

## ZENOO Terms & Conditions

References in this agreement to “**You**” and “**Your**” are references to the person accepting these terms and conditions, references to “**We**”, “**Us**” and “**Our**” are to Zenoo Limited (a company incorporated in England and Wales with registered number 11093114 whose registered office is situated C/O Azets, Compass House, Vision Park, Histon, Cambridge, Cambridgeshire, United Kingdom, CB24 9AD) and references to “**Zenoo**” are to the software platform developed and hosted by Us which We have agreed You may use and for which You pay Us licence fees (“**Fees**”).

### 1 **Licence and Fees.**

- 1.1 **Licence:** We grant You a limited non-exclusive, non-transferable right to use Zenoo for so long as You pay the Fees to Us as specified in the Service Order Form (SOF)
- 1.2 **Fees:** You agree to pay Us the Fees as calculated by Us each month. We are obliged to charge VAT, and this shall be added to all amounts We charge at the applicable prevailing rate. In addition to the Fees, You shall pay Us the other amounts (charged at the rate Our then current rate or, if We have agreed some other rate with You, that other rate). All amounts We charge are payable within 30 days of Our notifying You of the amount due. Invoices may be raised in advance.
- 1.3 **Market place costs:** If You use sign up to use, or use, services offered in Zenoo’s marketplace with the applicable SOF, You shall pay the associated costs as stated in the terms agreed with You when We contract with You or, if none is specified, at our then prevailing rate. These are charged monthly.
- 1.4 **Changes to Fees:** We may apply an annual increase in respect of the Fees We charge of up to 4 per cent (or, if higher, the then published rate of RPI) each year. If We do not apply this increase in any year, We may increase Fees on the same basis but with the amount of the charge calculated by reference to the date from which We last applied such increase (or, if none, the date on which You first contracted Us). Such increase does not give You to a right to terminate this agreement.

### 2 **Parties’ obligations.**

- 2.1 **Warranty:** We warrant that We have and will maintain all necessary licences, consents, and permissions necessary for the performance of Our obligations under this agreement. Zenoo is made available on an “as is” basis and any configuration advice or development is subject to separate charge.
- 2.2 **Your information:** You represent that the information provided by You to Us is true.
- 2.3 **Your own use only:** You agree to use Zenoo solely for the purposes of operating Your own business. No other use is permitted. In particular (other than provision of information to Your end user clients in the course of Your business) You are not authorised to provide any service offered by Zenoo to benefit a third party (whether for charge or otherwise) without Our prior written consent.
- 2.4 **Responsibility for hardware and network connections:** You agree that You are solely responsible for procuring and maintaining Your network connections and telecommunications links and any devices that You use in conjunction with Zenoo. You are responsible for providing and maintaining all hardware that You use.
- 2.5 **Ownership of data:** You shall own all right, title and interest in and to all of the data created by You using Zenoo. You agree that We may use Your data on an anonymous aggregated basis. We shall not be responsible for any loss, alteration or disclosure of Your data. You agree that Your sole and exclusive remedy resulting from any loss or damage to data, shall be for Us to use reasonable commercial endeavours to arrange for lost or damaged data to be restored through any back-up controlled by Us.
- 2.6 **Data processing:** To facilitate Your compliance with the requirements of the General Data Protection Regulation (EU Regulation 2016/679, “GDPR”) You, as the Data Controller, and We, as the Data Processor, each agree to adhere to the terms of the Data Processing Agreement on Our website (as amended by Us from time to time with, to the extent that the change is not required to adhere to

law or best practice, Your prior agreement) (the current version of which is available here: <https://www.zenoo.com/privacy>. That Data Processing Agreement provides that in processing Personal Data We shall (i) only act on Your lawful instructions (which are deemed to be given in Your capacity as data controller), and (ii) use appropriate technical and organisational measures, including appropriate Standard Contract Clauses between Us and Our Sub-processors permitted by You under the Data Processing Agreement, to prevent unauthorised or unlawful processing and transfer of the Personal Data, and accidental loss or damage to the data. In turn You agree to hold Us harmless in respect of any breach of the GDPR (and other applicable legislation) resulting from Your use of Zenoo. Definitions and interpretation provisions applying to the Data Processing Agreement apply equally to the construction of this clause 2.6.

- 2.7 **Privacy policy:** You accept Our Privacy & Cookie policy as amended from time to time (which is available here: <https://www.zenoo.com/privacy>).
- 2.8 **Restrictions:** You agree:
- 2.8.1 not to re-publish or re-purpose any information screen produced by Us or presented by Zenoo (and, in particular but without limiting the generality of this provision, not to obscure any copyright or similar notice published by Us);
  - 2.8.2 not to reverse engineer or to attempt to amend, copy or emulate any part of Zenoo and not to attempt to gain unauthorised access to any part of Zenoo or any connected system (and to use all reasonable endeavours to prevent any unauthorised access to, or use of, any of Zenoo);
  - 2.8.3 not to use any of Zenoo to facilitate any illegal activity; or
  - 2.8.4 (except to the extent We expressly agree in writing) not to onward provide any service facilitated by any of Zenoo to any third party (other than provision of information to Your end user clients in the proper course of Your business).
- 2.9 **Confirmation and undertaking:** You confirm that your business does involve the provision of services similar to (or in competition with) services provided by Zenoo and You undertake that You shall not provide any such service (or otherwise seek to circumvent or compete with Zenoo's legitimate business interests).
- 3 **Payment terms and liability limits**
- 3.1 **Payment terms:** Save as expressly provided, amounts payable pursuant to this agreement are non-cancellable and non-refundable. If We have not received a payment by the due date then We may (without prejudice to any other rights and remedies that We may have and without liability to You) disable Your access to all or any part of Zenoo. You agree (notwithstanding any action taken by Us pursuant to this clause 3.1) to pay compensation and interest (at 5% above the rate provided for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998) in respect of any amount not paid by the due date. All payments should be made by direct debit, if payment is not made by direct debit, You will pay Us an additional administration charge equal to 15% of the amount otherwise payable.
- 3.2 **Cap on liability:** Subject to clauses 3.3 and 3.4.
- 3.2.1 We shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
  - 3.2.2 the total aggregate liability that We have arising in connection with any type of loss suffered by You shall be limited to the net of VAT amount received by Us from You in respect of the month in which the relevant loss is first suffered.
- 3.3 **Express representations etc only:** Except as expressly and specifically provided in this agreement all warranties, representations, conditions and all other terms of any kind whatsoever implied by

statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement.

3.4 **Non-excluded liabilities:** Nothing in this agreement excludes Our liability:

3.4.1 for death or personal injury caused by any negligence by Us;

3.4.2 for Our own fraud or fraudulent misrepresentation; or

3.4.3 to the extent that law provides that any liability may not be excluded.

3.5 **Your breach:** You agree to indemnify Us against all damages, losses and expenses directly or indirectly suffered by Us as a result of Your breach of any provision of this agreement.

4 **Term and termination**

4.1 **Contract Duration:** This agreement has immediate effect as soon as We accept it after You have completed and submitted the applicable SOF. You may terminate the agreement to use Zenoo at any time by giving not less than 90 days' written notice of cancellation, and such notice of termination shall be effective from the end of the month in which the anniversary of this agreement next falls after termination of that 90-day period.

4.2 **Early termination:** We may terminate your right to use Zenoo if We believe that You have breached its terms or if it ceases to be commercially viable for Us to continue to make Zenoo available to You.

4.3 **Effect of termination:** On termination of this agreement for any reason all licences granted under this agreement shall immediately terminate and We may destroy or otherwise dispose of any of Your data in Our possession. Rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination, shall not be affected or prejudiced. We will not be obliged to return to You any Fees paid in advance.

4.4 **Change of term:** Requests for any modifications or adjustments to this agreement must be submitted in writing or via email to [finance@Zenoo.com](mailto:finance@Zenoo.com). Approval or response to such requests is not guaranteed however We will strive to address them within 14 working days.

5 **Miscellaneous**

5.1 **Force majeure:** We shall have no liability to You under this agreement if We are prevented from or delayed in performing its obligations under this agreement, or from carrying on business, by events beyond Our reasonable control.

5.2 **Publicity:** We may make any public comment about this agreement. You agree to Our naming You as a customer and user of Zenoo. Save as provided in this clause neither party may make any public announcement about the relationship between them (or their business or the performance of the other's software) without the other's consent.

5.3 **Entire agreement:** This agreement constitutes the whole agreement between You and Us in relation to Zenoo and supersedes any previous agreement between You and Us relating to the same subject matter. You acknowledge and agree that in entering into this agreement You do not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement. By using Zenoo You agree to all the terms and conditions within this agreement.

5.4 **Modifications:** These terms are available to You through Our Web Site or another URL advised to You by Us from time to time. We reserve the right at Our sole discretion to modify the services provided by Zenoo or the provisions of these terms in such ways as, in Our reasonable opinion, do not significantly impact on the rights or obligations of Our clients generally. Such modifications will become effective immediately upon posting the updated terms and/or functions within the Our Web Site or through other means of communication which We deem appropriate (which may include notice given in a statement of charges).

- 5.5 **Assignment:** You shall not, without Our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of Your rights or obligations under this agreement. We may assign Our rights or obligations under this agreement.
- 5.6 **No partnership or agency:** Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 5.7 **No IP transfer:** Nothing in this agreement operates to transfer any intellectual property rights between the parties.
- 5.8 **Third party rights:** Save as provided in clause 5.9, this agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 5.9 **Interpretation:** References in this agreement to Us, We or Our in the context of obligations owed to Us or rights or entitlements conferred on Us shall be deemed to include reference also to any sub-contractor nominated by Us or any company which is a subsidiary undertaking or a parent undertaking of Ours or any company which is a subsidiary undertaking of any such parent undertaking ("*parent undertaking*" and "*subsidiary undertaking*" having the meanings given to them in section 1162 of the Companies Act 2006).
- 5.10 **Notices:** We may give You notice by alert notification through Our **finance@zenoo.com** or Zenoo interface or through other means of communication which We deem appropriate (which may include notice given in a statement of charges). Any other notice required to be given under this agreement shall be in writing and must be given by hand, pre-paid first-class post or recorded delivery post to the other party at its registered office address (and the burden of proof of posting and delivery shall be on the party relying on the notice).
- 5.11 **Governing law:** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 5.12 **Jurisdiction:** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).