

# Software as a Service (SaaS)

## Terms & Conditions

The following Software-as-a-Service Terms and Conditions apply to the legal Agreement formed between EstateSpace, LLC ("**EstateSpace**") and the client executing a Client Order Form that is accompanied by or references this document ("**Client**"). EstateSpace and Client may be referred to herein individually as a "**Party**" and collectively as "**Parties**."

### 1. **DEFINITIONS.** As used in this Agreement:

**"Agreement"** means the SaaS agreement between Client and EstateSpace consisting of these Terms and Conditions, including any attached exhibits referenced herein, any Client Order Form signed by Client and EstateSpace that accompanies or references this document, and any supplementary Client Order Form entered into by Client and EstateSpace hereunder.

**"Applicable Laws"** means all legislation, statutes, regulations, ordinances, rules, judgments, orders, decrees, rulings, and other requirements enacted, promulgated, or imposed by any governmental authority or judicial or regulatory body (including any self-regulatory body) at any level (e.g., municipal, county, provincial, state or national) that are applicable to or enforceable against a Party or its personnel in relation to their activities under or pursuant to this Agreement.

**"Authorized Client Entities"** means specific Client-affiliated entities named in a Client Order Form or who are authorized to access and use the Service during the Subscription Term.

**"Authorized User(s)"** means end users of Client and Authorized Client Entities who have completed EstateSpace's online registration process or who otherwise receive a user ID or other access credentials from EstateSpace or Client authorizing them to access and use the SaaS.

**"Authorized Purpose(s)"** means those purposes set forth in a Client Order Form or on EstateSpace's Web Site describing the purposes for which the applicable SaaS and associated Content are permitted to be used by Client, Authorized Client Entities, and their Authorized Users. If no Authorized Purpose is stated, the Authorized Purpose shall be limited to use of the SaaS in Client's and Authorized Client Entities' internal business operations.

**"Confidential Information"** means all non-public written or oral information, disclosed by either Party to the other, related to the business or operations of either Party or a third party that has been identified as

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Proprietary and Confidential. This document, and the information contained therein, shall not be duplicated, used or disclosed, in whole or in part, for any purpose other than your internal use without the prior written consent of EstateSpace.

confidential or that by the nature of the information or circumstances surrounding its disclosure ought reasonably to be understood as being confidential.

**“Content”** means any data, media, information and/or other type or form of content displayed, distributed or otherwise made available to a Party through or in connection with the SaaS or other Services, including User Content and EstateSpace Content.

**“Client Data”** means any data owned by Client or an Authorized Client Entity that is submitted to the Service for processing transmission, and/or storage.

**“Client Order Form”** means an order form issued by EstateSpace and executed by Client and EstateSpace setting forth the necessary information relating to the SaaS and/or other Services to be provided to Client under this Agreement and the fees payable to EstateSpace.

**“Data Privacy and Security Laws”** means all applicable federal, state, regional, territorial and local laws, statutes, ordinances, regulations, rules, executive orders, of or by any United States federal or state government entity, or any authority, department or agency thereof governing the privacy, data protection and security of Personally Identifiable Information and security breach notification relating to Personally Identifiable Information, and any other laws in force in any jurisdiction (regulatory or otherwise) in which the SaaS is being utilized, including Title V of the Gramm-Leach-Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338), as may be amended from time to time, and its implementing regulations, and the “Interagency Guidelines Establishing Standards for Safeguarding Client Information” (12 CFR Part 364).

**“Including”** (and its derivative forms, whether or not capitalized) means including without limitation.

**“Intellectual Property Rights”** means the legal rights held by the owner of a copyright, patent, trademark, or trade secret, including (i) the rights to copy, publicly perform, publicly display, distribute, adapt, translate, modify and create derivative works of copyrighted subject matter; (ii) the rights to exclude others from using, making, having made, selling, offering to sell, and importing patented subject matter and to practice patented methods, (iii) the rights to use and display any marks in association with businesses, products or services as an indication of ownership, origin, affiliation, or sponsorship; and (iv) the rights to apply for any of the foregoing rights, and all rights in those applications. Intellectual Property Rights also include any and all rights associated with particular information that are granted by law and that give the owner, independent of contract, exclusive authority to control use or disclosure of the information, including privacy rights and any rights in databases recognized by applicable law.

**“Losses”** means, in connection with a Claim that is subject to defense and indemnification by a Party under this Agreement, all reasonable attorneys’ fees, reasonable costs of investigation, discovery, litigation and settlement, and any resulting liabilities, damages, settlements, judgments and awards, including associated taxes, interest and penalties.

**“Mobile App”** refers, if and when applicable, to proprietary client software, in object code form, that is made available by EstateSpace for installation on mobile devices to allow interaction and use with the SaaS.

**“Mutual Non-Disclosure Agreement”** means, specific mutual non-disclosure between EstateSpace and Client, attached as **Exhibit B**.

**“Professional Services”** means any professional services performed or contracted to be performed by EstateSpace pursuant to a Client Order Form entered into by the Parties under this Agreement.

**“EstateSpace Content”** means Content owned, originated or controlled by EstateSpace that is made accessible to Client and Authorized Client Entities via the SaaS or other Services.

**“EstateSpace’s Web Site”** means the web interface of the SaaS platform that EstateSpace offers for interaction with and receipt of the Services.

**“SaaS”** means EstateSpace’s proprietary web-based software-as-a-service platform and related services made available for use by Authorized Users under this Agreement, as identified on the applicable Client Order Form, including its technology components, such as EstateSpace’s Web Site, applicable Mobile App(s), and related documentation.

**“SDK License”** means, if and when applicable, a license granted by EstateSpace to Client through a separate written supplement to this Agreement in which EstateSpace grants additional rights to Client to access the program code of the SaaS for the purpose of integrating it with other Client applications or platforms.

**“Services”** means, collectively, the SaaS, the Support Services, and any Professional Services performed or provided by EstateSpace pursuant to this Agreement.

**“Service Agreement”** means, specific Client Support Level Services, attached as **Exhibit A**.

**“Subscription Fees”** means the non-recurring and recurring fees payable by Client to EstateSpace for the SaaS and associated Support Services, as set forth in the relevant Client Order Form, which shall be payable in accordance with the payment terms set forth in the Client Order Form. Unless and except as otherwise expressly stated in this Agreement, the Subscription Fees are non-cancellable and non-refundable.

**“Subscription Term”** means the period during which Client’s Authorized Users are permitted to access and use the SaaS, as set forth in the applicable Client Order Form.

**“Support Services”** has the meaning given in Section 3.

**“Update”** means any improvement, enhancement, modification and/or changes to the SaaS offered or provided by EstateSpace to its subscribers at no charge.

**“User Content”** means any Content submitted, posted or displayed by Authorized Users of the SaaS or the Mobile App.

**“User Data”** means any data or information (other than User Content) received or collected by EstateSpace concerning Authorized Users of the SaaS or the Mobile App, including data provided by Authorized Users to register to use the SaaS or a Mobile App.

## 2. ACCESS TO AND USE OF THE SAAS.

- 2.1 Limited-Purpose Access Grant.** Subject to Client's and its Authorized Users' continuing compliance with this Agreement and payment of the applicable fees, EstateSpace hereby grants to Client a limited, personal, non-exclusive, non-transferable right for Authorized Users of Client and any other Authorized Client Entities to access the features and functions of the SaaS during the Subscription Term, solely through EstateSpace's Owed Web Site or Mobile App and solely for the Authorized Purpose(s). This access grant may not be sublicensed, in whole or in part. The scope of Client's use of the SaaS is subject to the terms and conditions of this Agreement, including any usage or other parameters or limitations set forth in the applicable Client Order Form.
- 2.2 Hosting Environment for the SaaS.** As agreed between EstateSpace and Client and specified in the Client Order Form for the applicable SaaS, either Party may provide (either itself or through a third party authorized by EstateSpace) the hosting environment for the SaaS. If Client is responsible for providing the hosting environment, it must meet EstateSpace's operating environment specifications for the SaaS and be properly configured to accept installation of the software used to provide the SaaS. In such case, Client shall arrange for EstateSpace to have access to the hosting environment promptly following execution of this Agreement for purposes of installing and configuring the software used to provide the SaaS, and thereafter as may reasonably be necessary for EstateSpace's ongoing provision of the Services.
- 2.3 Access Protocols.** On or as soon as reasonably practicable after the execution of this Agreement, EstateSpace shall provide to Client the necessary access credentials and protocols to allow Authorized Users to access the SaaS (the "**Access Protocols**"). The Parties further agree that prior to installing any EstateSpace product, any Authorized User shall be required accept an End User License Agreement ("**EULA**") to be provided upon download or authorized use of EstateSpace product. Client acknowledges and agrees that, as between Client and EstateSpace, Client shall be responsible for all acts and omissions of Authorized Users, including any act or omission by an Authorized User, which, if undertaken by Client, would constitute a breach of this Agreement and any act by a person (whether or not an Authorized User) using Client's Access Protocols. Client shall undertake reasonable efforts to make all Authorized Users aware of the provisions of this Agreement that are applicable their use of the SaaS and shall cause them to comply with such provisions.
- 2.4 Account Administration.** Client shall designate at least one (1) Authorized User to act as an administrator who will act as Client's principal point of contact with EstateSpace for purposes of this Agreement.
- 2.5 User Content.** The SaaS may enable Client's Authorized Users to search for, find, store, manage and use User Content of interest that is provided or made accessible through the SaaS. Client acknowledges that EstateSpace does not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, reliability or other attributes of any User Content, nor does EstateSpace review or attempt to verify the accuracy or currency of any User Content. As between Client and EstateSpace, Client is solely responsible for (i) determining the suitability of any User Content for its intended use by Client and its Affiliates; and (ii) as necessary for its intended use, verifying the authenticity, integrity, and accuracy of the User Content prior to using it. EstateSpace has no obligation to preview, verify, flag, modify, filter or remove any User Content. Either EstateSpace or Client may remove or disable access to any User Content at its sole discretion, but is not responsible for any failures or delays in removing or disabling access to any User Content unless otherwise provided herein, including User Content that may be considered harmful, inaccurate, unlawful or otherwise objectionable.
- 2.6 Protected Health Information.** The Service may involve the use of Protected Health Information (PHI, as defined by HIPAA). Prior to transmitting or otherwise submitting any PHI to the Service, Client shall convert such PHI into de-identified data in accordance with a methodology set forth in HIPAA for the de-

identification of PHI. Unless the applicable Client Order Form expressly authorizes Client to provide PHI to EstateSpace or the Service without first converting it to de-identified data, Client shall not permit to be transmitted or otherwise submitted to EstateSpace or the Service any PHI that is not in de-identified form, and any violation of this restriction shall constitute a material breach of this Agreement by Client. In cases in which a Client Order Form expressly permits Client to provide PHI to EstateSpace or the Service without first converting it to de-identified data, Client and EstateSpace will enter into a Business Associate Agreement (BAA) setting forth their respective responsibilities and rights regarding the PHI.

- 2.7 Compliance.** (a) Client's and its Authorized Users' access to and use of the SaaS is subject to their continuing compliance with all of the following: (i) the terms and conditions set forth in this Agreement; (ii) EstateSpace's online EULA and online Privacy Policy available on EstateSpace's Web Site; (iii) third party service terms and conditions governing any Content accessed through the SaaS that is published or distributed by a third party web site; and (iv) Applicable Laws, including Data Privacy and Security Laws. In the event of a conflict between this Agreement and the online EULA, this Agreement shall prevail and control. (b) In addition to complying with applicable Data Privacy and Security Laws, EstateSpace will employ commercially reasonable security and access controls designed to protect the types of data collected and stored by the Service, including Personally Identifiable Information.
- 2.8 Restrictions.** Client agrees not to act outside the scope of the rights that are expressly granted by EstateSpace in this Agreement. Further, Client will not (i) use the SaaS in any manner that is inconsistent with this Agreement; (ii) except as expressly permitted under an SDK License (if any) granted by EstateSpace to Client, modify any program code of the SaaS or attempt to create or permit the creation of any derivative works of the SaaS; (iii) access or use the SaaS in order to develop or support, or assist another Party in developing or supporting, any products or services competitive with the SaaS; (iv) decompile, reverse engineer (unless required by law for interoperability), or use any other method in an attempt to view or recreate any of the source code of the SaaS or extract any trade secrets from it; (v) use the SaaS to operate the business of a third party or to process data or content provided by a third party for the operation of a third party's business, or otherwise use the SaaS on a third party's behalf, or to act as a service bureau or provider of application services to any third party; (vi) knowingly or intentionally re-use, disseminate, copy, or otherwise use the SaaS or associated Content in a way that infringes, misappropriates, or violates any trademark, copyright, patent, trade secret, publicity, privacy or other right of EstateSpace or any third party; or (vii) sell, lend, lease, assign, transfer, pledge, permit a lien upon, or sublicense any of the rights granted by this Agreement with respect to the SaaS.
- 2.9 No Interference with Service Operations.** Client and its Authorized Users will not take any action designed or intended to: (i) interfere with the proper working of the SaaS; (ii) circumvent, disable, or interfere with security-related features of the SaaS or features that prevent or restrict use, access to, or copying the SaaS or any Content or other data, or that enforce limitations on use of the SaaS or Content; or (iii) impose (or which may impose, in EstateSpace's sole discretion) an unreasonable or disproportionately large load on the SaaS infrastructure.
- 2.10 Access and Use of the SaaS from Outside the U.S.** The SaaS is offered for use in the U.S. and any other territory set forth in the Client Order Form. As between Client and EstateSpace, Client is solely responsible for compliance with Applicable Laws relevant to its Authorized Users accessing or using the SaaS while outside the U.S. and such other territory.

### 3. SUPPORT SERVICES.

- 3.1 Technical Support.** At no additional charge and during EstateSpace's normal business hours (which are 8:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday, excluding EstateSpace-designated holidays unless otherwise specified in the applicable Service Level Agreement), EstateSpace will provide reasonable technical support and assistance for Authorized User requests by telephone (434) 322-3595 or

sent via email to [support@EstateSpacegroupglobal.com](mailto:support@EstateSpacegroupglobal.com). EstateSpace may also offer upgraded support services for an additional fee.

- 3.2 Updates.** Client will be given access to Updates of the SaaS that EstateSpace implements during the Subscription Term. Client acknowledges, however, that EstateSpace may in the future offer optional value-added functions, features, or other capabilities for a separate fee.
- 3.3 Scheduled Maintenance.** EstateSpace reserves the right to take down applicable servers hosting the SaaS to conduct scheduled and emergency maintenance; provided that, unless otherwise approved by Client, EstateSpace shall use commercially reasonable efforts to perform emergency maintenance outside regular business hours. EstateSpace will use commercially reasonable efforts to perform scheduled maintenance outside regular business hours and will provide at least seven (7) days advance notice for non-emergency maintenance. EstateSpace will not be responsible for any damages or costs incurred by Client due to unavailability of the SaaS during scheduled or emergency maintenance.

## 4. PROFESSIONAL SERVICES.

If EstateSpace has agreed to perform Professional Services for Client or an Authorized Client Entity under this Agreement, the Parties shall prepare and sign a Client Order Form describing the Professional Services to be performed and setting forth any other pertinent details, including the locations at which the Professional Services will be performed, the planned schedule of performance, the deliverables (if any) to be produced by EstateSpace and delivered to Client, the amount and manner of payment of EstateSpace's fees for the Professional Services, and any associated responsibilities of Client or Authorized Client Entities relating to the Professional Services. Client's obligation to pay the Subscription Fees set forth in a Client Order Form is not dependent on EstateSpace's performance of any Professional Services.

## 5. ALLOCATIONS OF RISK.

### 5.1 Representations and Warranties.

(a) Each Party represents to the other (i) that the execution and performance of its obligations under this Agreement will not conflict with or violate any provision of Applicable Law or any other agreement or order by which the representing Party is bound; and (ii) that this Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

(b) EstateSpace warrants that any Professional Service performed by EstateSpace under this Agreement will be performed in a good and workmanlike manner in accordance with prevailing industry standards. In the event of a breach of this warranty, EstateSpace's sole obligation and Client's sole remedy will be for EstateSpace to correct or re-perform the affected Professional Service without undue delay to remedy the breach, at no charge to Client.

### 5.2 DISCLAIMERS.

**(a) CLIENT REPRESENTS THAT IT IS ENTERING THIS AGREEMENT WITHOUT RELYING UPON ANY ESTATESPACE REPRESENTATION OR WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ESTATESPACE**

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DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DATA ACCURACY, SYSTEM INTEGRATION, SYSTEM RELIABILITY, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE AND/OR QUIET ENJOYMENT, AND ALL WARRANTIES THAT MAY OTHERWISE BE IMPLIED. NO WARRANTIES ARE MADE ON THE BASIS OF TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE.

(b) CLIENT ASSUMES COMPLETE RESPONSIBILITY, WITHOUT ANY RECOURSE AGAINST ESTATESPACE, FOR THE SELECTION OF THE SAAS TO ACHIEVE CLIENT'S INTENDED RESULTS AND FOR ITS USE OF THE RESULTS OBTAINED FROM THE SAAS IN CLIENT'S BUSINESS. CLIENT ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR THE RESULTS OBTAINED FROM USE OF THE SAAS, INCLUDING THE COMPLETENESS, ACCURACY, AND CONTENT OF SUCH RESULTS. ESTATESPACE DOES NOT WARRANT THAT THE SAAS WILL MEET CLIENT'S REQUIREMENTS, THAT THE OPERATION OF THE SAAS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED.

(c) THE SAAS IS NOT DESIGNED OR PERMITTED TO BE USED IN OR FOR HIGH-RISK OR HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, WEAPONS SYSTEMS, DIRECT LIFE-SUPPORT MACHINES, OR ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE SAAS COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR PROPERTY DAMAGE (COLLECTIVELY, "HIGH RISK ACTIVITIES"). ESTATESPACE EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS OF THE SAAS FOR HIGH RISK ACTIVITIES.

**5.3 Indemnification of Client by EstateSpace.** EstateSpace agrees to defend, indemnify, and hold harmless Client and its Affiliates from and against all third party claims and actions (collectively, "**Claims**" and individually, a "**Claim**"), that may, at any time, arise out of or relate to (i) a breach or alleged breach by EstateSpace of any of its representations given in Section 5.1(a); or (ii) a Claim that the SaaS or any EstateSpace Content (excluding, however, User Content) provided by EstateSpace hereunder or Client's use of same in accordance with the terms hereof infringes any third party's Intellectual Property Rights; or (iii) a Claim arising with respect to EstateSpace's posting or displaying EstateSpace Content on EstateSpace's Web Site; and, in each case, associated Losses.

**5.4 Indemnification of EstateSpace by Client.** Except for any Claims in respect of which EstateSpace is obligated to indemnify Client under Section 5.3, Client agrees to defend, indemnify and hold harmless EstateSpace and its Affiliates from and against all Claims, that may, at any time, arise out of or relate to: (i) use of the SaaS or any Content by or on behalf of Client or an Authorized Client Entity other than in accordance with this Agreement; or (ii) the posting, display, distribution, broadcast or other use of User Content by or on behalf of Client or an Authorized Client Entity, including Claims that any such use infringes or otherwise violates the rights of any third party, including Intellectual Property Rights, privacy, publicity or other personal or proprietary rights, or that the User Content posted, displayed, distributed, broadcast or otherwise published contains libelous, defamatory or otherwise injurious or unlawful material; and, in each case, associated Losses.

**5.5 Indemnification Procedures.** If any third party makes a Claim covered by Section 5.3 or Section 5.4 against an indemnified Party (the “**Covered Party**”) with respect to which the Covered Party intends to seek indemnification under this Agreement, the Covered Party shall give prompt written notice of the Claim to the indemnifying Party, including a brief description of the amount and basis for the claim, if known. Upon receiving such notice, the indemnifying Party shall be obligated to defend the Covered Party (and its indemnitees) against the Claim, and shall be entitled to assume control of the defense and settlement of the Claim. The Covered Party may participate in the defense and settlement of the Claim at its own expense, using its own counsel, but without any right of control. The indemnifying Party shall keep the Covered Party reasonably apprised as to the status of the Claim. Neither the indemnifying Party nor any Covered Party shall be liable for any settlement of a Claim made without its consent. Notwithstanding the foregoing, the Covered Party shall retain responsibility for all aspects of the Claim that are not subject to indemnification by the indemnifying Party hereunder.

**5.6 Limitation of Liability.** Except as expressly provided in this Section 5.6, neither Party shall have any liability under or in connection with this Agreement for any indirect, incidental, consequential, special, exemplary or punitive damages, nor any liability for lost profits, loss of data, loss of business opportunity, or business interruption, regardless of the theory of liability (including theories of contractual liability, tort liability, or strict liability), even if the liable Party knew or should have known that those kinds of damages were possible. Each Party’s maximum cumulative liability under or in connection with this Agreement shall never exceed the injured Party’s actual direct damages, capped at an amount equal to the greater of (i) the total amount paid under this Agreement by Client to EstateSpace during the 12-month period preceding the occurrence of the event giving rise to liability; or (ii) twenty five thousand dollars and zero cents (\$25,000.00 USD). The foregoing limitations of liability shall not be applicable to a Party’s indemnification obligations under this Section 5 or to any damages that the liable Party is not permitted to disclaim (or, as applicable, limit) under Applicable Law. Client acknowledges that this Section 5.6 is an essential part of this Agreement, absent which the economic terms and other provisions of this Agreement would be substantially different.

## 6. DURATION AND TERMINATION.

**6.1 Duration of Agreement.** This Agreement commences on the Subscription Term start date set forth in the first Client Order Form executed by both Parties and continues until all Client Order Forms entered into by the Parties have expired or been terminated in accordance with this Agreement.

**6.2 Termination.** Either Client or EstateSpace may terminate this Agreement, and all Client Order Forms or only affected Client Order Forms (i) for cause upon written notice to the other Party if the other Party has committed a material breach of this Agreement and the breach remains uncured thirty (30) days after the breaching Party has received written notice of the breach from the non-breaching Party; or (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**6.3 Effect of Termination on Fees.** If this Agreement is terminated by Client pursuant to Section 6.2, any pre-paid fees for the unused portion of the terminated Subscription Term will be refunded to Client. In all other cases, all fees paid or payable for the terminated Subscription Term are non-cancellable and non-refundable, and any unpaid fees for the remainder of the terminated Subscription Term will become immediately due and payable.



- 6.4 Other Effects of Termination.** Effective immediately upon expiration or termination of this Agreement, (i) all rights granted under this Agreement will become void, (ii) Client shall cease all use of the SaaS; and (iii) neither Party will have continuing rights to use any Confidential Information of the other Party or to exercise any Intellectual Property Rights of the other Party that were licensed under this Agreement. However, Client shall have 30 days after any such expiration or termination to download or otherwise obtain an extract of any Client Data stored by the Service at the time of expiration or termination.
- 6.5 Survival.** Any provision of the Agreement that contemplates or governs performance or observance subsequent to its termination or expiration will survive the expiration or termination of this Agreement (or the applicable Client Order Form) for any reason.

## 7. PROPRIETARY RIGHTS.

- 7.1 Services and EstateSpace Content.** The Services (including the SaaS) and EstateSpace Content, and all Intellectual Property Rights in and to them, are and shall remain owned by EstateSpace (and its licensors, as applicable) and are protected by copyright, trademark, patent, trade secret and other laws and treaties. Subject to the Terms and Conditions of this Agreement, EstateSpace hereby grants Client and Authorized Client Entities a limited, personable, revocable, non-sublicensable and non-transferable license for their Authorized Users to access and use the functions and features of the SaaS during the Subscription Term solely for the Authorized Purpose(s). Any derivative work Client, an Authorized Client Entity, or any Authorized Users may create of any part of the SaaS or EstateSpace Content, and all rights therein, shall be owned solely by EstateSpace. To that end, Client hereby irrevocably transfers and conveys to EstateSpace, without further consideration, all right, title and interest that Client or any Authorized User may have or acquire in any such derivative work and, upon EstateSpace's request, Client shall perform, during and after the term of this Agreement, all acts that EstateSpace reasonably deems necessary or desirable to permit and assist EstateSpace, at its expense, to obtain, perfect, and enforce the full benefits, enjoyment, rights and title throughout the world in any such derivative works as provided herein.
- 7.2 User Content License.** Client hereby grants to EstateSpace a non-exclusive, non-transferable right and license to access, use, host, copy, display, process, transmit, and deliver the User Content as necessary or convenient for EstateSpace to comply with its obligations and exercise its rights under this Agreement.
- 7.3 Trademarks.** If EstateSpace agrees to create, at Client's request, any Client-branded or co-branded user interfaces through which Authorized Users will access the SaaS, Client hereby grants to EstateSpace during the Subscription Term a non-exclusive, worldwide, royalty-free license to use and display the Client's name, logo and other trademarks ("**Client Trademarks**") designated by Client on such user interface(s). In such event, EstateSpace will use the relevant Client Trademarks in accordance with Client's then-current trademark usage guidelines, if any, provided by Client to EstateSpace and only for the agreed purposes. Subject to the foregoing license, Client will retain all Intellectual Property Rights that it may have in and to the Client Trademarks, and all use thereof by EstateSpace shall inure to the sole benefit of Client.
- 7.4 EstateSpace Content and Service Usage Data.** As between EstateSpace and Client, EstateSpace shall be and remain the sole owner of all EstateSpace Content, as well as all data in de-identified form pertaining to usage of the Services.

- 7.5 Feedback.** If EstateSpace receives from Client or any of its Authorized Users any suggestions, ideas, improvements, modifications, feedback, error identifications or other information related to improving the Services or any other EstateSpace products, offerings or services ("**Feedback**"), EstateSpace may use, disclose and exploit such Feedback without restriction and without paying any royalties or other compensation, including to improve the Services and to develop, market, offer, sell and provide other products and services.
- 7.6 No Implied Licenses by EstateSpace.** Client acknowledges that there are no licenses granted by EstateSpace by implication under this Agreement. EstateSpace reserves all rights that are not expressly granted herein. Client acknowledges that, as between the Parties, EstateSpace owns all Intellectual Property Rights and proprietary interests that are embodied in, or practiced by, the SaaS or other Services, with the exception of Intellectual Property Rights in or to Client Data or to User Content that may be distributed through the SaaS.

## **8. CONFIDENTIALITY OBLIGATIONS; PUBLICITY.**

All activities of the parties under or in relation to this Agreement are subject to the confidentiality terms hereto as Mutual Non-Disclosure Agreement. Neither Party may use the name of the other in any published advertising or publicity materials without the prior written consent of the other Party. However, and notwithstanding anything to the contrary in the Mutual Non-Disclosure Agreement, EstateSpace may include Client's name on EstateSpace's Client list and may describe briefly, and in general terms, the nature of the services provided by EstateSpace to Client.

## **9. GENERAL.**

- 9.1 Governing Law.** The validity, construction, and interpretation of this Agreement and the rights and duties of the Parties shall be governed by the internal laws of the Commonwealth of Virginia without regard to principles of conflicts of laws.
- 9.2 Force Majeure.** Notwithstanding any other provision of this Agreement, no Party to the Agreement shall be deemed in default or breach of this Agreement or liable for any loss or damages or for any delay or failure in performance (except for the payment of money) due to any cause beyond the reasonable control of, and without fault or negligence by, such Party or its officers, directors, employees, agents or contractors.
- 9.3 Insurance.** EstateSpace shall have and maintain in force throughout the Subscription Term insurance coverage in types and amounts customarily maintained by reputable companies in the same or similar line of business as EstateSpace.
- 9.4 Dispute Resolution.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be decided by a single arbitrator in binding arbitration administered by the American Arbitration Association ("AAA") in accordance with its then-current Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs, fees and expenses incurred in connection with the arbitration.

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proceeding, including attorneys' fees and expenses and witness costs and expenses. The arbitrator shall apportion the fees, expenses and compensation of the American Arbitration Association and the arbitrator between the parties in such amount as the arbitrator determines is appropriate. Arbitration shall take place in Northern Virginia unless the Parties mutually agree to another location. Notwithstanding the foregoing, a Party may, without waiving any remedy under this Agreement, seek from any court with jurisdiction, interim or provisional equitable relief necessary to protect such Party's rights or property. Any civil action seeking injunctive relief, challenging an arbitration proceeding or award or otherwise related to this Agreement will be instituted and maintained exclusively in the federal or state courts situated in Fairfax County, Virginia.

- 9.5 Notice.** All notices required or permitted under this Agreement will be in writing and sent by certified mail, return receipt requested, or by reputable oversight courier, or by hand delivery. The notice address for EstateSpace and Client shall be their respective addresses specified in the applicable Client Order Form. Any notice sent in the manner sent forth above shall be deemed sufficiently given for all purposes hereunder (i) in the case of certified mail, on the second business day after deposited in the U.S. mail; and (ii) in the case of overnight courier or hand delivery, upon delivery. Either Party may change its notice address by giving written notice to the other Party by the means specified in this Section.
- 9.6 Construction; Headings.** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any Party by any court or arbitrator by reason of such Party having or being deemed to have structured or drafted such provision. The headings in this Agreement are for reference purposes only and shall not be deemed to have any substantive effect.
- 9.7 Severability.** If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, then the Parties agree to replace it with an enforceable provision reflecting the intent of the original provision as nearly as possible in accordance with applicable law, and the remaining provisions of this Agreement will remain in full force and effect.
- 9.8 Waiver.** The failure of either Party at any time to require performance by the other Party of any provision of this Agreement shall not affect in any way the full right to require the performance at any subsequent time. The waiver by either Party of a breach of any provision of this Agreement shall not be taken or held to be a waiver of the provision itself. Any course of performance shall not be deemed to amend or limit any provision of this Agreement.
- 9.9 Entire Agreement; Amendments.** This Agreement (including Client Order Forms, Non-Disclosure Agreement, Service Level Agreement, and any subsequent Statements of Work) entered under it constitutes the entire agreement between EstateSpace and Client with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants, or undertakings other than those expressly set forth herein and therein. This Agreement supersedes all prior negotiations, agreements, and undertakings between the Parties with respect to such matter. This Agreement may be amended only by an instrument in writing executed by the Parties' duly authorized representatives.
- 9.10 Counterparts; Signatures.** This Agreement may be signed in counterparts with the same effect as if the signatures were upon a single instrument, and all such counterparts together shall be deemed an original of this Agreement. For purposes of this Agreement, a facsimile copy of a Party's signature made by reliable means shall be sufficient to bind such Party.

[End of Terms and Conditions]

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## Exhibit A

### SERVICE LEVEL AGREEMENT

The Parties agree that maintenance and support services that Client obtains from EstateSpace, LLC ("**EstateSpace**") with respect to the Software as a Service ("**Software**"), as listed in an applicable Client Order Form, shall be provided by EstateSpace according to the following terms:

## 1. DEFINITIONS

- 1.1 "**Support hours**". EstateSpace will provide support to Client for the Software as specified in Section 3 - Support Services. If 24x7 support is specified in a Client Order Form, Client may also contact EstateSpace via telephone 24x7x365 (ref: Section 3.1) for incidents of Non-conformity Class Critical as defined in Section 4 below.
- 1.2 "**Incident**" means a reported deviation in the Software that affects Client use of the Software and where the Software does not fulfill the Documentation or EstateSpace's instructions how to use the Software. EstateSpace will confirm the reported deviation with an identification number that shall be used in all further communication between the Parties regarding the deviation.
- 1.3 "**Resolution**" has the meaning set forth in Section 0 of this Service Level Agreement.

## 2. GENERAL TERMS

- 2.1 The support services are limited to the resolving of functional and technical issues related to the Software. End User support is not included in the support services.
- 2.2 Client must be current on payments for all support fees under the SaaS Terms and Conditions in order to receive support services. Support services begin as of the Effective Date of the Client Order Form and continue for the term specified in same Client Order Form.
- 2.3 Support services will only be provided for the most recent Major Release of the Software and the previous Major Release. "**Major Release**" means a new Release of the Software as indicated by a change to the number to the left of the decimal in the version number. (For example, version 3.0 is a Major Release coming after versions 2.1 and 2.5.4). Notwithstanding the aforementioned, EstateSpace will not provide support for Major Releases that are older than two (2) years.

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- 2.4 Support services in accordance with this Service Level Agreement requires that Client provides proper connectivity mechanisms to enable EstateSpace's staff access to any Software system environment for which an issue is raised.

### 3. SUPPORT PLAN

- 3.1 Support during the Support hours will be provided via EstateSpace's Web-based support portal, email and telephonic channels.
- 3.2 Authorized named Client contacts are the only persons that may contact EstateSpace for support.

### 4. NON-CONFORMITIES

- 4.1 EstateSpace uses the following non-conformity classes of Incidents. EstateSpace's schedule of classes of non-conformities are included below:

CLASS	DESCRIPTION
Critical	Any condition in the Software that renders the service or operation of the Client Product unusable or inoperative and is due to non-conformance of the Software with the Documentation.
Major	Any condition in the Software that results in degradation of routine service or operation of the Client Product and is due to non-conformance of the Software with the Documentation.
Minor	Any condition in the Software that is not a Critical or Major Incident that affects the service or operation of the Client Product and is due to non-conformance of the Software with the Documentation. Without limiting the generality of the foregoing, Minor Incidents shall also include any defects or inaccuracies in the Documentation.

- 4.2 EstateSpace reserves the right to de-classify the non-conformity class of an Incident, in its sole discretion, if it determines the Incident to be of a lesser or more acute non-conformity class.

### 5. RESPONSE TIMES

EstateSpace's response time within Support Hours and the timeframe of a Resolution for Incidents are as set forth below:

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CLASS	RESPONSE TIME	RESOLUTION TIME
Critical	1 day	3 days
Major	1 day	10 days
Minor	No commitment	No commitment

The time for resolution shall be counted from the point in time when EstateSpace has received sufficient information from Client to reproduce the deviation in EstateSpace's own environment for the Software, including but not limited to log files from the Software, detailed description of the deviation and description how the deviation can be verified/reproduced including commands and procedures.

EstateSpace's obligation to remedy an Incident shall not apply in the event of:

- a) Alteration (local or otherwise) having been made to the Software other than by EstateSpace or with its written consent;
- b) use of the Software in a manner inconsistent with the Documentation or EstateSpace's instructions on how to use the Software;
- c) failure in third party hardware or networks/infrastructure, software, or services not within EstateSpace's reasonable control;
- d) failure by Client to install Updates;
- e) willful or negligent acts or omissions of the Client; and
- f) any "Force Majeure" event or other circumstance beyond EstateSpace's reasonable control, including acts of God or nature, action or inaction of any governmental or quasi-governmental body, war, insurrection, sabotage, embargo, fire, or strike or other labor disturbance.

If it is determined that the requirement to provide Support is due to any of the above, EstateSpace shall be entitled to recover from Client the cost of investigating the incident.

What is stated in this Service Agreement is EstateSpace's sole and exclusive obligation with respect to any non-conformity within the Software.

## 6. RESOLUTION.

Resolution is defined as EstateSpace (i) providing a reasonable solution to the Incident; (ii) providing a reasonable workaround to the Incident; or (iii) determining, in its sole judgment, that the Incident is an enhancement request. For those Incidents, which have been determined to be product bugs, such defects will be addressed in a generally available update as scheduled by EstateSpace in its sole discretion. Severe bugs, which fall outside of the scheduled maintenance release, will be evaluated for correction on a case-by-case basis.



**Exhibit B**

MUTUAL NON-DISCLOSURE AGREEMENT

**THIS MUTUAL NON-DISCLOSURE AGREEMENT** (this “**Agreement**”) is entered into between **EstateSpace, LLC**, a Virginia limited liability company and its Affiliates (“**EstateSpace**”) and the other party named on the signature page hereto (“**Other Party**”), to protect the confidentiality of certain confidential information of EstateSpace or of Other Party to be disclosed under this Agreement solely for use in evaluating or pursuing a business relationship between the parties (the “**Permitted Use**”). EstateSpace and Other Party may be referred to herein individually as “**Party**” and collectively as “**Parties**.”

- 1.** As used herein, the “**Confidential Information**” of a Party will mean any and all technical and non-technical information disclosed by such Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”), which may include without limitation: (a) patent and patent applications; (b) trade secrets; (c) proprietary and confidential information, ideas, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, and formulae related to the current, future, and proposed products and services of each of the Parties, such as information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising, and marketing plans; and (d) all other information that the Receiving Party knew, or reasonably should have known, was the Confidential Information of the Disclosing Party.
- 2.** Subject to Section 3, the Receiving Party agrees that always and notwithstanding any termination or expiration of this Agreement it will hold in strict confidence and not disclose to any third party any Confidential Information of the Disclosing Party, except as approved in writing by the Disclosing Party, and will use the Confidential Information of the Disclosing Party for no purpose other than the Permitted Use. The Receiving Party will also protect such Confidential Information with at least the same degree of care that the Receiving Party uses to protect its own Confidential Information, but in no case, less than reasonable care. The Receiving Party will limit access to the Confidential Information of the Disclosing Party to only those of the Receiving Party’s employees or authorized representatives having a need to know and who have signed confidentiality agreements containing, or are otherwise bound by, confidentially obligations at least as restrictive as those contained herein.
- 3.** The Receiving Party will not have any obligations under this Agreement with respect to a specific portion

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of the Confidential Information of the Disclosing Party if such Receiving Party can demonstrate with competent evidence that such portion of Confidential Information:

- a) was in the public domain at the time it was disclosed to the Receiving Party;
- b) entered the public domain subsequent to the time it was disclosed to the Receiving Party, through no fault of the Receiving Party;
- c) was in the Receiving Party's possession free of any obligation of confidence at the time it was disclosed to the Receiving Party;
- d) was rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time it was disclosed to the Receiving Party; or
- e) was independently developed or discovered by employees or agents of the Receiving Party who had no access to any Confidential Information.

**4.** Notwithstanding the above, the Receiving Party may disclose certain Confidential Information of the Disclosing Party, without violating the obligations of this Agreement, to the extent such disclosure is required by a valid order of a court or other governmental body having jurisdiction, *provided that* the Receiving Party provides the Disclosing Party with reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist the Disclosing Party in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

**5.** The Receiving Party will immediately notify the Disclosing Party upon discovery of any loss or unauthorized disclosure of the Confidential Information of the Disclosing Party.

**6.** Upon termination or expiration of this Agreement, or upon written request of either Party, each Party will promptly return to the Disclosing Party or destroy all documents and other tangible materials representing the Disclosing Party's Confidential Information and all copies thereof.

**7.** Confidential Information is and shall remain the sole property of the Disclosing Party. The Receiving Party recognizes and agrees that nothing contained in this Agreement will be construed as granting any property rights, by license or otherwise, to any Confidential Information of the Disclosing Party, or to any invention or any patent, copyright, trademark, or other intellectual property right that has issued or that may issue, based on such Confidential Information. Neither Receiving Party will make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Confidential Information of the Disclosing Party. Neither this Agreement nor the disclosure of any Confidential Information hereunder shall result in any obligation on the part of either Party to enter into any further agreement with the other, license any products or services to the other, or to require either Party to disclose any Confidential Information.

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Nothing in this Agreement creates or shall be deemed to create any employment, joint venture, or agency between the Parties.

8. The Receiving Party will not reproduce the Confidential Information of the Disclosing Party in any form except as required to accomplish the intent of this Agreement. Any reproduction by a Receiving Party of any Confidential Information of the Disclosing Party will remain the property of the Disclosing Party and will contain any and all confidential or proprietary notices or legends that appear on the original, unless otherwise authorized in writing by the Disclosing Party.
9. This Agreement will terminate five (5) years after the Effective Date. Each Party's obligations under this Agreement will survive termination of this Agreement and will be binding upon such Party's heirs, successors, and assigns. Each Party's obligations with respect to all Confidential Information of the other Party will terminate only pursuant to Section 3.
10. THE DISCLOSING PARTY IS PROVIDING CONFIDENTIAL INFORMATION ON AN "AS IS" BASIS FOR USE BY THE RECEIVING PARTY AT ITS OWN RISK. THE DISCLOSING PARTY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.
11. This Agreement and any action related thereto will be governed, controlled, interpreted, and defined by and under the laws of the Commonwealth of Virginia, without giving effect to any conflicts of laws principles that require the application of the law of a different state. Any disputes under this Agreement shall only be brought in the state courts and the Federal courts for Fairfax County, Virginia, and the parties hereby consent to the personal jurisdiction and exclusive venue of these courts.
12. Each Party acknowledges that its breach of this Agreement may cause irreparable damage to the other Party and hereby agrees that the other Party will be entitled to seek injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction.
13. If any provision of this Agreement is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity will not render this Agreement unenforceable or invalid as a whole and, in such event, such provision will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

14. Neither Party will communicate any information to the other Party in violation of the proprietary rights of any third party.
15. Neither Party will assign or transfer any rights or obligations under this Agreement without the prior written consent of the other Party and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void, except that a Party may assign this Agreement without such consent to its successor in interest by way of merger, acquisition or sale of all or substantially all of its assets. The terms of this Agreement shall be binding upon assignees.
16. The Receiving Party will not export, directly or indirectly, any information or technical data acquired pursuant to this Agreement, or any products utilizing such data, in violation of the United States export laws or regulations.
17. All notices or reports permitted or required under this Agreement will be in writing and will be delivered by personal delivery, electronic mail, facsimile transmission or by certified or registered mail, return receipt requested, and will be deemed given upon personal delivery, five (5) days after deposit in the mail, or upon acknowledgment or receipt of electronic transmission. Notices will be sent to the addresses set forth at the end of this Agreement or such other address as either Party may specify in writing.
18. Each Party agrees that the software programs of the other Party contain valuable confidential information and each Party agrees that it will not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information of the other Party without the prior written consent of the other Party.
19. This Agreement is the final, complete and exclusive agreement of the Parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the Parties with respect to such matters. No additions or modifications to this agreement will be effective unless made in writing and executed by both Parties.