C+ Cenefits

Terms & Conditions

Prepared for G-Cloud 14

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Terms & Conditions

Please read these Terms and Conditions carefully. All contracts that the Provider may enter into from time to time for the provision of the Hosted Services shall be governed by these Terms and Conditions, except as otherwise expressly agreed in writing by the Provider.

1. Definitions

1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

"Acceptable Use Policy" means the acceptable use policy set out at https://cenefits.com/use.html or such other website address as may be notified to the Customer from time to time;

"Account" means an account enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

"Authorised Users" means those individuals who are authorised by the Customer to use an Account;

"Agreement" means a contract between the Provider and the Customer incorporating these Terms and Conditions;

"Business Day" means any weekday other than a bank or public holiday in Scotland;

"Business Hours" means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

"Charges" means the amounts specified on the Cenefits Pricing Schedule from time to time;

"Customer" means an organisation or individual registered to use the Hosted Services. A customer may be:

(a) a public organisation using the Hosted Services;

(b) a supplier or delivery partner to a customer who is a public organisation; or

(c) an individual who is an employee or agent of a customer described in (a) or (b) above;

and in these Terms and Conditions the expression "Customer" applies to all three such categories unless expressly provided otherwise;

"Customer Data" means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer (but excluding analytics data relating to the use of the Platform and server log files);

"Customer Personal Data" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Agreement, but excluding Personal Data with respect to which the Provider is a data controller;

"Data Protection Laws" means all applicable laws relating to the processing of Personal Data including (without limitation) the Data Protection Act 2018, the General Data Protection Regulation (Regu-

lation (EU) 2016/679), the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any regulations or instruments created under such legislation and any amendments and/or re-enactments of any of the foregoing;

"Documentation" means the document made available to the Customer at https://support.cenefits.com or such other website address as may be notified to the Customer from time to time, which sets out a description of the Hosted Services and the user instructions for the Hosted Services from time to time available;

"Effective Date" means the date upon which the Customer accepts these Terms and Conditions as published by the Provider on the Provider's website by registering to use the Platform and accepting these Terms and Conditions, or as otherwise expressly agreed between the Provider and the Customer;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including without limitation failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Hosted Services" means the Cenefits application, which will be made available by the Provider to each Customer as a service via the internet in accordance with these Terms and Conditions;

"Intellectual Property Rights" means copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs and all other intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, and any application or right of application for such rights;

"Personal Data" has the meaning given to it in the Data Protection Laws applicable in the United Kingdom from time to time;

"Platform" means the software and infrastructure managed by the Provider and used by the Provider to provide the Hosted Services;

"Pricing Schedule" means the document setting out the Provider's prices at https://cenefits.com#pricing or such other website address as may be notified to the Customer from time to time;

"Provider" means Teomach Limited, a company incorporated in Scotland (registration number SC526882) having its registered office at Bright Red Triangle, 10 Bainfield Drive, Edinburgh, EH11 1AR;

"Services" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

"Standard Rates" means the standard time-based rates as set out in the Pricing Schedule that the Provider charges for training, development and any other Services which are not the Hosted Services or the Support Services;

"Support Services" means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services;

"Term" means the term of the Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2; and

"Terms and Conditions" means all the documentation containing the provisions of the Agreement, namely the main body of these Terms and Conditions including any amendments to that documentation from time to time.

2. Term

2.1 The Agreement shall come into force upon the Effective Date.

2.2 The Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 16.

3. Hosted Services

3.1 Subject to the Customer purchasing the Accounts in accordance with Clauses 8 and 4, the restrictions set out in this Clause 3 and the other terms and conditions of this agreement, the Provider hereby grants to the Customer a non-exclusive, non-transferable, non-sublicensable licence to use, and permit Authorised Users to use, the Hosted Services and access the Platform for the purpose of managing, measuring and realising benefits in their projects during the Term.

3.2 The licence granted by the Provider to the Customer under Clause 3.1 is subject to the following limitations:

(a) the Hosted Services may only be used by the Customer and its employees or agents; and

(b) the Hosted Services must not be used at any point in time by more than the number of Authorised Users agreed with the Provider.

3.3 Except to the extent expressly permitted in these Terms and Conditions or required by law on a non-excludable basis, the licence granted by the Provider to the Customer under Clause 3.1 is subject to the following prohibitions:

(a) the Customer must not sub-license its right to access and use the Hosted Services;

(b) the Customer must not permit any unauthorised person to access or use the Hosted Services; and

(c) the Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Platform or Hosted Services without the prior written consent of the Provider.

3.4 In relation to the Authorised Users, the Customer undertakes that:

(a) it will ensure that the Authorised Users use the Hosted Services and Platform in accordance with these Terms and Conditions and that it will be responsible for breach of this Agreement, or the Ac-

ceptable Use Policy, caused or contributed to by any acts or omissions on the part of any Authorised User;

(b) it will not allow or suffer any Account to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Hosted Services;

(c) each Authorised User shall keep a secure password for their use of the Hosted Services and that each Authorised User shall keep their password confidential;

(d) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Provider within 5 Business Days of the Provider's written request at any time or times;

(e) it shall permit the Provider or the Provider's designated auditor to audit the use of the Platform and the Hosted Services in order to establish the name and password of each Authorised User and ensure compliance with these terms. Each such audit may be conducted no more than once per quarter, at the Provider's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business. If any audit reveals that any password has been provided to an individual who is not an Authorised User, then without prejudice to the Provider's other rights, such passwords shall be promptly disabled. If any audit reveals that the Customer has underpaid Charges to the Provider, then without prejudice to the Provider's other rights, the Customer shall pay to the Provider an amount equal to such underpayment as calculated in accordance with the Provider's Pricing Schedule.

3.5 The Customer shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an Account.

3.6 The Provider shall, during the Term, provide the Hosted Services and make available the Documentation to the Customer on and subject to these Terms and Conditions.

3.7 The Provider shall use reasonable endeavours to maintain the availability of the Hosted Services to the Customer but does not guarantee 100% availability and the Provider is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Hosted Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

3.8 The Customer must comply with the Provider's Acceptable Use Policy as it appears on the Provider's website from time to time and must ensure that all Authorised Users using the Hosted Services with the authority of the Customer or by means of an Account comply with that Acceptable Use Policy.

3.9 The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.

3.10 The Customer must not use the Hosted Services:

(a) in any way that is unlawful, illegal, fraudulent or harmful; or

(b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

3.11 For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

3.12 The Provider may suspend the provision of the Hosted Services and disable the Customer's and any Authorised Users' password, Accounts and access to all or part of the Hosted Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Hosted Services on this basis. The Provider shall be under no obligation to provide any or all of the Hosted Services while such amounts remain unpaid.

3.13 The Provider reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to the Hosted Services in relation to any breach of the provisions of this clause.

4. Additional Accounts

4.1 Subject to Clause 4.2 and 4.3, the Customer may, from time to time during the Term, purchase additional Accounts in excess of the number agreed with the Provider and the Provider shall grant access to the Hosted Services to such additional Authorised Users in accordance with the provisions of these terms.

4.2 If the Customer wishes to purchase additional Accounts, the Customer shall notify the Provider in writing. The Provider shall evaluate such request for additional Account and respond to the Customer with approval or rejection of the request (such approval not to be unreasonably withheld). Where the Provider approves the request, the Provider shall activate the additional Accounts within one Business Day of its approval of the Customer's request.

4.3 If the Provider approves the Customer's request to purchase additional Accounts, the Customer shall, within 30 days of the date of the Provider's invoice, pay to the Provider the relevant fees for such additional Accounts as set out in the Pricing Schedule.

5. Customer Data

5.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Customer Data.

5.2 The Customer warrants to the Provider that the Customer Data will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

5.3 In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against the Provider shall be for the Provider to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Provider. The Provider shall not be responsible for any loss, destruction, alteration or disclosure

of Customer Data caused by any third party (except those third parties sub-contracted by the Provider to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable).

6. Support Services

6.1 The Provider shall provide the Support Services to the Customer during the Term subject to an in accordance with this Clause 6.

6.2 The Provider shall make available to the Customer an email-based helpdesk.

6.3 The Provider shall provide the Support Services with reasonable skill and care.

6.4 The Customer may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services; and the Customer must not use the helpdesk for any other purpose.

6.5 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

7. Intellectual Property Rights

7.1 The Customer acknowledges and agrees that the Provider and/or its licensors own all Intellectual Property Rights in the Platform, the Hosted Services and the Documentation. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, under or in, any Intellectual Property Rights, or any other rights or licences in respect of the Platform, the Hosted Services or the Documentation.

8. Charges

8.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions and the Pricing Schedule.

8.2 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to the Provider.

8.3 The Provider may elect to vary the Charges by giving to the Customer not less than 30 days' written notice of the variation, effective from the end of the period for which payment has already been made.

8.4 If, at any time whilst using the Hosted Services, the Customer exceeds the amount of disk storage space specified in the Documentation, the Provider shall charge the Customer, and the Customer shall pay, the Provider's then current excess data storage fees. The Supplier's excess data storage fees current as at the Effective Date are set out in the Pricing Schedule.

9. Payments

9.1 The Customer shall pay the Charges to the Provider monthly in arrears.

9.2 The Customer shall pay each invoice submitted to it by the Provider within 30 days of receipt to a bank account nominated in writing by the Supplier from time to time.

9.3 All sums payable to the Provider under this Agreement:

(a) are, unless otherwise stated, exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

(b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9.4 If the Customer does not pay any amount properly due to the Provider under these Terms and Conditions, the Provider may:

(a) suspend the Customer's access to the Hosted Services in accordance with Clause 3.12; and

(b) charge the Customer interest on the overdue amount at the rate of 5% per annum above the Bank of England base rate from time to time, but at 5% per annum for any period when that base rate is below 0% (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month).

10. Data Protection

10.1 The Provider's Privacy Policy as set out in the Provider's website applies to this Agreement and must be observed by both parties and their employees and agents. That Privacy Policy applies to data in respect of which the Provider is a data controller. This Clause 10 applies to Customer Personal Data as defined in Clause 1.1 above, which is placed on the Platform by the Customer or on the Customer's behalf for the purposes of using the Hosted Services in respect of which Customer Personal Data the Provider is a data processor only.

10.2 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.

10.3 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with this Agreement and to upload all Personal Data to the Platform.

10.4 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to the Agreement, Customer Personal Data for the purpose of the Provider providing and the Customer using the Hosted Services.

10.5 The Provider shall only process the Customer Personal Data during the Term and for not more than 90 days following the end of the Term, subject to the other provisions of this Clause 10 and unless otherwise required by law.

10.6 Notwithstanding any other provision of these Terms and Conditions, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information.

10.7 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

10.8 The Provider and the Customer shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data.

10.9 The Provider is hereby authorised by the Customer to engage, as sub-processors with respect to Customer Personal Data, third parties who from time to time may carry out maintenance or development of the Platform or Hosted Services provided that the sub-processor's contract incorporates terms which are substantially the same as those set out in this Clause 10 or which otherwise satisfy the requirements of Article 28 of the General Data Protection Regulation (Regulation (EU) 2016/679).

10.10 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.

10.11 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Provider shall report any Personal Data breach relating to the Customer Personal Data to the Customer without undue delay and in any event within 24 hours following the Provider becoming aware of the breach. The Provider may charge the Customer at its Standard Rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 10.11.

10.12 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 10 and the Data Protection Laws.

10.13 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.

10.14 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Provider's processing of Customer Personal Data with the Data Protection Laws and this Clause 10. The Customer must give the Provider reasonable prior notice of any request to undertake and audit or inspection and such an audit may occur once per calendar year and be conducted during business hours. The Provider may charge the Customer at its Standard Rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 10.14.

10.15 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under these Terms and Conditions, then the parties shall use their best endeavours

promptly to agree such variations to these Terms and Conditions as may be necessary to remedy such non-compliance.

10.16 The Provider shall not transfer the Customer Personal Data to a country outside the European Economic Area without the prior written consent of the Customer unless appropriate safeguards have been implemented.

11. Warranties

11.1 The Customer warrants to the Provider that it has the legal right and authority to enter into the Agreement and to perform its obligations under these Terms and Conditions.

11.2 All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

11.3 The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Provider makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Provider. The Provider recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Provider does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

12. Acknowledgements and Warranty Limitations

12.1 The Customer acknowledges that software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be free from defects, errors and bugs.

12.2 The Customer acknowledges that software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.

13. Limitations and Exclusions of Liability

13.1 Nothing in these Terms and Conditions will:

(a) limit or exclude any liability for death or personal injury;

(b) limit or exclude any liability for fraud or fraudulent misrepresentation;

(c) limit any liabilities in any way that is not permitted under applicable law; or

(d) exclude any liabilities that may not be excluded under applicable law.

13.2 The limitations and exclusions of liability set out in this Clause 13 and elsewhere in these Terms and Conditions:

(a) are subject to Clause 13.1; and

(b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort or delict (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

13.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event.

13.4 The Provider will not be liable to the Customer in respect of any loss of profits or anticipated savings.

13.5 The Provider will not be liable to the Customer in respect of any loss of revenue or income.

13.6 The Provider will not be liable to the Customer in respect of any loss of use or production.

13.7 The Provider will not be liable to the Customer in respect of any loss of benefits, business, contracts or opportunities.

13.8 The Provider will not be liable to the Customer in respect of any loss or corruption of any data, database or software.

13.9 The Provider will not be liable to the Customer in respect of any special, indirect or consequential loss or damage.

13.10 Subject to Clause 13.1, the Provider's total aggregate liability in contract, delict (including negligence) or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the greater of (i) total Charges paid by the Customer during the 12 months immediately preceding the date on which the act, omission or event that leads to the relevant claim occurs or (ii) £5,000.

14. Confidentiality

14.1 Each party may be given access to confidential information from the other party concerning its business, affairs, customers, clients or suppliers ("Confidential Information") in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

(d) is independently developed by the receiving party, which independent development can be shown by written evidence.

14.2 Subject to Clause 14.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.

14.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.

14.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 14.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

14.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

14.6 The Customer acknowledges that details of the Hosted Services, and the results of any performance tests of the Hosted Services, constitute the Provider's Confidential Information.

14.7 The Provider acknowledges that the Customer Data is the Confidential Information of the Customer.

14.8 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

14.9 The above provisions of this Clause 14 shall survive termination of this agreement, however arising.

15. Force Majeure Event

15.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

16. Termination

16.1 Either party may terminate the Agreement by giving to the other party at least 90 days' written notice of termination.

16.2 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; or

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up; or

(d) the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within 30 days after being notified in writing to do so.

17. Effects of Termination

17.1 Upon the termination of the Agreement, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.9, 9, 10.1, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, 10.16, 13, 14, 17, 20 and 21.

17.2 Upon the termination of the Agreement for any reason:

(a) all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Hosted Services and/or the Documentation;

(b) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with Clause 10.13, unless the Provider receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Provider shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by the Provider in returning or disposing of Customer Data.

17.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Agreement shall not affect the accrued rights of either party.

17.3 Within 90 days following the termination of the Agreement for any reason:

(a) the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before the termination of the Agreement; and

(b) the Provider must refund to the Customer any Charges paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of the Agreement,

without prejudice to the parties' other legal rights.

18. Notices

18.1 Any notice from one party to the other party under these Terms and Conditions must be given by hand (including courier) to the recipient's registered office or principal place of business; or by email, if by the Customer to hello@cenefits.com, if by the Provider to an email address associated with one of the Customer's Admin accounts. Any notice shall be deemed to have been received on signature of a delivery receipt (if delivered by hand) or upon receipt of the email by the recipient's email server, providing that, if the stated time of deemed receipt is not within Business Hours, then the time of deemed receipt shall be when Business Hours next begin after the stated time (if delivered by e-mail).

19. Subcontracting

19.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Provider may subcontract any of its obligations under the Agreement.

20. General

20.1 No breach of any provision of the Agreement shall be waived except with the express written consent of the party not in breach.

20.2 If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

20.3 The Provider may vary the Agreement by giving to the Customer at least 30 days' written notice of the variation. Subject to this, the Agreement may only be varied by a written agreement signed by or on behalf of each of the parties.

20.4 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.

20.5 Subject to Clause 13.1, the Agreement, these Terms and Conditions, the Pricing Schedule and any services specification agreed between the parties, shall constitute the entire agreement between the parties, and shall supersede all previous agreements, arrangements and understandings between the parties.

20.6 The Agreement shall be governed by and construed in accordance with Scottish law.

20.7 Each party irrevocably agrees that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim arising under or in connection with the Agreement or its subject matter or formation.

21. Interpretation

21.1 In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

(a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b) any subordinate legislation made under that statute or statutory provision.

21.2 The Clause headings do not affect the interpretation of these Terms and Conditions.

21.3 References in these Terms and Conditions to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

21.4 In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.