

The Whitt Group Online Pre-Need Portal Agreement



Section 1: Company Information

Company Name: _____

Bill to Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Websites: _____

Section 2: Primary Contact Information

Name: _____ Title: _____

Email: _____ Phone Number: _____

Signature of Purchaser: _____ Date of Contract: _____

Welcome to <https://www.thewhittgroup.com>, an online Pre-planning Arrangement system designed for licensed funeral homes in the United States. Please read these terms of use (the "Terms") carefully before using the Website and the Service as they form a legally binding contract between us. These Terms apply to the entire content of the website at <https://www.thewhittgroup.com> (the "Website"), the use by you of Pre-planning Arrangement services provided through the Website (the "Service") and any correspondence between us. These Terms are issued by Media Demographics, 72-877 Dinah Shore Drive, Suite 103-182, Rancho Mirage, Ca. 92270 (the "Company" and "we").

IN CONSIDERATION OF the provisions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

Name of Licensee: _____

Under this Agreement the Vendor grants to the Licensee a non-exclusive and non-transferable license (the "License") to use <https://www.thewhittgroup.com> (the "Software").

"Software" includes the executable computer programs and any related printed, electronic and on line documentation and any other files that may accompany the product.

Title, copyright, intellectual property rights and distribution rights of the Software remain exclusively with the Vendor. Intellectual property rights include the look and feel of the Software. This Agreement constitutes a license for use only and is not in any way a transfer of ownership rights to the Software.

The rights and obligations of this Agreement are personal rights granted to the Licensee only. The Licensee may not transfer or assign any of the rights or obligations granted under this Agreement to any other person or legal entity. The Licensee may not make available the Software for use by one or more third parties.

Failure to comply with any of the terms under the License section will be considered a material breach of this Agreement.

License Fee: The license fee for this Agreement will consist of the original purchase price for set up of \$600.00 USD, paid by National Guardian Life, plus a maintenance fee paid monthly at \$250.00 USD per month billed automatically to The Whitt Group. Failure of payment will prevent user from accessing their on-line account.

Limitation of Liability: The Software is provided by the Vendor and accepted by the Licensee "as is". Liability of the Vendor will be limited to a maximum of the original purchase price of the Software. The Vendor will not be liable for any general, special, incidental, or consequential damages including, but not limited to, loss of production, loss of profits, loss of revenue, loss of data, or any other business or economic disadvantage suffered by the Licensee arising out of the use or failure to use the Software.

The Vendor makes no warranty expressed or implied regarding the fitness of the Software for a particular purpose or that the Software will be suitable or appropriate for the specific requirements of the Licensee.

The Vendor does not warrant that use of the Software will be uninterrupted or error-free. The Licensee accepts that software in general is prone to bugs and flaws within an acceptable level as determined in the industry.

Site Security: The user will be required to set up a secure password for accessing of personal administrative panel. Said password must consist of between 6-12 characters. Password must be kept secure at all times and changed every ninety (90) days. Due to security regulations, all data is stored and accessed through the use of PCI compliant servers. **All data entered by purchaser(s) for completing arrangements is automatically, permanently deleted from the system after ten (10) days. User acknowledges their understanding that all forms must be printed within this ten (10) day time period as data will be irretrievable after this time.**

Warrants and Representations: The Vendor warrants and represents that it is the copyright holder of the Software. The Vendor warrants and represents that granting the license to use this Software is not in violation of any other agreement, copyright, or applicable statute.

Acceptance: All terms, conditions and obligations of this Agreement will be deemed to be accepted by the Licensee ("Acceptance") upon execution of this Agreement.

User Support: The Licensee will be entitled to one year of on-site user support available Monday – Friday 8am-5pm PST, at no additional cost. The Licensee will be entitled to maintenance upgrades and bug fixes, at no additional cost, for a period of one year from the date of Acceptance.

Term: The term of this Agreement will begin on Acceptance and will continue for a period of One Year. Licensee may cancel by writing with a 30 day notice at any time, at the end of the term of this Agreement the Licensee may renew at a monthly rate of \$250.00

Termination: This Agreement will be terminated, and the License forfeited where the Licensee has failed to comply with any of the terms of this Agreement or is in breach of this Agreement. On termination of this Agreement for any reason, the Licensee will no longer be able to access the website.

Force Majeure: The Vendor will be free of liability to the Licensee where the Vendor is prevented from executing its obligations under this Agreement in whole or in part due to Force Majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Vendor has taken any and all appropriate action to mitigate such an event.

Governing Law: The Parties to this Agreement submit to the jurisdiction of the courts of the State of California for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement. This Agreement will be enforced or construed according to the laws of the State of California.

Miscellaneous: This Agreement can only be modified in writing signed by both the Vendor and the Licensee. This Agreement does not create or imply any relationship in agency or partnership between the Vendor and the Licensee.

Notices: All notices to the parties under this Agreement are to be provided at the following addresses, or at such addresses as may be later provided in writing: Media Demographic 72-877 Dinah Shore Drive, Suite 103-182, Rancho Mirage, Ca. 92270

Date: _____

Vendor: *Lynn Elliott*, Media Demographics

Name of Vendor's Agent

Title of Vendor's Agent

Name of Licensee

Title of Licensee

Signature of Licensee