

## WIZEHIVE, INC.

### BRIGHT FUNDS, A WIZEHIVE COMPANY

#### Terms and Conditions

THESE MASTER CUSTOMER TERMS (“TERMS”) GOVERN CUSTOMER’S USE OF THE SERVICES. BY EXECUTING AN ORDER FORM THAT REFERENCES THESE TERMS, CUSTOMER AGREES TO THESE TERMS. IF THE INDIVIDUAL SIGNING THE ORDER FORM FOR CUSTOMER IS SIGNING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO BIND THAT COMPANY OR OTHER LEGAL ENTITY TO THESE TERMS.

**Agreement.** The Terms together with the Order and any attachments thereto constitute the agreement ("Agreement") between WizeHive, Inc. ("WizeHive") and the customer organization specified in the accompanying Order (the "Customer"). In the event of any conflict or inconsistency between the Terms and the terms of any Order, the terms of such Order shall govern solely with respect to the Services provided under such Order. In connection with their use of the Services, Customer’s end users will be subject to the User Terms located at [https://www.wizehive.com/terms\\_of\\_service](https://www.wizehive.com/terms_of_service) (for Zengine) and the User Terms located at <https://hello.brightfunds.org/terms/> (for Bright Funds) (collectively the “End User Terms”). In the event of a conflict or inconsistency between these Terms and the End User Terms with respect to Customer’s or its end users’ use of the Services, these Terms shall prevail.

#### 1. Access to and Use of Services

1.1 Subject to the provisions of the Agreement, WizeHive hereby grants to Customer a limited, non-transferable, non-sublicensable and non-exclusive license, during the term of the Agreement, to access and use the Services in accordance with each Order. In this Agreement, "Services" means the Zengine TM and/or Bright Funds TM platforms as set forth in the Order, as hosted by or on behalf of WizeHive , and all related contents, apps, products and services, and any professional, technical or support services offered by WizeHive in connection therewith.

1.2 The Services will be used solely by the Customer and its business unit(s) stated on the Order and its authorized directors and employees ("Customer Users") for the specific Programs authorized in the Order. Customer may not resell or otherwise transfer or allow the use of the Services, or any part thereof, directly or indirectly, by or for the benefit of, any

other person or organization. Notwithstanding the above, Customer may allow individuals and organizations applying for awards in connection with an authorized program ( "Applicants") to access the Services for the purposes of applying and reporting on such awards.

1.3 Customer will reasonably cooperate with WizeHive in connection with the performance of the Services by timely making available any personnel, items, assistance and information that may be reasonably required. Customer understands that WizeHive's performance of the Services is dependent in part on Customer's actions. WizeHive shall determine the time, place, methods, details and means of performing the Services. Customer will also reasonably cooperate with WizeHive in establishing a password or other procedures for verifying that only designated employees of Customer have access to any administrative functions of the Services. Customer will be responsible for maintaining the security of Customer's account, passwords (including administrative and user passwords) and files, and for all uses of Customer's account. Customer shall not share with any third party any such account or password without WizeHive's prior written consent.

1.4 As between the parties, WizeHive owns and shall retain all rights, title, and interest in and to the Services, all components thereof, including without limitation all related applications, user interface designs, processes, software and source code, and any and all future enhancements or modifications thereto howsoever made, and all intellectual property rights therein. WizeHive™ , Zengine™ and Bright Funds™ are trademarks of WizeHive. Customer may not: (a) copy, alter, modify or adapt any component of the Services, including without limitation, translating, decompiling, reverse engineering, disassembling or creating derivative works from the Services or any related intellectual property of WizeHive, (b) use the Services to develop or assist any other person to develop a product or service to replace or compete with the Services, or (c) make any component of the Services available to any other person or organization directly or indirectly, for any of the foregoing purposes or for any other use not expressly authorized under this Agreement, including, without limitation, by loan, rental, service bureau, external time sharing or similar arrangement.

1.5 WizeHive does not own any data, information or material that Customer, Customer Users and Applicants submit to the Services in the course of using the Services ("Customer Data"). Customer hereby grants to WizeHive a limited, non-exclusive, worldwide license to use Customer Data to provide the Services to Customer. In the event this Agreement is terminated, WizeHive will make available to Customer any Customer Data then maintained, upon written request within thirty (30) days after termination. Customer's use of the Services and all Customer Data shall comply with all applicable laws, rules and

regulations. Upon the request of Customer, WizeHive will delete all Customer Data following termination except where data retention is required by applicable law and regulation. Customer will: (a) be responsible for its (and its Customer Users and Applicants) compliance with these Terms and the End User Terms, (b) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify WizeHive immediately of any such unauthorized access and/or use of which Customer becomes aware, and (c) use the Services only in accordance with this Agreement and all applicable laws and regulations. Customer acknowledges and agrees that, Customer Data shall not include or be associated with any Protected Health Information (“PHI”) as defined by the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as amended (“HIPAA”), and, Customer shall not upload or permit Company Users or Applicants to upload PHI to the Services except in accordance with a separately written and executed HIPAA-compliant business associate agreement between Customer and WizeHive. WizeHive will have no responsibility and will not be liable for use of the Services by Customer or Customer Users or Applicants in violation of the foregoing.

## **2. Fees**

2.1 Customer shall pay to WizeHive the platform, hosting and service fees as set forth in each Order. Unless otherwise set forth in the Order, all such fees exclude applicable taxes, are quoted and payable in U.S. dollars, and are due within thirty (30) days' following receipt of the applicable invoice. Unpaid fees are subject to a finance charge of one percent (1.0%) per month, or the maximum permitted by law, whichever is lower. WizeHive may restrict or suspend Customer's access to the Services if payment is not made within five (5) business days after Customer's receipt of notice that payment is past due. Customer acknowledges and agrees that the payment of the platform, hosting and service fees are for Services provided and therefore are not tax deductible donations to charities.

2.2 Amounts due under this Agreement will be paid by Customer in full without any withholding, set-off, counterclaim or deduction. Customer will promptly pay all federal, state, and local sales, use, value-added, personal property, and other taxes of a similar nature arising as a result of this Agreement, except for taxes on WizeHive's net income.

2.3 All payment obligations are non-cancelable and all amounts paid are non-refundable. Unless otherwise specifically stated in the Order, professional service hours purchased must be utilized within six months of payment or thereafter expire. WizeHive reserves the right to modify its fees and charges as of the start of any renewal term, upon at least sixty (60) days prior notice to Customer. WizeHive may also introduce new features at any time with additional fees for such features, provided that Customer shall have no obligation to accept such features.

2.4 If the Order sets forth a “Fundraising Fee”, such fee will be assessed on all donations, including matching contributions, processed on the Zengine or Bright Funds platforms. No fee will be assessed on donations that are not processed by the Zengine or Bright Funds platforms, even if the transaction details are uploaded onto the Bright Funds platform. Customer has the option, but not obligation, to “cover” the Fundraising Fee or pass it through to the grantee organizations and may change its selection from time to time. Should Customer choose to cover the Fundraising Fee, such fees will be invoiced monthly as incurred.

### **3. Term and Termination**

3.1 This Agreement shall commence on the date of the first Order is signed by both parties and continue in effect while any performance by either party remains to be completed under any Order, subject to termination in accordance with subsection 3.2. Except as otherwise expressly provided in any Order, upon termination of this Agreement, all Services shall cease and Customer will discontinue use of the Services.

3.2 Either party may terminate this Agreement immediately upon written notice if the other party: (a) becomes the subject of a petition in bankruptcy which is not withdrawn or dismissed within sixty (60) days thereafter; (b) makes an assignment for the benefit of creditors; or (c) breaches any material obligation under this Agreement (including but not limited to payment obligations) and fails to cure such breach within thirty (30) days after delivery of notice thereof by the non-breaching party.

3.3 Unless otherwise specified in an Order, each Order will automatically renew at the end of its initial term for successive one year renewal terms, unless either party notifies the other in writing at least sixty (60) days prior to the applicable renewal date of such party’s election to cancel renewal. Unless otherwise agreed in writing by the parties, upon renewal of an Order, the annual subscription price will increase five percent (5%) for each successive one-year term.

3.4 Upon expiration or termination of this Agreement or any Order for any reason; (a) the rights, licenses and access to the Services granted to Customer under the applicable Order(s) will immediately terminate, and (b) the remaining amount of any donations held on behalf of Customer will be distributed to the relevant charities. Termination or expiration of this Agreement shall not affect any other rights or obligations of the parties hereunder, including the payment of amounts accrued up to the date of such termination or expiration. Upon termination or expiration of this Agreement, the provisions of Sections 1.4, 1.5, 4, 5, 6, 7, and 8 shall survive and shall continue in full force and effect in accordance with their terms.

#### **4. Warranties; Disclaimers and Limits on Liability**

4.1 Each of WizeHive and Customer represent and warrant that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering; (b) it has the right, power and authority to enter into this Agreement and to grant the rights and licenses granted hereunder and to perform all of its obligations hereunder; (c) the execution of any Order(s) by its representative whose signature is set forth therein has been duly authorized by all necessary corporate or organizational action of the party; (d) when any Order is executed and delivered by both parties, this Agreement constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (e) it will abide by all applicable federal, state and local laws and regulations with respect to its activities under this Agreement, its use of Customer Data and the products and services offered by each party in connection with this Agreement.

4.2 WizeHive further represents and warrants that: (a) the Services will be provided in material conformity with the statement of work included in the Order; and (b) WizeHive has the right to offer access to the Services and such Services do not infringe on the rights of any third parties.

4.3 Customer further represents and warrants to WizeHive that (a) Customer has the right to include the Customer Data in the Services as contemplated by this Agreement; and (b) the Customer Data does not infringe the rights of any third parties.

4.4 EXCEPT AS EXPRESSLY SET FORTH IN SECTIONS 4.1 and 4.2, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND WIZEHIVE MAKES NO PROMISES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SERVICES, INCLUDING THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, OR THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS. WIZEHIVE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER IMPLIED OR STATUTORY WARRANTIES, AS WELL AS ANY LOCAL JURISDICTIONAL ANALOGUES TO THE ABOVE. WIZEHIVE ASSUMES NO RESPONSIBILITY AND SPECIFICALLY DISCLAIMS LIABILITY FOR ANY ACTS OR OMISSIONS OF ANY WIZEHIVE THIRD-PARTY SERVICE PROVIDERS, SUPPLIERS AND VENDORS. WIZEHIVE DOES NOT WARRANT THAT THERE WILL BE NO FAILURES WITH THE SERVICE, THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL WORK WITHOUT INTERRUPTION.

4.5 NEITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL EXCEED FEES OWED BY CUSTOMER TO WIZEHIVE FOR THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM, PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION SHALL NOT APPLY IN THE EVENT OF LIABILITY ARISING OUT OF OR RELATED TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF THE LIABLE PARTY. EXCEPT FOR A BREACH OF THE LICENSE RESTRICTIONS OR CONFIDENTIALITY OBLIGATIONS, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENTS, OR CUSTOMER'S USE OF OR RELIANCE ON THE SERVICES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR LOSS OR INTERRUPTION OF USE OF ANY FILES, DATA OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL WIZEHIVE BE LIABLE FOR ANY LOSS ASSOCIATED WITH THE FAILURE TO DELIVER GRANTS OR DONATIONS IN A TIMELY MANNER. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS REPRESENT A REASONABLE ALLOCATION OF RISK UNDER THIS AGREEMENT.

## **5. Indemnification**

5.1 By Customer. In the event of any claim, suit or action by any third party against the WizeHive, or its employees, directors or affiliates (collectively the "WizeHive Parties") arising out of or related to: Customer's provision of any data or information to WizeHive (including any Customer Data); Customer's use or provision of User Data; Customer's breach of this Agreement or breach of any agreement, commitment or obligation to any Applicant or other third party; or Customer's violation of any law, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding requirement of or by any governmental authority, Customer, at its expense, shall defend such claim, suit or action, and shall indemnify and hold harmless the WizeHive Parties from and against any reasonably incurred expenses (including legal fees) and all damages assessed, awarded and/or fined by a court or other tribunal of competent jurisdiction in connection therewith.

5.2 By WizeHive. in the event of any claim, suit or action by any third party against Customer, or its employees, directors or affiliates (collectively the "Customer Parties") for infringement under the copyright laws of the United States attributable to the software or other works comprising the WizeHive Services, WizeHive, at its expense, shall defend such claim, suit or action and shall indemnify and hold harmless the Customer Parties from and against any reasonably incurred expenses (including legal fees) and all damages assessed,

awarded and/or fined by a court or other tribunal of competent jurisdiction in connection therewith. Notwithstanding the foregoing, WizeHive shall have no obligation under this section or otherwise with respect to any infringement claim to the extent based upon (a) any unauthorized use, reproduction, or distribution of the Services or any breach of this Agreement by Customer, (b) any combination of the Services with other products, equipment, software, uses or data not supplied, authorized or recommended by WizeHive, (c) any modification of the Services by any person other than WizeHive or its authorized agents or contractors or (d) any activity after WizeHive has provided Customer with a work around or modification that would have avoided such issue without materially adversely affecting the functionality or availability of the Services. If WizeHive reasonably believes that all or any portion of the Services, or the use thereof, is likely to become the subject of any infringement claim, suit or proceeding, WizeHive will procure, at its expense, for Customer the right to continue using the Services in accordance with the terms hereof, replace or modify the allegedly infringing Service to make it non-infringing, or, in the event the preceding is infeasible or not commercially practicable, WizeHive may, in its sole discretion, terminate this Agreement upon written notice to Customer and refund to Customer any prepaid amounts for the unused portion of the term. This Section shall be Customer's sole and exclusive remedy for any infringement actions regarding the subject matter hereunder.

5.3 Indemnification Procedures. The parties' obligations under Sections 5.1 and 5.2 shall be contingent on the indemnified party giving the indemnifying party prompt written notice of a claim, provided, however, that failure of a party to give prompt notice shall not relieve the indemnifying party from its obligations under this Agreement unless the indemnifying party's ability to defend or the defense is materially prejudiced by such failure. The indemnified party shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim. The indemnifying party shall have the right to assert any defenses, causes of action or counterclaims arising from the subject of the claim available to the indemnified party and its affiliates, and shall also have the right to negotiate a settlement of the claim, subject to the indemnified party's prior written consent to the extent such settlement affects the rights or obligations of the indemnified party, which shall not be unreasonably withheld or delayed. The indemnified party shall provide the indemnifying party with reasonable assistance, at the indemnifying party's expense.

## **6. Confidential Information**

6.1 Confidential Information. Each party agrees that information concerning the other's party business (including that of all corporate affiliates and subcontractors) is

"Confidential Information" and proprietary to that party and shall be maintained in confidence and not disclosed, used or duplicated, except as described in this Section. Confidential Information may include, without limitation, information relating to and identified with customers, financial information, business strategy, pricing, intellectual property, software and software documentation, data, inventions, know-how, processes, information related to the party's current, future, and proposed products and services, and the terms of this Agreement.

6.2 The receiving party may use Confidential Information only in connection with performance under this Agreement. Except for performance of this Agreement and each Order, the receiving party shall not copy the disclosing party's Confidential Information or disclose such Confidential Information to persons who do not need such Confidential Information in order to perform under this Agreement.

6.3 Each party shall maintain an appropriate information security program and adequate administrative and physical safeguards to prevent the unauthorized disclosure, misuse, alteration or destruction of Confidential Information, and shall promptly inform the other party of any security breach or other incident involving possible unauthorized disclosure of or access to Confidential Information. Confidential Information shall be returned to the disclosing party upon request.

6.4 Exceptions to Confidential Information. The limitations on disclosure or use of the Confidential Information shall not apply if the Confidential Information: (a) was already known to the receiving party, other than under an obligation of confidentiality, at the time of disclosure by the other party; (b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the other party; (c) becomes generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving party in breach of this Agreement; or (d) was disclosed to the receiving party, other than under an obligation of confidentiality, by a third party who had no obligation to the other party not to disclose such information. Notwithstanding anything to the contrary in this Agreement but subject to the requirements of applicable laws, WizeHive may use aggregated data, which may include, without limitation, Company Data that has been anonymized in such a way as to reasonably protect its associated identity, in order to develop, enhance, modify or improve the Services or other offerings and/or for the development or performance of data analytics.

6.5 Required Disclosure. If the receiving party is required by law to disclose the disclosing party's Confidential Information, the receiving party may do so without breaching this section, but shall first, if legally permissible, provide the disclosing party with prompt notice of such pending disclosure so that the disclosing party may seek to contest or limit



such disclosure, and the receiving party shall provide reasonable assistance to the disclosing party therefore.

## **7. Dispute Resolution**

7.1 This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Pennsylvania, without regard to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

7.2 Any controversy or claim relating to this Agreement that is not settled by the parties and is not the subject of an action for preliminary or permanent injunctive relief shall be determined by binding arbitration before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). Any hearings required by the arbitrator or agreed to by the parties will be held in Philadelphia, Pennsylvania, U.S.A. If the parties fail to appoint an arbitrator within thirty (30) days, the AAA shall select the arbitrator promptly thereafter. Each party shall pay its own out-of-pocket fees (including attorney's fees) and one-half the arbitrator's fees. The arbitral award will be final and binding, and may be entered and enforced in any court of competent jurisdiction. The parties agree that all such controversies or claims, including any negotiations, evidence and settlement terms, shall be treated as Confidential Information of WizeHive under the confidentiality provisions of this Agreement, except that the award entered in any court need not be filed under seal.

7.3 Each party acknowledges that in the event of a breach of the licensing or confidentiality provisions of this Agreement, the injured party will suffer irreparable injury not compensable by money damages for which such party will not have an adequate remedy at law and therefore the injured party will be entitled (in addition to money damages) to injunctive or other equitable relief to prevent or curtail any breach thereof, threatened or actual. Each party hereby consents to the exclusive jurisdiction of, and venue in, any Federal or State court of competent jurisdiction located in Montgomery County, Pennsylvania, for the adjudication of any request for injunctive relief hereunder.

## **8. Miscellaneous**

8.1 This Agreement supersedes all prior oral or written negotiations and discussions of the parties and constitutes the entire agreement between the parties with respect to the subject matter hereof. No modification, amendment, supplement, or waiver of any of the provisions hereof shall be binding upon any party hereto unless made in writing and signed by the duly authorized officer of the parties hereto.

8.2 Neither party shall have the right to assign this Agreement, except that either party may assign its rights and obligations without consent to a successor to substantially all its relevant assets or business. . Any attempted assignment in violation of this Section will be null and void. Subject to the foregoing, this Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

8.3 If any provision hereof shall for any reason be declared to be void or illegal, the enforceability of this Agreement or any other provision hereof shall not be affected. In addition, the parties agree that such void or illegal provision shall be construed in a manner designed to effectuate its purpose to the fullest extent enforceable under applicable law.

8.4 All remedies set forth in this Agreement are cumulative and in addition to and not in lieu of any other remedy the party may have at law or in equity. No legal action, regardless of its form, related to or arising out of this Agreement, may be brought by either party more than two (2) years after the cause of action first accrued.

8.5 Neither party shall be responsible for any delay or failure in performances resulting from acts wholly beyond its control. Such acts shall include, without limitation, an act of God, an act of war or terrorism, riot, epidemic, fire, flood, or act of government.

8.6 WizeHive may include Customer (by name and logo) as a WizeHive customer as part of a general list of Customers appearing on WizeHive's website and on other promotional material but may not otherwise use Customer's identity in promotional or marketing material without Customer's express written consent.

8.7 The parties are independent contractors with respect to each other, and neither shall be deemed an employee, agent, partner or legal representative of the other for any purpose or shall have any authority to create any obligation on behalf of the other. No third-party beneficiary rights are granted as a result of or pursuant to this Agreement. Any notice required under this Agreement shall be in writing and may be delivered by email, fax, courier or certified mail, return receipt requested to the address indicated in the Order or such new address sent to the other party in accordance with this Section.