

ZIFLOW MASTER SUBSCRIPTION AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS SERVICE.

BY USING THE SERVICE, CLICKING AGREE OR OTHER FORM OF ASSENT, YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF OR FOR THE BENEFIT OF YOUR EMPLOYER OR A THIRD PARTY, THEN YOU REPRESENT AND WARRANT THAT YOU HAVE THE NECESSARY AUTHORITY TO AGREE TO THIS AGREEMENT ON THEIR BEHALF.

This agreement is between Ziflow Limited, a company registered in England and Wales (Ziflow), and the Customer agreeing to these terms (Customer).

1. SOFTWARE SERVICE

- a) This agreement provides Customer and its Affiliates (defined below) access to and usage of an Internet-based software service, including, without limitation, its features, functions, and user interface, as specified on an order (**Service**). This agreement contemplates one or more orders for the Service, which orders are governed by the terms of this agreement. If specified in the order, deployment services (**Deployment Services**) may also be performed by Ziflow under this agreement.

2. USE OF SERVICE

- a) **Customer Content.** All electronic files, logos, data and information uploaded by Customer to its account within the Service, whether directly or through the API (defined below), remains the property of Customer, as between Ziflow and Customer (**Customer Content**). Customer grants Ziflow the right to use the Customer Content solely for purposes of performing under this agreement. During the term of this agreement, Ziflow will provide Customer Content upon request.
- b) **Affiliates and Contractors.** Customer, including its Affiliates, may enter into orders with Ziflow and its Affiliates. An Affiliate entering into an order agrees to be bound by this agreement as if it were an original party hereto. Customer may allow its Affiliates and contractors to use the Service, provided Customer is responsible for their compliance with the terms of this agreement, and use by its Affiliates and contractors is solely for Customer's benefit. **Affiliate** means any company controlled by or under common control with the subject entity, directly or indirectly, with an ownership interest of at least 50%.
- c) **Customer Responsibilities.** Customer: (i) must keep its passwords secure and confidential and use industry-standard password management practices; (ii) is solely responsible for Customer Content and all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify Ziflow promptly of any such unauthorized access; and (iv) may use the Service only in accordance with the Service's online technical resources and applicable law.
- d) **Free Trial.** If Customer registers for a trial, Customer may access the Service free of charge for 14 days. The Service is provided 'as is' with no warranty during the trial. All Customer Content will be deleted at the end of the trial unless Customer purchases the Service.

3. SUPPORT, SERVICE LEVEL AGREEMENT, AND WARRANTY

- a) **Support.** Ziflow must provide Customer support for the Service (**Support**), as described at <https://www.ziflow.com/support-sla> and the Support SLA if purchased.
- b) **Uptime Warranty.** if Customer has purchased the Uptime SLA, Ziflow warrants to Customer that Ziflow will maintain the availability of the Service as provided at <https://www.ziflow.com/uptime-sla> excluding planned maintenance outages (for which Ziflow

will give at least 8 hours' notice and which Ziflow will schedule to the extent reasonably practicable during weekends), outages beyond Ziflow's reasonable control, and outages that result from any Customer technology issues. **Customer's exclusive remedy and Ziflow's sole obligation for its failure to meet this warranty will be for Ziflow to provide a credit for the applicable month, as provided in the link above (if this agreement is not renewed, then a pro rata refund for the month), provided that Customer notifies Ziflow of such breach within 30 days of the end of that month.**

- c) **Other Warranties.** Ziflow warrants to Customer that: (i) Ziflow will not materially decrease the overall security of the Service; (ii) the Service will perform materially in accordance with its technical documentation; and (iii) Ziflow will not materially decrease the overall functionality of the Service or the scope of Support. **For any breach of this warranty, Customer's exclusive remedies are those described in the "Mutual Termination for Material Breach" and "Effect of Termination" sections in this agreement.**
- d) **Deployment Services Warranty.** Ziflow warrants that for a period of 30 days from delivery, it has performed the Deployment Services in conformance with generally accepted practices within the software services industry. Customer must notify Ziflow of any breach of this warranty no later than 30 days after delivery of the Deployment Services. **Customer's exclusive remedy and Ziflow's entire liability under this warranty will be for Ziflow to re-perform any non-conforming portion of the Deployment Services, or if Ziflow cannot remedy the breach, then to refund that part of the fees attributable to such non-conforming portion of the Deployment Services.** This warranty will not apply to the extent that Customer, its contractors or agents have modified any item.
- e) **DISCLAIMER.** ZIFLOW DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. WHILE ZIFLOW TAKES REASONABLE PHYSICAL, TECHNICAL, AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, ZIFLOW DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED. CUSTOMER UNDERSTANDS THAT THE SERVICE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED.

4. PAYMENT

- a) **Fees.** Customer must pay all fees as specified on the order, but if not specified, then within 7 days of receipt of an invoice.
- b) **Taxes.** The fees are exclusive of sales, use, withholding, VAT and other similar taxes, and Customer is responsible for payment of such taxes at the rate and in the manner for the time being prescribed by law. If Ziflow has the legal obligation to pay or collect taxes for which Customer is responsible under this section, Ziflow will invoice Customer and Customer will pay that amount unless Customer provides Ziflow with a valid tax exemption certificate authorized by the appropriate taxing authority.

5. MUTUAL CONFIDENTIALITY

- a) **Definition of Confidential Information.** Confidential Information *means* all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally, visually, 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 (**Confidential Information**). Ziflow's Confidential Information includes, without limitation, the Service, its user interface design and layout, and pricing information. Customer's Confidential Information includes, without limitation, the Customer Content.
- b) **Protection of Confidential Information.** Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (i) not use any Confidential Information of Discloser for any purpose outside the scope of this agreement; and (ii) limit access to Confidential Information of Discloser to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this agreement and who have signed confidentiality agreements with Recipient containing

protections not materially less protective of the Confidential Information than those in this agreement.

- c) **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient before its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) is independently developed by the Recipient without use of or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order but will provide Discloser with advance notice to seek a protective order.

6. DATA SECURITY MEASURES

- a) **Security Measures.** Ziflow:
 - i. implements and maintains reasonable security measures appropriate to the nature of the Confidential Information including, without limitation, technical, physical, administrative, and organizational controls, designed to maintain the confidentiality, security, and integrity of Customer's Confidential Information;
 - ii. implements and maintains industry-standard systems and procedures for detecting, preventing, and responding to attacks, intrusions, or other systems failures and regularly tests, or otherwise monitors the effectiveness of the safeguards' key controls, systems, and procedures;
 - iii. designates an employee or employees to coordinate implementation and maintenance of its Security Measures (as defined below); and
- b) identifies reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of Customer's Confidential Information that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information, and assesses the sufficiency of safeguards in place to control these risks (collectively, **Security Measures**). Ziflow's security policy is located here and will not be materially degraded: <https://www.ziflow.com/security>.
- c) **Notice of Data Breach.** If Ziflow becomes aware that Customer Content was accessed or disclosed in breach of this agreement, Ziflow will so notify Customer without undue delay, immediately act to eliminate the breach and preserve forensic evidence and provide available information to Customer regarding the nature and scope of the breach.
- d) **Ziflow as Processor.** To the extent that there is Personal Data in Customer Content and Ziflow processes such Personal Data in provision of the Service the terms of the Ziflow Data Processing Addendum apply, as described at <https://www.ziflow.com/terms-of-service-data-processing-addendum>. The Personal Data in Customer Content is defined as Protected Data in the Data Processing Addendum.

7. PROPERTY

- a) **Reservation of Rights.** Ziflow and its licensors are the sole owners of the Service and its underlying software, including all associated intellectual property rights, and they remain only with Ziflow. Customer may not remove or modify any proprietary marking or restrictive legends in the Service. Ziflow reserves all rights that are not expressly granted in this agreement. If Customer provides feedback or suggestions about the Service, then Ziflow (and those it allows to use its technology) may use such information without obligation to Customer.
- b) **Restrictions.** Customer *may not*:
 - i. sell, resell, rent, or lease the Service;
 - ii. use the Service to store or transmit unsolicited marketing emails, libelous, or otherwise objectionable, unlawful, or tortious material, or to store or transmit infringing material in violation of third-party rights;
 - iii. interfere with or disrupt the integrity or performance of the Service;

- iv. attempt to gain unauthorized access to the Service or its related systems or networks;
 - v. reverse engineer the Service except as allowed by applicable law despite this limitation; or
 - vi. access the Service to build a competitive service or product, or copy any feature, function, or graphic for competitive purposes. Ziflow may suspend Service to Customer if Ziflow believes in good faith that Customer's use of the Service poses an imminent threat to the security, availability or legality of the Service; in such event, Ziflow will work with Customer to address the issue and restore Service as quickly as possible.
- c) **Statistical Information.** Ziflow may compile statistical information related to the performance of the Service and may make such information publicly available, provided that such information does not identify Customer Content or personally identifiable information, and there is no means to re-identify Customer Content or personally identifiable information. Ziflow retains all intellectual property rights in such information.

8. TERM AND TERMINATION

- a) **Term.** This agreement begins on the date Ziflow accepts an order and continues until all orders have expired or are terminated for material breach under Section 8(b). The orders will automatically renew for additional terms of the same length unless either party provides written (including electronic) notice of non-renewal to the other party at least 30 days prior to the date of renewal.
- b) **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a written 30-day notice/cure period, if the breach has not been cured.
- c) **Customer Content.** Customer may extract the Customer Content prior to the end of the order in accordance with the Ziflow technical documentation and the transition assistance policy located at <http://www.ziflow.com/transition-assistance-policy>. At the end of the order or a transition period documented in signed statement of work (if applicable), Customer may no longer access the Customer Content via the Service and Ziflow will destroy any Customer Content.
- d) **Return Ziflow Property Upon Termination.** Upon termination of this agreement for any reason, Customer must pay Ziflow for any unpaid amounts and destroy or return all property of Ziflow. Upon Ziflow's request, Customer will confirm in writing its compliance with this destruction or return requirement.

9. LIABILITY LIMIT

- a) **No exclusion or limitation of liability.** To the maximum extent allowed by law, nothing in this agreement excludes or limits the liability of either party for:
- i. death or personal injury caused by its negligence;
 - ii. fraud or willful misconduct; or
 - iii. the indemnity in Section 10.
- b) **Maximum aggregate liability.** Subject to Section 9.a. of this agreement, to the maximum extent allowed by law, the maximum aggregate liability of each party arising under or in connection with this agreement in respect of the year in which the liability arises, whether arising from tort (including negligence), breach of contract, statutory duty or otherwise, must in no event exceed the aggregate amount of the fees paid and payable by Customer to Ziflow under this agreement during the 12 months immediately prior to the date on which the cause of action first arose.
- c) **No liability.** Subject to Section 9.a. of this agreement, to the maximum extent allowed by law, neither party will be liable for any loss of profits, income, anticipated cost savings, business, reputation or goodwill, loss of data, opportunity or any type of indirect or consequential loss, even

if such loss was reasonably foreseeable or such party has been advised of the possibility of incurring such loss.

10. INDEMNIFICATION FOR THIRD PARTY CLAIMS

- a) Ziflow will defend or settle any third-party claim against Customer to the extent that such claim alleges that Ziflow technology used to provide the Service infringes a copyright, patent, trademark, or other intellectual property right, if Customer promptly notifies Ziflow of the claim in writing, cooperates with Ziflow in the defense, and allows Ziflow to solely control the defense or settlement of the claim. **Costs.** Ziflow will indemnify and hold harmless Customer from any infringement claim defense costs it incurs in defending Customer under this indemnity, Ziflow-negotiated settlement amounts agreed to by Ziflow, and court-awarded damages. **Process.** If such a claim appears likely, then Ziflow may modify the Service, procure the necessary rights, or replace it with the functional equivalent. If Ziflow determines that none of these are reasonably available, then Ziflow may terminate the Service and refund any prepaid and unused fees. **Exclusions.** Ziflow has no obligation for any claim arising from: Ziflow's compliance with Customer's specifications; a combination of the Service with other technology or aspects where the infringement would not occur but for the combination; Customer Content; or technology or aspects not provided by Ziflow. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND ZIFLOW'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT.
- b) If a third party claims against Ziflow that any part of the Customer Content infringes or violates that party's patent, copyright, or other right, Customer will defend Ziflow against that claim at Customer's expense and pay all costs, damages, and attorneys' fees that a court finally awards or that are included in a settlement approved by Customer, provided that Ziflow promptly notifies Customer of the claim in writing, cooperates with Customer in the defense, and allows Customer to solely control the defense or settlement of the claim.

11. GOVERNING LAW AND FORUM

- a) This agreement is governed by the law of England and Wales. The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales regarding 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). Nothing in this agreement prevents or limits either party's ability to seek equitable relief (including injunctive relief) in any court of competent jurisdiction. The UN Convention on Contracts for the International Sale of Goods does not apply.

12. OTHER TERMS

- a) **Online Change Process.** Ziflow may make prospective changes to this agreement upon advance electronic notice to the administrator in the Service of the change. Customer's continued use of the Service after its order renewal date, indicates Customer's acceptance of such changes.
- b) **Entire Agreement and Modifications.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise, or inducement not included in this agreement is binding. No modification or waiver of any term of this agreement is effective unless both parties sign it, except as provided above.
- c) **No Assignment.** Neither party may assign or transfer this agreement to a third party, nor delegate any duty, except that the agreement and all orders may be assigned, without the

consent of the other party, as part of a merger or sale of all or substantially all a party's businesses, assets, not involving a competitor of the other party, or at any time to an Affiliate.

- d) **Independent Contractors.** The parties are independent contractors with respect to each other.
- e) **Enforceability and Force Majeure.** If any term of this agreement is invalid or unenforceable, the other terms remain in effect. Neither party is liable for events beyond its reasonable control, including, without limitation, force majeure events.
- f) **Money Damages Insufficient.** Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach of this agreement.
- g) **No Additional Terms.** Ziflow rejects additional or conflicting terms of a Customer's form-purchasing document.
- h) **Order of Precedence.** If there is an inconsistency between this agreement and an order, the order prevails.
- i) **Reference.** Ziflow may refer to Customer as a customer and Ziflow may use Customer's name and logo on the Ziflow website and in other marketing materials, unless Customer notifies Ziflow in writing otherwise. Any such usage must comply with Customer's trademark guidelines that are provided to Ziflow.
- j) **Survival of Terms.** All provisions of this agreement regarding payment, confidentiality, indemnification, limitations of liability, proprietary rights and such other provisions that by fair implication require performance beyond the term of this agreement must survive expiration or termination of this agreement until fully performed or otherwise are inapplicable.
- k) **No third party rights.** No third party will have any rights under, or be able to enforce, this agreement.