the Supplier shall no longer be entitled to access or use the Service and all licences are terminated except in respect of Future Access, in which case this agreement shall continue following termination insofar as necessary to enable Future Access in accordance with the conditions applicable to Future Access following the death or incapacity of the relevant User;

6.4.2 accrued rights and liabilities shall be unaffected; and

6.4.3 all provisions which are intended or expressed to survive termination of this agreement shall survive together with any other provision necessary for the interpretation or enforcement of this agreement.

7. Warranties

- 7.1** Each party warrants that in performing this agreement it shall comply with all applicable laws and regulations (including in relation to data protection) and shall not infringe any third-party intellectual property or other rights.

8. Liability

- 8.1** This section of the agreement sets out the parties' total liability of any kind under or in connection with this contract (regardless of whether such liability arises in tort, contract, breach of statutory duty or in any other way and whether or not caused by negligence or misrepresentation). This section applies to and may be enforced by the relevant party's directors, officers, employees, subcontractors, agents and affiliated

companies as well as to/by the party itself and those parties shall all have the benefit thereof in terms of the Contracts (Rights of Third Parties) Act 1999. Nothing in this agreement in any way excludes or restricts any party's liability for negligence causing death or personal injury or for fraud or fraudulent misrepresentation or for any liability which may not legally be excluded or limited.

- 8.2** Each party's liability for any act or omissions or series of connected acts or omissions is limited to 100% of the amount of the fees paid or payable to the Supplier under this agreement in the 12 months preceding the first act or omission complained of.
- 8.3** Neither party shall be liable for special, indirect or consequential losses.
- 8.4** Neither party shall be liable for any of the following (whether direct or indirect): loss of profit; loss of data; loss of use; loss of production; loss of contract; loss of opportunity; loss of savings; or harm to reputation or loss of goodwill.
- 8.5** To the fullest extent allowed by law, each party excludes all conditions, terms, representations and warranties, howsoever arising, whether imposed by statute or by law or otherwise, that are not expressly stated in this agreement.

9. Intellectual property rights

- 9.1** The Sponsor grants to the Supplier a royalty-free, non-exclusive, worldwide, non-transferable licence to use the Sponsor's name, logo and branding insofar as reasonably necessary for the performance of Supplier's obligations under this agreement and in accordance with the Sponsor's instructions in writing.
- 9.2** The Sponsor acknowledges that all intellectual property rights in connection with the Service are owned by the Supplier absolutely.
- 9.3** Save as otherwise provided neither party shall as a result of this agreement gain any ownership rights or other interest in the intellectual property rights of the other.

10. Data protection

- 10.1** The Sponsor agrees that the Supplier is entitled to process the personal information of the Sponsor (including Sponsor-Delegates and Sponsor-Authorised Users) in accordance with the Privacy Policy.
- 10.2** The parties also agree to comply with the Processor Addendum in Schedule 1 insofar as applicable.

11. Publicity and confidentiality

- 11.1** Both parties shall during this agreement and thereafter in respect of the other party's confidential information (meaning information in any form of a clearly confidential nature obtained in connection with this agreement and the terms of this agreement but, for the avoidance of doubt, excluding information obtained from Users (i.e., plan-holders)):
 - 11.1.1** make reasonable efforts to keep it confidential and secure, using as a minimum the same degree of care as it uses to protect its own confidential information;

- 11.1.2** not disclose it to anyone else (except professional advisers or employees who need to know the information); and
 - 11.1.3** only use it for the purpose of this agreement.
- 11.2** The confidentiality requirements above shall not apply to information which:
 - 11.2.1** becomes publicly known other than through a breach of this agreement;
 - 11.2.2** can be shown to have been known to the receiver before the disclosure took place;
 - 11.2.3** is lawfully obtained from a third party;
 - 11.2.4** is disclosed under legal, accounting or regulatory requirements; or
 - 11.2.5** is disclosed to any person with a bona fide and legitimate interest in such information who enters into a confidentiality agreement on similar terms to this clause including, but not limited to, a prospective purchaser of or investor in the business of either party and provided that such person undertakes only to use the information for the purpose of such bona fide and legitimate interest.
- 11.3** Notwithstanding the foregoing, the Supplier shall be entitled to publicise the fact of its partnership with the Sponsor subject to the Sponsor's prior written consent.

12. General

- 12.1** This agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes any previous communications or agreements between the parties in relation to such matters. Both parties acknowledge that there have been no misrepresentations and that neither party has relied on any pre-contractual statements. Liability for misrepresentation (excluding fraudulent misrepresentation) relating to the terms of this agreement is excluded.
- 12.2** Neither party is liable for failure to perform or delay in performing any obligation (excluding payment) under this agreement if the failure or delay is caused by any circumstances beyond that party's reasonable control including third party telecommunication failures and epidemics/pandemics.
- 12.3** Any notice required by this agreement to be given by any party in writing may be given by hand or sent (by special delivery within the UK or by international signed for post outside the UK) to another party at its registered office or such other address as that party may notify to the other party for this purpose from time to time or, unless stated otherwise, by email, subject to the email not having been returned.
- 12.4** No amendment or variation of this agreement shall be effective unless in writing (not email), expressed to be an amendment to this agreement and signed by a duly authorised representative of each of the parties.

- 12.5** Neither party may assign or transfer any of its rights or obligations under agreement without the prior consent in writing (not email) of the other not to be unreasonably withheld or delayed provided, however, that each party shall have the right without consent to assign or its rights or obligations under this agreement in connection with any merger, consolidation, sale or transfer of all or substantially all of such party's assets. The Supplier is entitled to subcontract any of its obligations under this agreement (subject to data protection law where applicable) but remains liable to the Client for performance of those obligations.
- 12.6** The failure of a party to exercise or enforce any right under this agreement shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.
- 12.7** If any provision of this agreement is held to be unlawful, void or unenforceable in whole or in part, this agreement shall continue in force in relation to the unaffected provisions and the remainder of the provision in question, and the parties will renegotiate the offending provision in good faith to achieve the same objects.
- 12.8** Save insofar as expressly provided otherwise in this agreement, no third party may enforce any clause in this agreement under the Contracts (Rights of Third parties) Act 1999.
- 12.9** The relationship of the parties is that of independent contractors. Except as otherwise stated in this agreement, nothing in this agreement shall constitute the parties as partners, joint venturers or co-owners, or constitute any party as the agent, employee or representative of the other(s), or empower any party to act for, bind or otherwise create or assume any obligation on behalf of the other(s), and no party shall hold itself out as having authority to do the same.
- 12.10** This agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales and each party hereby submits to the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE 1

PROCESSOR ADDENDUM

Definitions

1. In this agreement:
 - a) “controller”, “processor”, “data subject”, “personal data” and “processing” have the same meanings as set out in Data Protection Laws;
 - b) “Clients / Employees” means the Sponsor’s clients or employees.
 - c) “Data” means any relevant personal data of Clients / Employees processed by the Supplier in connection with this agreement and comprised within the “Subject matter” specified below; and
 - d) “Data Protection Laws” means all applicable data protection and privacy laws, regulations and guidance including guidance or codes of practice issued by the Information Commissioner’s Office (“ICO”) from time to time.

Data processing

2. Both parties agree to comply with all applicable requirements of Data Protection Laws.
3. The following are the details of the processing to be carried out by the Supplier:
 - a) *Subject matter:* Any Client database input by the Sponsor into the Service in connection with potentially inviting the Clients / Employees to become End Users.
 - b) *Duration of the processing:* The period of this agreement.
 - c) *Nature and purpose of the processing:* To facilitate the Sponsor in inviting Clients / Employees to become End Users.
 - d) *Type of personal data:* Names and contact details.
 - e) *Categories of data subject:* Clients / Employees.
 - f) *Obligations and rights of the controller:* See below.
4. The Supplier shall:
 - a) process the Data in accordance with Data Protection Laws (and nothing in this agreement relieves the obligations of the Supplier of its own direct responsibilities and liabilities under Data Protection Laws);
 - b) process the Data only so far as is necessary for the purpose of performing this contract;
 - c) process the Data (including when making international transfers) only on written instructions from the Sponsor (including as set out in this agreement) unless the law requires otherwise in which case the Supplier shall inform the Sponsor before processing (unless the law prohibits the Supplier from so doing);
 - d) if transferring Data outside the UK (which the Sponsor authorises the Supplier to do), to do so in accordance with any legal basis for transfer including use of applicable standard contractual clauses created by the ICO;

- e) not disclose Data to anyone other than its employees or agents except insofar as permitted in this agreement and shall ensure that those persons are subject to an obligation of confidentiality in relation to the Data;
- f) maintain technical and organisational security measures (including where applicable in relation to encryption, pseudonymisation, resilience of processing systems, backing up personal data in order to be able to reinstate the system and testing) sufficient to comply with the obligations imposed on the Sponsor under Data Protection Laws;
- g) not subcontract any processing of Data without the Sponsor's prior written consent and:
 - the Sponsor shall be deemed to consent to sub-processing by the Supplier's current host; and
 - the Supplier shall give the Sponsor at least 14 days' notice in writing of the proposed appointment of any new sub-processor in which case the following shall apply:
 - i) if the Sponsor does not object within such period, the Sponsor will be deemed to have consented to the appointment of the new sub-processor; and
 - ii) if the Sponsor does object within such period, the Sponsor is entitled within 14 days of such objection to terminate this agreement to the extent that it relates to services which require the use of the proposed sub-processor;
- h) in respect of any sub-processors, impose on the sub-processor the same obligations in relation to Data that are imposed on the processor under this agreement.
- i) take reasonable steps to assist the Sponsor in complying with the Sponsor's own obligations under Data Protection Laws including:
 - responding to subject access requests;
 - keeping Data secure;
 - notifying data subjects about personal data breaches;
 - carrying out any data protection impact assessment ("DPIA"); and
 - consulting with the relevant supervisory authority where applicable following a DPIA;
- j) on termination of this agreement, at the Sponsor's option either delete or return all Data to the Sponsor, unless the Supplier is legally required to retain the Data;
- k) make available to the Sponsor all information necessary:
 - to demonstrate compliance with its obligations relating to Data both in this agreement and under Data Protection Laws; and
 - to submit and contribute to audits carried out by the Sponsor or an auditor appointed by the Sponsor; and
- l) immediately inform the Sponsor if in its opinion a Sponsor instruction does not comply with Data Protection Laws.