

*By subscribing to the ZENNNN services (the “Services”) provided by Nowaday Union Limited, Hong Kong and its affiliates (collectively) in relation with ZENNNN Digital Back Office System, hosted on AWS Cloud platforms (the “Cloud Platform”) or on-premises (“Self-Hosting”), you (the “Customer”) are agreeing to be bound by the following terms and conditions (the “Agreement”).*

## **1. Term of the Agreement**

The duration of this Agreement (the “Term”) shall be specified in writing on conclusion of this Agreement, beginning on the date of conclusion. It is automatically renewed for an equal Term, unless either party provides a written notice of termination minimum 30 days before the end of the Term to the other party.

## **2. Definitions**

### User

Any active user account with access to the Software in creation and/or edition mode. Deactivated user accounts and accounts used by external people (or systems) who only have limited access to the Software through the portal facilities (known as “portal Users”) are not counted as Users.

### System

System is a specialized group of features available on ZENNNN Platform at [zennnn.com](https://zennnn.com).

### Bug

Is considered a Bug any failure of the System that results in a complete stop, error traceback or security breach, and is not directly caused by a defective installation or configuration. Non-compliance with specifications or requirements will be considered as Bugs at the discretion of ZENNNN Team (typically, when the Software does not produce the results or performance it was designed to produce, or when a country-specific feature does not meet legal accounting requirements anymore).

## **3. Access to the System**

The Customer can use the Software hosted on the Cloud Platform, or choose the Self-Hosting option. The Cloud Platform is hosted and fully managed by ZENNNN, and accessed remotely by the Customer. With the Self-Hosting option, the Customer instead hosts the Software on computer systems of their choice, that are not under the control of ZENNNN.

For the duration of this Agreement, ZENNNN gives the Customer a non-exclusive, non-transferable right to access ZENNNN Platform (execute, modify, execute after modification).

The Customer agrees to take all necessary measures to guarantee the unmodified execution of the part of the Software that verifies the validity of the ZENNNN Platform usage and collects statistics for that purpose, including but not limited to the running of ZENNNN Account and the number of Users.

ZENNNN commits not to disclose individual or named figures to third parties without the consent of the Customer, and to deal with all collected data in compliance with its official Privacy Policy, published at [zennnn.com/privacy](https://zennnn.com/privacy).

Upon expiration or termination of this Agreement, this license is revoked immediately and the Customer agrees to stop using the ZENNNN System and the Cloud Platform.

Should the Customer breach the terms of this section, the Customer agrees to pay ZENNNN an extra fee equal to 100% of the applicable list price for the actual number of Users and installed Apps.

## **4. Services**

### **4.1. Bug Fixing Service**

For the duration of this Agreement, ZENNNN Team commits to making all reasonable efforts to remedy any Bug of the System submitted by the Customer through the appropriate channel (typically, via [support@zennnn.com](mailto:support@zennnn.com) email address), and to start handling such Customer submissions within 5 business days.

The Customer understands that Bugs caused by a modification or extension that is not part of the official System will not be covered by this service.

As soon as the Bug is fixed an appropriate remedy will be communicated to the Customer.

For Self-Hosting, if the bug has been addressed in a more recent revision of the Version of the System used by the Customer, the Customer agrees to update its Systems to that revision in order to obtain the correction. The Customer will not be asked to upgrade to a more recent Version of the System as a remedy to a Bug.

Both parties acknowledge that as specified in the license of the System and in the 7.3. Limitation of Liability section of this Agreement, ZENNNN cannot be held liable for Bugs in the System.

### **4.2. Security Updates Service**

### Self-Hosting

For the duration of this Agreement, ZENNNN commits to sending a “Security Advisory” to the Customer for any security Bug that is discovered in the Versions of the System, at least 1 weeks before making the Security Advisory public, unless the Bug has already been disclosed publicly by a third party. Security Advisories include a complete description of the Bug, its cause, its possible impacts on the Customer’s systems, and the corresponding remedy for each Version.

The Customer understands that the Bug and the information in the Security Advisory must be treated as Confidential Information as described in 6.4. Confidentiality during the embargo period prior to the public disclosure.

### Cloud Platform

ZENNNN commits to apply the security remedies for any security Bug discovered in a version of the System hosted on the Cloud Platform, on all systems under its control, as soon as the remedy is available, without requiring any manual action of the Customer.

## **4.3. Upgrade Services**

### Upgrade Service for the System

For the duration of this Agreement, the System upgrade automatically. The latest Version are located at [zennnn.com](https://zennnn.com).

It is the sole responsibility of the Customer to verify and validate the upgraded database in order to detect Bugs, to analyze the impact of changes and new features implemented in the Target Version, and to convert and adapt for the Target Version any third-party extensions of the Software that were installed in the database before the upgrade (except where applicable as foreseen in section Upgrade Service for third-party extensions). The Customer may submit multiple upgrade requests for a database, until an acceptable result is achieved.

### Upgrade Service for third-party extensions

For the duration of this Agreement, the Customer may request optional upgrade services for third-party extension modules of the System, in addition to the regular Upgrade Services. This optional service is subject to additional fees and includes the technical adaptation of third-party modules installed in the Customer’s database and their corresponding data in order to be compatible with the Target Version.

## **4.4. Cloud Hosting Services**

For the duration of this Agreement, when the Customer chooses to use the Cloud Platform, ZENNNN commits to providing at least the following services:

a) Choice of multiple hosting regions (minimum 3: Europe, America, Asia);

- b) Hosting in Tier-III data centers or equivalent, with 99.9% network uptime;
- c) Grade A SSL (HTTPS) Encryption of communication;
- d) Fully automated, verified backups, replicated in multiple regions;
- e) Disaster Recovery Plan, tested regularly.

## **4.5. Support Services**

### Scope

For the duration of this Agreement, the Customer may open an unlimited number of support tickets free of charge, exclusively for questions regarding Bugs (see 4.1. Bug Fixing Service) or guidance with respect to the use of the standard features of the Software and Services (functionalities, intended use, configuration, troubleshooting).

Other assistance requests, such as questions related to development, customizations, installation for Self-Hosting, or services requiring to access the Customer's database, may be covered through the purchase of a separate Service Pack. In case it's not clear if a request is covered by this Agreement or a Service Pack, the decision is at the discretion of ZENNNN.

### Availability

Tickets can be submitted by sending via email address [support@zennnn.com](mailto:support@zennnn.com).

## **5. Charges and Fees**

### **5.1. Standard charges**

The standard charges for the ZENNNN System subscription and the Services are based on the number of Users, the installed Apps, the Software version used by the Customer, and specified according to Terms of tariffs located at [zennnn.com/prices](https://zennnn.com/prices).

When during the Term, the Customer has more Users or more installed Apps than specified at the time of conclusion of this Agreement, the Customer agrees to pay an extra fee equivalent to the applicable list price (at the beginning of the Term) for the additional Users or Apps, for the remainder of the Term.

### **5.2. Charges for Upgrade Services of third-party modules**

The additional charge for the Upgrade Service for third-party modules is EUR (€) 1000.00 (one thousand euros) per 1000 Lines of Code in the third-party modules, rounded up to the next thousand lines. Lines of Code include all text lines in the source code of those modules, regardless of the

programming language (Python, Javascript, etc.) or data format (XML, CSV, etc.), excluding blank lines and comment lines.

ZENNNN reserves the right to reject an upgrade request for third-party modules under the above conditions if the quality of the source code of those modules is too low, or if these modules constitute an interface with third-party software or systems. The upgrade of such modules will subject to a separate offer, outside of this Agreement.

### **5.3. Taxes**

All fees and charges are exclusive of all applicable federal, provincial, state, local or other governmental taxes, fees or charges (collectively, "Taxes"). The Customer is responsible for paying all Taxes associated with purchases made by the Customer under this Agreement, except when ZENNNN is legally obliged to pay or collect Taxes for which the Customer is responsible.

## **6. Conditions of Services**

### **6.1. Customer Obligations**

The Customer agrees to:

- a) pay ZENNNN any applicable charges for the Services of the present Agreement, in accordance with the payment conditions specified in the corresponding digital invoice ;
- b) immediately notify ZENNNN when their actual number of Users or their installed Apps exceed the numbers specified at the conclusion of the Agreement, and in this event, pay the applicable additional fee as described in section 5.1. Standard charges;
- c) take all measures necessary to guarantee the unmodified execution of the part of the systems that verifies the validity of the ZENNNN System usage, as described in 3. Access to the System;
- d) determine prime account (created at First Registration) will be appointed as Customer contact person for the entire duration of the Agreement and will responsible for all charges with using ZENNNN System.

When the Customer chooses to use the Cloud Platform, the Customer further agrees to:

- a) take all reasonable measures to keep their user accounts secure, including by choosing a strong password and not sharing it with anyone else;
- b) make a reasonable use of the Hosting Services, to the exclusion of any illegal or abusive activities, and strictly observe the rules outlined in the [Acceptable Use Policy](#).

When the Customer chooses the Self-Hosting option, the Customer further agrees to:

- a) take all reasonable measures to protect Customer's files and databases and to ensure Customer's data is safe and secure, acknowledging that ZENNNN cannot be held liable for any data loss;
- b) grant ZENNNN the necessary access to verify the validity of the ZENNNN System usage upon request (e.g. if the automatic validation is found to be inoperant for the Customer).

## **6.2. No Soliciting or Hiring**

Except where the other party gives its consent in writing, each party, its affiliates and representatives agree not to solicit or offer employment to any employee of the other party who is involved in performing or using the Services under this Agreement, for the duration of the Agreement and for a period of 12 months from the date of termination or expiration of this Agreement. In case of any breach of the conditions of this section that leads to the termination of said employee toward that end, the breaching party agrees to pay to the other party an amount of EUR (€) 50 000.00 (fifty thousand euros).

## **6.3. Publicity**

Except where notified otherwise in writing, each party grants the other a non-transferable, non-exclusive, royalty free, worldwide license to reproduce and display the other party's name, logos and trademarks, solely for the purpose of referring to the other party as a customer or supplier, on websites, press releases and other marketing materials.

## **6.4. Confidentiality**

Definition of "Confidential Information":

All information disclosed by a party (the "Disclosing Party") to the other party (the "Receiving 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. In particular any information related to the business, affairs, products, developments, trade secrets, know-how, personnel, customers and suppliers of either party should be regarded as confidential, except cases then information know to third-parties without taking the part in this Agreement.

For all Confidential Information received during the Term of this Agreement, the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own similar Confidential Information, but not less than reasonable care.

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure, to the extent permitted by law.

## 6.5. Data Protection

Definitions:

“Personal Data”, “Controller”, “Processing” take the same meanings as in the Regulation (EU) 2016/679 and the Directive 2002/58/EC, and any regulation or legislation that amends or replaces them (hereafter referred to as “Data Protection Legislation”)

### Processing of Personal Data

The parties acknowledge that the Customer’s database may contain Personal Data, for which the Customer is the Controller. This data will be processed by ZENNNN when the Customer instructs so, by using any of the Services that require a database (e.g. the Cloud Hosting Services or the Database Upgrade Service), or if the Customer transfers their database or a part of their database to ZENNNN Team for any reason pertaining to this Agreement.

This processing will be performed in conformance with Data Protection Legislation. In particular, ZENNNN commits to:

- a) only process the Personal Data when and as instructed by the Customer, and for the purpose of performing one of the Services under this Agreement, unless required by law to do so, in which case ZENNNN will provide prior notice to the Customer, unless the law forbids it;
- b) ensure that all persons within ZENNNN Team authorized to process the Personal Data have committed themselves to confidentiality;
- c) implement and maintain appropriate technical and organizational measures to protect the Personal Data against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure;
- d) forward promptly to the Customer any Data Protection request that was submitted to ZENNNN with regard to the Customer’s database;
- e) notify the Customer promptly upon becoming aware of and confirming any accidental, unauthorized, or unlawful processing of, disclosure of, or access to the Personal Data;
- g) make available to the Customer all information necessary to demonstrate compliance with the Data Protection Legislation, allow for and contribute reasonably to audits, including inspections, conducted or mandated by the Customer;
- h) permanently delete all copies of the Customer’s database in possession of ZENNNN, or return such data, at the Customer’s choice, upon termination of this Agreement, subject to the delays specified in [ZENNNN Privacy Policy](#);

With regard to points (d) to (f), the Customer agrees to provide ZENNNN with accurate contact information at all times, as necessary to notify the Customer’s Data Protection responsible.

### Sub-processors

The Customer acknowledges and agrees that in order to provide the Services, ZENNNN may use third-party service providers (Sub-processors) to process Personal Data. ZENNNN commits to only use Subprocessors in compliance with Data Protection Legislation. This use will be covered by a

contract between ZENNNN and the Sub-processor that provides guarantees to that effect.

## **6.6. Termination**

In the event that either Party fails to fulfill any of its obligations arising herein, and if such breach has not been remedied within 30 calendar days from the written notice of such breach, this Agreement may be terminated immediately by the non-breaching Party.

Further, ZENNNN may terminate the Agreement immediately in the event the Customer fails to pay the applicable fees for the Services within the due date specified by Terms of tariffs.

Surviving Provisions:

The sections “6.4. Confidentiality”, “7.2. Disclaimers”, “7.3. Limitation of Liability”, and “8. General Provisions” will survive any termination or expiration of this Agreement.

## **7. Warranties, Disclaimers, Liability**

### **7.1. Warranties**

For the duration of this Agreement, ZENNNN commits to using commercially reasonable efforts to execute the Services in accordance with the generally accepted industry standards provided that:

- a) the Customer’s computing systems are in good operational order and, for Self-Hosting, that the Software is installed in a suitable operating environment;
- b) the Customer provides adequate troubleshooting information and, for Self-Hosting, any access that ZENNNN may need to identify, reproduce and address problems;
- c) all amounts due to ZENNNN have been paid.

The Customer’s sole and exclusive remedy and ZENNNN’s only obligation for any breach of this warranty is for ZENNNN to resume the execution of the Services at no additional charge.

### **7.2. Disclaimers**

Except as expressly provided herein, neither party makes any warranty of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law.



ZENNNN does not warrant that the System complies with any local or international law or regulations.

### **7.3. Limitation of Liability**

To the maximum extent permitted by law, the aggregate liability of each party together with its affiliates arising out of or related to this Agreement will not exceed 50% of the total amount paid by the Customer under this Agreement during the 12 months immediately preceding the date of the event giving rise to such claim. Multiple claims shall not enlarge this limitation.

In no event will either party or its affiliates be liable for any indirect, special, exemplary, incidental or consequential damages of any kind, including but not limited to loss of revenue, profits, savings, loss of business or other financial loss, costs of standstill or delay, lost or corrupted data, arising out of or in connection with this Agreement regardless of the form of action, whether in contract, tort (including strict negligence) or any other legal or equitable theory, even if a party or its affiliates have been advised of the possibility of such damages, or if a party or its affiliates' remedy otherwise fails of its essential purpose.

### **7.4. Force Majeure**

Neither party shall be liable to the other party for the delay in any performance or failure to render any performance under this Agreement when such failure or delay is caused by governmental regulations, fire, strike, war, flood, accident, epidemic, embargo, appropriation of plant or product in whole or in part by any government or public authority, or any other cause or causes, whether of like or different nature, beyond the reasonable control of such party as long as such cause or causes exist.

## **8. General Provisions**

### **8.1. Governing Law**

Both parties agree that the laws of Hong Kong will apply, should any dispute arise out of or in connection with this Agreement, without regard to choice or conflict of law principles. To the extent that any lawsuit or court proceeding is permitted hereinabove, both parties agree to submit to the sole jurisdiction of the High Court of Hong Kong for the purpose of litigating all disputes.

### **8.2. Severability**

In case any one or more of the provisions of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement and any application thereof shall be in no way thereby affected or impaired. Both parties undertake to replace any invalid, illegal or unenforceable provision of this Agreement by a valid provision having the same effects and objectives.

[law@zennnn.com](mailto:law@zennnn.com)