

SIDEUP CORPORATE TERMS OF SERVICE

These Terms of Service, published by SideUp, set out the terms and conditions upon which you may use the Benefit Management Platform (as defined below).

1. SIDEUP INFORMATION

- 1.1 The Benefit Management Platform, and these Terms of Service are published, by SideUp Limited ("**SideUp**"), a company incorporated and registered in England and Wales under company number 15200782 whose registered office is at 35 Charles Square, London, England, N1 6HT.

2. INTERPRETATION

- 2.1 In these Terms of Service, capitalised expressions in the body of the Agreement have the meaning given to them and, save where the context requires otherwise, the following words and expressions have the following meaning:

"Agreement"	means the agreement between the Customer and SideUp for access to and use of the Benefit Management Platform comprising of these Terms of Service (including its Schedules and Annexures), an Order Form (if any), and in the absence of an Order Form, the Pricing Page and the information (according to SideUp's records) provided through the Sign-Up Process;
"Anonymised Data"	has the meaning set out in clause 6.2;
"API"	means an application programming interface;
"Authorised User"	means any person authorised by the Customer to access the Benefit Management Platform;
"Benefit Management Platform"	means the proprietary web-based platform, including any APIs, owned by SideUp which enables corporate users to consolidate and manage employment benefits (including such benefits and associated Third Party Content made available by a Third Party Provider) for Customer Employees, in such form as SideUp releases from time to time;
"Commencement Date"	means the date from which the Customer will receive access to the Benefit Management Platform as set out in the Order Form or (in the absence of an Order Form) on the date that the

	Customer completes the Sign-Up Process (according to SideUp's records);
"Confidential Information"	means in relation to a party, the terms of the Agreement, and all other information and trade secrets relating to that party's or its affiliates' business or customers which come into the possession of the other party or its affiliates pursuant to the Agreement, whether orally, or in documentary, electronic or other forms, including all such information held by the other as of the Commencement Date including, in the case of SideUp, the Benefit Management Platform and the form in which data, information, works, and materials are visualised or presented on the Benefit Management Platform from time to time, and in the case of the Customer, the Customer Data;
"Contract Year"	means each period of twelve (12) months commencing on the Commencement Date or on an anniversary of the Commencement Date;
"controller", "personal data", "processor", and "processing"	shall have the same meaning ascribed to them in Data Protection Laws, and "process" shall be construed as having the same meaning as processing;
"Customer"	means the person or organisation identified as the customer in the Order Form or through the Sign-Up Process;
"Customer Data"	means any information, content, and data provided by the Customer to SideUp for the purpose of the Customer's use or receipt of the Benefit Management Platform;
"Customer Employee"	means each natural person who is an employee of, or engaged as a worker by the Customer in connection with the Customer's ordinary course of business;
"Data Protection Laws"	means any applicable law relating to the protection of personal data and privacy in force from time to time, including (i) the General Data Protection Regulation ((EU) 2016/679) (" GDPR "); (ii) the Data Protection

Act 2018; (iii) the retained EU law version of GDPR (as defined under the section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) ("**UK GDPR**"), and (iv) the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; in each case together with all laws implementing, replacing or supplementing the same and any other applicable data protection or privacy laws;

"End User Terms"

has the meaning set out in clause 5.1.3;

"Fees"

means the amount set out in the Order Form or in the absence of an Order Form, on the Pricing Page, which are payable by the Customer to SideUp for the provision of the Customer's access to and use of the Benefit Management Platform and related services (if any) and for the use by each Customer Employee of the SideUp Platform;

"Initial Term"

means the period identified as such on the Order Form (if any) or through the Sign-Up Process (according to SideUp's records), which shall commence on the Commencement Date and, in any other case, the period of twelve (12) months commencing on the Commencement Date;

"Insolvency Event"

means with respect to a party, (a) entering into a composition or arrangement with its creditors other than for the sole purpose of a solvent reconstruction; (b) an inability to pay its debts as they become due; (c) a person becoming entitled to appoint or appointing a receiver or an administrative receiver over that party's assets; (d) a creditor or encumbrancer attaches or takes possession of the whole or any part of that party's assets which is not discharged within 14 days; or (e) any event occurs, or proceeding is taken, in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in (a) to (d) above.

“Intellectual Property Rights”

means any and all patents, trade marks, business names, copyright, database rights, rights in designs, rights in inventions, and any and all other intellectual property rights, whether or not registered or capable of registration and whether subsisting anywhere in the world and including all applications and rights to apply for any of them together with all or any associated goodwill;

“Malware”

means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience (including all viruses, worms, trojan horses, spyware, logic bombs and similar files, scripts, agents, things or devices);

“Minimum Notice Period”

means the period set out in the Order Form (if any) or communicated to the Customer through the Sign-Up Process (according to SideUp’s records) as being the ‘Minimum Notice Period’;

“Order Form”

means the order form (if any) signed by SideUp and Customer which sets out, among other things, the Commencement Date, Fees and any Special Conditions;

“Pricing Page”

means [URL for pricing];

“Renewal Term”

means the renewal period set out in the Order Form (if any) or communicated to the Customer through the Sign-Up Process (according to SideUp’s records) as being a “Renewal Term”, in each case commencing upon expiry of the Initial Term and thereafter upon expiry of each subsequent renewal period;

“SideUp Platform”	means the proprietary web-based platform, including any APIs, owned by SideUp which enables certain Customer Employees to access, manage, and use employment benefits (including such benefits and associated Third Party Content made available by a Third Party Provider), in such form as SideUp releases from time to time;
“Sign-Up Process”	means any process available on the Website from time to time which allows a person to subscribe for access to the Benefit Management Platform using the functionality available on the Website;
“Stripe”	means the relevant entity of the Stripe group responsible (according to the additional terms and conditions referred to in clause 5.14) for the provision of certain services or functionality as a Third Party Provider;
“Stripe Connect”	means the platform and marketplace payments platform made available by Stripe from time to time;
“Terms of Service”	means these terms and conditions of service as amended from time to time;
“Third Party Content”	means any and all data, information, works, and other content, including text, imagery, videos, or other files which is provided by a third party and is uploaded to or otherwise made available to the Customer through, the Benefit Management Platform;
“Third Party Provider”	means a third party who supplies data, information, software, services, equipment or other items which are used in connection with the Benefit Management Platform;
“Website”	means https://www.sideup.com and any and all subdomains.

- 2.2 References to: words and phrases that are defined in applicable law or regulations shall have the meaning in such applicable law or regulations; a party means a party to the Agreement and the parties means both parties to the Agreement; the Schedules are to the schedules of these Terms of Service, which form part of them; a statutory provision includes a reference to any modification, consolidation, or re-enactment of the provision from time to time in force, and all subordinate instruments, orders or

regulations made under it; either party includes, where appropriate, persons deriving title under it; includes or including shall be construed as without limiting the generality of the preceding words; any document (including these Terms of Service) or a provision of them shall be construed as a reference to that document or provision as amended from time to time by agreement between the parties in accordance with these Terms of Service; writing includes any method of reproducing words in a legible and non-transitory form, including e-mail; rights include the rights and remedies of the party in question; the singular includes the plural and vice versa; and the headings are for convenience only, and do not affect the interpretation of these Terms of Service.

3. SIGN UP PROCESS

3.1 An Agreement is formed between SideUp and the Customer when:

3.1.1 SideUp and the Customer execute an Order Form which refers to these Terms of Service; or

3.1.2 the Customer (or a representative of the Customer) completes a Sign-Up Process available on the Website.

3.2 The individual entering into the Agreement on the Customer's behalf must have the necessary authority, power and right to fully bind the Customer.

3.3 If any conflict or inconsistency exists between the provisions of these Terms of Service and the Order Form (if any), the Order Form shall prevail.

4. DURATION

The Agreement shall start on the Commencement Date and, subject to earlier termination in accordance with its terms, shall continue thereafter for the Initial Term and successive Renewal Terms (together the "**Term**").

5. ACCESS TO THE SIDEUP PLATFORM

5.1 Subject to the payment of the Fees when due, SideUp shall:

5.1.1 make available to the Customer the Benefit Management Platform during the Term, on and subject to the terms and conditions of the Agreement;

5.1.2 use commercially reasonable endeavours to provide technical support in accordance with Schedule 1 (*Support and Service Levels*); and

5.1.3 make available the All-in-One Benefits and Payments Platform to each Customer Employee subject to and in accordance with the terms in place between SideUp and each such Customer Employee (the "**End User Terms**").

5.2 Subject to the Customer's compliance with the Agreement, SideUp hereby grants the Customer a non-exclusive, non-transferable, personal and non-sub-licensable licence to permit Authorised Users to access and use the Benefit Management Platform and

(as applicable) the Third Party Content as permitted by the functionality of the Benefit Management Platform.

- 5.3 The Customer must treat any username and password used to access the Benefit Management Platform as Confidential Information, and it must not disclose it to any third party (other than to Authorised Users).
- 5.4 In relation to Authorised Users, the Customer shall procure that each Authorised User keeps secure and confidential any username and password provided to them for the Authorised User's use of the Benefit Management Platform and shall not disclose such user name and password to any third party including any other Authorised Users.
- 5.5 The Customer shall procure that each of its Authorised Users has its own username and password and will ensure that such usernames and passwords are not shared.
- 5.6 SideUp may disable any username or password, at any time and at Side Up's sole discretion, if an Authorised User or the Customer has failed to comply with any of the provisions of the Agreement, or SideUp reasonably suspects any such non-compliance.
- 5.7 The Customer must take reasonable precautions to prevent any unauthorised access to, or use of, the Benefit Management Platform and, in the event of any such unauthorised access or use, promptly notify SideUp.
- 5.8 If the Customer is granted access by SideUp to any API which connects with the Benefit Management Platform, the Customer acknowledges that abuse or excessively frequent requests to the Benefit Management Platform via the API (as determined by SideUp in its sole discretion) may (at SideUp's option) result in the temporary or permanent suspension of the Customer's and its Authorised Users' access to the API.
- 5.9 The Customer acknowledges that SideUp is always innovating and finding ways to improve the Benefit Management Platform with new features and services and agrees that the Benefit Management Platform may change from time to time and no warranty, representation or other commitment is given in relation to the continuity of any functionality of the Benefit Management Platform.
- 5.10 SideUp may monitor the Customer's use of the Benefit Management Platform to ensure quality, improve the Benefit Management Platform, and to verify the Customer's compliance with the Agreement.
- 5.11 As between the parties, the Customer shall be solely responsible and liable for compliance with any and all employment-related laws and regulations relating to each Customer Employee including in relation to each Customer Employee's access to and use of the All-in-One Benefits and Payments Platform and any and all payments or benefits accessed or used by each such Customer Employee via the All-in-One Benefits and Payments Platform. In addition:
 - 5.11.1 the Customer is responsible for clearly communicating to all Customer Employees that the End User Terms apply directly between the Customer

Employee and SideUp, and that use of the SideUp Platform by the Customer Employee constitutes acceptance of those terms;

- 5.11.2 the Customer is solely responsible for compliance with any reporting obligations to HMRC in relation to employee benefits, including but not limited to income tax considerations or P11D submissions, as well as in relation to applicable payroll information. Whilst the SideUp Platform may provide functionality or reports assist with these processes, the responsibility for making timely and accurate reports still rests with the Customer.
- 5.12 The Customer shall defend, indemnify and hold harmless SideUp, its agents and contractors from and against any and all of the following:
 - 5.12.1 losses, damages, claims, liabilities or expenses (including reasonable lawyer's fees) arising out of any claim brought by a third party relating to the Customer's or its Authorised User's use of the Benefit Management Platform (except to the extent caused by SideUp's breach of the Agreement);
 - 5.12.2 any income tax and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or relating to the employment relationship between the Customer and each Customer Employee or which is otherwise based on the worker status of any and all Customer Employees in relation to the Customer, or made in connection with the provision of access to the All-in-One Benefits and Payment Platform (including any payment or benefit received by a Customer Employee via the SideUp Platform), where such recovery is not prohibited by law;
 - 5.12.3 any and all costs and expenses and any penalty, fine or interest incurred or payable by the Customer in connection with or in consequence of any liability, deduction, contribution, assessment or claim to which clause 5.12.2 refers; and
 - 5.12.4 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by a Customer Employee against SideUp arising out of or in connection with access to or use of the SideUp Platform (including any payments or benefits received by the Customer Employee).
- 5.13 SideUp is not a bank, a financial institution or otherwise regulated by the Financial Conduct Authority. SideUp does not hold funds on behalf of the Customer or Customer Employees, but operates solely as a technology platform, including by connecting to regulated entities such as Stripe that do hold and transmit funds.
- 5.14 The Customer hereby authorises SideUp to use Stripe Connect to perform platform-related activities on the Customer's behalf and to share data with Stripe (as the Third Party Provider of those activities) regarding the Customer's account with Stripe (the

“Stripe Account”) and transactions necessary to enable the functioning of the Stripe Account.

5.15 By entering this Agreement, the Customer also hereby agrees to enter into:

5.15.1 the Stripe Connected Account Agreement (available at: <https://stripe.com/gb/legal/connect-account>), prior to activation of the Stripe Account. Under the Stripe Connected Account Agreement, SideUp may record the date, time, and IP address of the Customer’s acceptance to meet regulatory requirements;

5.15.2 the Stripe Services Agreement – United Kingdom (available at: <https://stripe.com/gb/legal/ssa>);

5.15.3 the Stripe Connect Platform Agreement (available at <https://stripe.com/en-gi/legal/connect>). As outlined in the Stripe Connect Platform Agreement, SideUp is responsible for the activities, payments, refunds, and disputes related to the Customer’s Stripe Account; and

5.15.4 any and all other terms, agreements or policies with Stripe which are necessary to enable the functioning of the Stripe Account.

6. CUSTOMER DATA

6.1 The Customer shall own all right, title, and interest in and to all Customer Data and acknowledges that it shall:

6.1.1 be responsible for all Customer Data provided, distributed, or otherwise transmitted to SideUp via the Benefit Management Platform (including by Authorised Users); and

6.1.2 have sole responsibility for the legality, reliability, integrity, accuracy, and quality of the Customer Data.

6.2 If the Customer seeks to access or otherwise process Customer Data via an integration between the Benefit Management Platform and the software or systems of a Third Party Provider, the Customer acknowledges and agrees that:

6.2.1 all such Customer Data is accessible by means of the Benefit Management Platform in the form and manner, subject to such restrictions and other terms, according to the timing, and for so long as, the Customer Data are put into circulation by the Third Party Provider;

6.2.2 SideUp undertakes no obligation or responsibility, and excludes all liability, under or in connection with the Agreement in relation to any and all such Customer Data, the acts or omissions of the Third Party Provider, or the systems used by the Third Party Provider, including any and all of the following:

- 6.2.2.1 the failure of the Third Party Provider to put into circulation any such Customer Data;
 - 6.2.2.2 the withdrawal or suspension of, or the imposition of restrictions on the use of or access to, any such Customer Data previously put into circulation by the Third Party Provider;
 - 6.2.2.3 delay by the Third Party Provider in putting into circulation any such Customer Data; and
 - 6.2.2.4 the quality of all such Customer Data;
 - 6.2.3 it is the Customer's responsibility to ensure that the restrictions and other terms (if any) that are published by the Third Party Provider or contained in a contract to which clause 6.2.4 refers and applicable to the use of the Third Party Provider's services, are suitable for its requirements;
 - 6.2.4 where the Customer has its own contract with the Third Party Provider relating to such access to or use of all such Customer Data via the Benefit Management Platform:
 - 6.2.4.1 except where SideUp already has the Third Party Provider's consent to do so, the Customer hereby authorises SideUp to connect the Benefit Management Platform to the Third Party Provider's systems for that purpose, and shall obtain the consent of the Third Party Provider to permit SideUp to do so;
 - 6.2.4.2 the Customer acknowledges that a failure of the Third Party Provider to consent to SideUp connecting the Benefit Management Platform to the Third Party Provider's systems (in the manner required by SideUp) may prevent SideUp providing access to or processing the Customer Data which would otherwise be provided by that Third Party Provider, and that shall not affect the Customer's obligations under the Agreement; and
 - 6.2.4.3 the Customer warrants and represents that it is not prohibited from accessing the Customer Data made available by that Third Party Provider via the Benefit Management Platform, and undertakes to perform its obligations and liabilities under or in connection with its contract with the Third Party Provider.
- 6.3 The Customer hereby grants SideUp a licence to access, download and use the Customer Data for the purposes of making the Benefit Management Platform available to the Customer, analysing the Customer Data in accordance with the functionality of the Benefit Management Platform, displaying the results of such analysis to Authorised Users, developing, testing, improving and altering the functionality of the Benefit Management Platform, and producing anonymised or anonymised and aggregated statistical reports and research ("**Anonymised Data**").

- 6.4 The Customer shall maintain backups of all Customer Data from time to time and SideUp shall not be responsible or liable for the deletion, correction, alteration, destruction, damage, loss, or failure to store any Customer Data.
- 6.5 The Customer warrants and represents that it has the authority, including all necessary rights, licences, and permissions, to upload and use, and to permit SideUp to use, display, and make available the Customer Data in accordance with the Agreement.

7. THIRD PARTY CONTENT

- 7.1 The Customer acknowledges that SideUp is not responsible for Third Party Content, which is accessible by means of the Benefit Management Platform in the form and manner, subject to such restrictions and other terms, according to the timing, and for so long as, the Third Party Content is put into circulation by the relevant Third Party Provider; accordingly, SideUp undertakes no obligation or responsibility, and excludes all liability, under or in connection with the Agreement in relation to any and all Third Party Content, the acts or omissions of a Third Party Provider, or the systems used by the Third Party Provider, including any and all of the following:
 - 7.1.1 the failure of a Third Party Provider to put into circulation any Third Party Content;
 - 7.1.2 the withdrawal or suspension of, or the imposition of restrictions on the use of or access to, any Third Party Content previously put into circulation by a Third Party Provider;
 - 7.1.3 the delay of a Third Party Provider in putting into circulation any Third Party Content;
 - 7.1.4 the quality or accuracy of Third Party Content; and
 - 7.1.5 any decision or action made by any person (including Customer Employees) based on the Third Party Content.
- 7.2 The Customer acknowledges and agrees that the failure of a Third Party Provider to provide Third Party Content (in the manner required by SideUp) will prevent SideUp providing access to the relevant Third Party Content via the Benefit Management Platform, and that shall not affect the Customer's obligations under the Agreement.
- 7.3 It is the Customer's responsibility to ensure that the restrictions and other terms (if any) that are published by a Third Party Provider and applicable to the use of the Third Party Content made available by that Data Provider are suitable for its requirements.
- 7.4 Where the Customer has a contract with a Third Party Provider under which the Customer accesses Third Party Content made available by the Third Party Provider:
 - 7.4.1 except where SideUp already has the Third Party Provider's consent to do so, the Customer hereby authorises SideUp to connect the Benefit Management Platform to the Third Party Provider's systems for that

purpose, and shall obtain the consent of the Third Party Provider to permit SideUp to do so;

- 7.4.2 the Customer acknowledges that a failure of the Third Party Provider to consent to SideUp connecting the Benefit Management Platform to the Third Party Provider's systems (in the manner required by SideUp) may prevent SideUp providing the Benefit Management Platform in relation to the Third Party Provider's data (including Third Party Content), and that shall not affect the Customer's obligations under this Agreement; and
- 7.4.3 the Customer warrants that it is not prohibited from accessing the Third Party Content via the Benefit Management Platform and undertakes to perform its obligations and liabilities under or in connection with its contract with the Third Party Provider.

8. CUSTOMER'S OBLIGATIONS

8.1 The Customer must:

- 8.1.1 maintain backups of Customer Data at all times, SideUp shall not be responsible or responsible or liable, to the maximum extent permitted by applicable law, for the deletion, corruption, alteration, destruction, damage, loss, or failure to store any Customer Data;
- 8.1.2 comply with all applicable laws and regulations with respect to its use of the Benefit Management Platform and its activities under the Agreement;
- 8.1.3 use and ensure its Authorised Users use the Benefit Management Platform in accordance with the terms of the Agreement and shall be responsible for any actions and omissions in connection with the use of the Benefit Management Platform by any Authorised Users;
- 8.1.4 obtain and shall maintain all necessary licences, consents, and permissions necessary for SideUp to perform its obligations to the Customer under the terms of the Agreement, except those which relate to SideUp making available the Benefit Management Platform;
- 8.1.5 ensure that its network and systems, including its internet browser used complies with any relevant specifications provided by SideUp from time to time;
- 8.1.6 procure and maintain network connections and telecommunications links from its systems in order to access and use the Benefit Management Platform, and the Customer shall be solely responsible for doing so;
- 8.1.7 not modify another website so as to falsely imply that it is associated with the Benefit Management Platform, any of SideUp's services, SideUp, or SideUp's affiliates;

- 8.1.8 not carry out any penetration testing or automated or manual vulnerability scans (or similar security testing) in relation to the Benefit Management Platform without first having obtained the prior written authorisation of SideUp; and
 - 8.1.9 not use the Benefit Management Platform: (a) to access, store, distribute or transmit or prepare for distribution or transmission any Malware; (b) to access, store, distribute or transmit or prepare for distribution or transmission any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (c) in a manner that is illegal or causes damage or injury to any person or property; (d) to infringe any copyright, database right or trademark of any person; (e) to transmit, send prepare for transmission or prepare for sending any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation ('spam'); or (f) to interfere with or attempt to interfere with or compromise the integrity or security of the Benefit Management Platform.
- 8.2 The Customer will not, when using the Benefit Management Platform, except as may be allowed by any applicable law which is incapable of exclusion, and to the extent expressly permitted under these Terms of Service:
- 8.2.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Benefit Management Platform in any form or media or by any means;
 - 8.2.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Benefit Management Platform; or
 - 8.2.3 access all or any part of the Benefit Management Platform in order to build a product or service which competes with the Benefit Management Platform or use or attempt to use the Benefit Management Platform to directly compete with SideUp.
- 8.3 The Customer agrees that failure to comply with this clause 8 constitutes a material breach of the Agreement.

9. RIGHTS AND REMEDIES

- 9.1 SideUp is the owner or the licensee of any and all Intellectual Property Rights in and to the Benefit Management Platform. All Intellectual Property Rights in and to the Benefit Management Platform, and the Anonymised Data, shall remain vested in (or automatically upon creation shall vest in), SideUp. Except for the licence granted to the Customer in clause 5.2, nothing in this Agreement grants to the Customer any rights to or in any Intellectual Property Rights in the Benefit Management Platform or the Anonymised Data.

- 9.2 If the Customer or any Authorised User provides, discloses, or otherwise makes available to SideUp any comments, suggestions, ideas, or other feedback ("**Feedback**"), SideUp shall own any and all such Feedback including the Intellectual Property Rights subsisting in it and, to the extent that any Intellectual Property Rights subsisting in such Feedback vests in the Customer, the Customer hereby assigns any and all such Intellectual Property Rights to SideUp with full title guarantee by way of present and future assignment free of any lien, charge, or royalty.

10. PUBLICITY

- 10.1 SideUp may use the Customer's name, logo and related trade marks in any of SideUp's publicity or marketing materials (whether in printed or electronic form) for the purpose of highlighting that the Customer uses the Benefit Management Platform and alongside any testimonials that the Customer has agreed to give.
- 10.2 The Customer may request SideUp to stop using the Customer's name, logo and related trademarks at any time by contacting SideUp in writing at help@sideup.com

11. DATA PROTECTION

- 11.1 If either party is to process any personal data in connection with this Agreement, the parties will each comply with their respective obligations under Data Protection Laws.
- 11.2 If either party intends to instruct the other party to process any personal on its behalf in connection with this Agreement, the controller shall notify the intended processor before instructing the processor to do so and if necessary, the parties shall negotiate in good faith any further agreement required by Data Protection Laws.
- 11.3 SideUp collects and shares data with Stripe as needed to operate the Customer's Stripe Account. All such data is handled by Stripe in accordance with SideUp's Privacy Policy (available to access here: <https://sideup.com/privacy-policy/>) and the [Stripe Privacy Policy](#) (available to access at: <https://stripe.com/gb/privacy>), subject always to clause 11.1.

12. CONFIDENTIAL INFORMATION

- 12.1 Each party may be given access to Confidential Information by the other party in connection with the Agreement. A party's Confidential Information shall not be deemed to include information that:
- 12.1.1 is or becomes publicly known other than through any act or omission of the receiving party in breach of the Agreement;
 - 12.1.2 was in the receiving party's lawful possession free of any duty of confidentiality on the date of its disclosure;
 - 12.1.3 is lawfully disclosed to the receiving party by a third party, except where the receiving party or its affiliate (as appropriate) is aware or ought reasonably to be aware that the third party is subject to a duty of confidence owed to

the disclosing party or any of its affiliates or is otherwise prohibited from disclosing the information in the circumstances in which the disclosure is made; or

- 12.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.

12.2 Each party shall:

- 12.2.1 hold the other's Confidential Information in confidence;
- 12.2.2 not use the other's Confidential Information except in accordance with the Agreement or for the purposes of performing its obligations under the Agreement, and in particular not to use the other's Confidential Information to obtain a commercial, trading or any other advantage; and
- 12.2.3 not disclose the other's Confidential Information to any person other than to those of its employees who need to know it.

- 12.3 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 it or its employees or agents in violation of the terms of the Agreement.

- 12.4 Nothing in the Agreement shall restrict or prevent a party from disclosing the other's Confidential Information where required to do so by law, regulation, court order, or a governmental or regulatory authority who is lawfully entitled to require the disclosure, but only to the extent and for the purpose of that disclosure.

- 12.5 Each party acknowledges that Confidential Information is valuable and that damages might not be an adequate remedy for any breach of this clause 12 (*Confidential Information*) and accordingly a party will be entitled, without proof of special damage, to an injunction and other equitable relief for any actual or threatened breach of this clause 12 (*Confidential Information*).

13. PRICE AND PAYMENT

- 13.1 The Customer will pay the Fees in accordance with the Order Form or the Sign-Up Process and the Pricing Page in the absence of an Order Form, and the provisions of this clause 13

13.1.1 .

- 13.2 The Fees will be paid by the Customer in accordance with the billing frequency indicated on the Order Form or Pricing Page, SideUp will issue invoices to the Customer:

- 13.2.1 on the Commencement Date and then in accordance with the billing frequency indicated on the Order Form or Pricing Page for any element of

the Fees which are to be paid in advance (according to the Order Form or Pricing Page); and

- 13.2.2 as otherwise provided in the Order Form or Pricing Page for overage or other additional fees arising under Agreement.
- 13.3 The Customer shall pay the Fees to which clause 13.2 refers, by the date stated on SideUp's invoice, using one of the payment methods made available from time to time on the SideUp Platform.
- 13.4 The Customer agrees that the Fees are non-refundable and non-cancellable.
- 13.5 If SideUp has not received payment within 14 days after the due date, and without prejudice to any other rights and remedies available to SideUp:
 - 13.5.1 SideUp may, without liability to the Customer, suspend or temporarily disable all or part of its and its Authorised Users' access to the Benefit Management Platform and SideUp shall be under no obligation to provide any access to the Benefit Management Platform while the Fees concerned remain unpaid (whether due to payment not being successfully settled due to expiration, insufficient funds, or otherwise); and
 - 13.5.2 interest shall accrue on such due amounts at an annual rate equal to four percent (4%) over HSBC's then current base lending rate at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether after or before judgment.
- 13.6 All amounts and fees stated or referred to in the Agreement:
 - 13.6.1 are payable without set off of any liability of SideUp in the currency specified in the Order Form or Pricing Page, or otherwise stipulated by SideUp; and
 - 13.6.2 are exclusive of value added tax ("VAT") or any other applicable taxes, levies or duties imposed by taxing authorities, unless otherwise expressly stated, which shall be paid at the same time as payment of the Fees. SideUp shall send the Customer a VAT invoice if SideUp is requested to do so.
- 13.7 The subscription fee in respect of use of the Benefit Management Platform and any other amounts used to calculate the Fees shall be automatically increased by an amount to be determined by SideUp (in its sole discretion) with effect from the commencement of each Contract Year, provided in each case that SideUp gives not less than thirty (30) days' notice in writing to the Customer of any such increase in advance of commencement of the relevant Contract Year.
- 13.8 If the Customer objects to the increase set out in the notice to which clause 13.7 refers, the Customer may terminate the Agreement by giving not less than fourteen (14) days' written notice to SideUp to expire at the end of the then-current Contract Year.

14. SERVICE LEVELS AND SUPPORT

- 14.1 Where the Customer has paid for access to the Benefit Management Platform, SideUp will use reasonable endeavours to provide a level of support that is appropriate to the nature of any issues requiring support during normal business hours (UK time). The Customer can access such support through the following means:

14.1.1 Email: help@sideup.com; or

14.1.2 [Contact form – SideUp](#)

- 14.2 The Customer acknowledges that elements of the Benefit Management Platform may be dependent on access to various third party services and APIs. The Customer agrees that SideUp is not responsible for the non-availability or interruption to the Benefit Management Platform caused by any such non-availability of any such third party services or APIs.

15. SUSPENSION AND TERMINATION

- 15.1 SideUp may suspend access to or use of the Benefit Management Platform by the Customer and any or all of the Authorised Users:

15.1.1 in accordance with clause 13.5.1; or

15.1.2 if SideUp reasonably determines that use of the Benefit Management Platform by the Customer:

15.1.2.1 poses a security risk;

15.1.2.2 is adversely impacting or may adversely impact (as appropriate) the Benefit Management Platform or any service provided by SideUp to a third party; or

15.1.2.3 is in breach of law or regulations.

- 15.2 Either party may terminate the Agreement with effect from expiry of the notice by giving notice in writing to the other party, provided that the period of any such notice shall be not less than the Minimum Notice Period and must expire at the end of the Initial Term or the then-current Renewal Term.

- 15.3 If the Customer fails to pay any sum due to SideUp and such sum remains outstanding for a further 14 days following notice requiring such sum to be paid, SideUp may terminate the Agreement with the Customer immediately by notice and without any liability for SideUp to the Customer.

- 15.4 SideUp may, by giving notice to the Customer, terminate the Agreement with immediate effect, or upon expiry of such notice period as SideUp may elect to give, if the Customer:

15.4.1 is in breach of applicable law; or

- 15.4.2 infringes the Intellectual Property Rights subsisting in the Benefit Management Platform.
- 15.5 Either party may, by giving notice to the other, terminate the Agreement as from the date of expiry of the notice if the other:
 - 15.5.1 is in material breach of any of the terms of the Agreement and either that breach is incapable of remedy, or the other party fails to remedy that breach within 30 days after receiving written notice requiring it to remedy that breach; or
 - 15.5.2 suffers an Insolvency Event.
- 15.6 On termination of the Agreement for any reason:
 - 15.6.1 all licences granted under the Agreement shall immediately terminate and the Customer's right to access and use the Benefit Management Platform will end;
 - 15.6.2 subject to clause 15.7, the Customer is entitled by notice in writing to SideUp, received within the period of thirty (30) days after the date of termination of this Agreement, to request the delivery-up of the Customer Data in SideUp's possession or control, and where the Customer does so, SideUp shall provide a copy of the Customer Data in a .csv format or such other industry standard format that the Customer requires (acting reasonably) as soon as reasonably practicable after receipt of the notice, and if the Customer fails to make such an election, SideUp may delete any such Customer Data and SideUp shall not be held responsible for its deletion; and
 - 15.6.3 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination shall not be affected or prejudiced.
- 15.7 Nothing in this Agreement shall prevent SideUp from retaining Customer Data to the extent required in order to comply with law or regulations, or for audit and compliance purposes.
- 15.8 Termination or expiry of the Agreement does not affect the continuance in force of any of the provisions of clauses 5.12, 9 (Intellectual Property Rights), 12(Confidentiality), 16(Liability), 17 (Notices), 21 (Waiver), 22 (Severability), 23 (Entire Agreement), and 26 (Governing Law and Jurisdiction), which survive the expiry or termination of the Agreement.

16. LIABILITY

- 16.1 Subject to clause 16.2, SideUp will not be liable for losses that result from SideUp's failure to comply with the Agreement, in contract, tort (including negligence) or otherwise in conditions that fall into the following categories: loss of income or revenue;

loss of business; loss of profits; loss of anticipated savings; loss of reputation; loss of or damage to data; waste of management or office time; or any indirect, consequential or special damages, costs or expenses.

- 16.2 Nothing in the Agreement affects SideUp's liability for death or personal injury, for fraud or fraudulent misrepresentation, or any other liability to the extent it cannot be excluded or limited by law.
- 16.3 Subject to clause 16.2, SideUp's total liability in each Contract Year, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Agreement shall in all circumstances be limited to the Fees paid and payable by the Customer in then-current Contract Year.
- 16.4 Except as is otherwise set out in the Agreement, the Benefit Management Platform is provided on an "AS IS" basis and SideUp gives no representations, warranties, conditions or other terms of any kind in respect of the Benefit Management Platform, whether express or implied, including, but not limited to, warranties of satisfactory quality, merchantability fitness for a particular purpose or non-infringement.
- 16.5 Except as expressly and specifically provided for in the Agreement and subject to clause 16.2:
 - 16.5.1 the Customer assumes sole responsibility for any results obtained from the use of the Benefit Management Platform and for any decisions or actions taken arising from such use and it relies on the results obtained from the Benefit Management Platform at its own risk;
 - 16.5.2 as between the parties, the Customer assumes sole responsibility for any results obtained from the Company's, its Authorised Users', and Customer Employee' use of the Third Party Content and for any decisions or actions taken arising from such use and it relies and they rely on the results obtained from use of the Third Party Content at its and their own risk;
 - 16.5.3 the entire risk arising out of use of the Third Party Content remains with the Customer and, in particular, the Customer acknowledges and agrees that the Third Party Content is:
 - 16.5.3.1 provided for information only and is not intended to be used as the sole basis for any financial decision by any person; and
 - 16.5.3.2 is not intended to amount to advice (of any nature) on which the Customer or any other person should rely;
 - 16.5.3.3 all representations, warranties, conditions and all other terms of any kind whatsoever implied by statute or common law which relate to the Third Party Content are, to the fullest extent permitted by law, excluded from the Agreement; and

- 16.5.4 SideUp will not be responsible for any interruptions, delays, failures or non-availability affecting the Benefit Management Platform or the performance of the Benefit Management Platform which are caused by third party services or errors or bugs in software, hardware or the internet on which SideUp relies to provide the Benefit Management Platform and the Customer acknowledges that SideUp does not control such third party services and that such errors and bugs are inherent in the use of such software, hardware and the Internet.

17. INDEPENDENT CONTRACTORS

- 17.1 The relationship of each party to the other will be that of independent contractors and nothing in the Agreement shall render either party as an employee, worker, agent or partner of the other party and neither party shall not hold itself out as such.
- 17.2 The parties are independent businesses and are not partners, principal and agent or employer and employee and the Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it.

18. NOTICES

- 18.1 All notices given by the Customer to SideUp must be given to [email]. SideUp may give notice to the Customer by posting on the Benefit Management Platform, at the e-mail or postal address the Customer provides to SideUp, or in any other way SideUp deems appropriate.
- 18.2 Notices will be deemed received and properly served (i) immediately when posted on the Benefit Management Platform, (ii) 24 hours after an e-mail is sent, except that if the email produces an automated response reporting a failure to deliver, delayed delivery to the intended recipient, or an "out of office" (or similar) notification, the notice shall not be taken to have been served, and (iii) 3 days after the date of posting of any letter.
- 18.3 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped, and placed in the post and, in the case of an e-mail that such e-mail was sent to the specified e-mail address of the addressee.

19. TRANSFER OF RIGHTS AND OBLIGATIONS

- 19.1 The Customer may not transfer, assign, charge or otherwise deal in the Agreement, or any of the Customer's rights or obligations arising under the Agreement, without SideUp's prior written consent.
- 19.2 SideUp may at any time assign, transfer, charge, sub-contract, or deal in any other manner with all or any of its rights or obligations under the Agreement without requiring any additional consent from the Customer.

20. FORCE MAJEURE

No party shall be liable to the other for any delay or non-performance of its obligations under the Agreement arising from any cause beyond its control including, without limitation, any of the following: telecommunications failure, pandemic, internet failure, act of God, governmental act, war, fire, flood, explosion or civil commotion. For the avoidance of doubt, nothing in this clause 20 shall excuse the Customer from any payment obligations under the Agreement.

21. WAIVER

No forbearance or delay by either party in enforcing its rights shall prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

22. SEVERABILITY

If any provision of the Agreement is judged to be illegal, invalid or unenforceable in whole or in part, that provision shall to that extent be deemed not to form part of the Agreement and the legality, validity and enforceability of the remainder of the Agreement shall be unaffected.

23. ENTIRE AGREEMENT

23.1 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

23.2 Each party warrants, represents, and undertakes that in entering into the Agreement, the party does not rely on any statement, representation, misrepresentation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement.

24. THIRD PARTY RIGHTS

A person who is not party to the Agreement shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

25. GOVERNING LAW AND JURISDICTION

The Agreement, and any non-contractual obligations arising in connection with the Agreement, shall be governed by and construed in accordance with English law and each party hereby submits to the exclusive jurisdiction of the English courts to hear and determine any suit, action, or proceedings, and to settle any disputes, which may arise out of or in connection with the Agreement.

Schedule 1 – Support and Service Levels

1. ADDITIONAL DEFINITIONS

In this Schedule, the following additional definitions apply:

- 1.1 “**Business Day**” means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
- 1.2 “**Downtime**” means the period of time during which the Benefit Management Platform is unavailable;
- 1.3 “**Emergency Maintenance**” means any maintenance operation performed on an emergency basis in order to implement important system changes that cannot be postponed until Scheduled Maintenance is to take place, including without limitation changes aimed to solve the inaccessibility of a material functionality of the Benefit Management Platform or exposure of a material security vulnerability;
- 1.4 “**Excluded Event**” means any unavailability or performance issues of the Benefit Management Platform that: (i) result from the systems, software, services, equipment or technology controlled or operated by the Customer; (ii) are caused by factors beyond the reasonable control of SideUp, including without limitation events to which clause **Error! Reference source not found.** (*Force Majeure*) refers, Internet access, third party services or related issues, (iii) result from the actions or inactions of the Customer or any third party, (iv) result from SideUp’s suspension or termination of the Customer’s or any Authorised User’s right to access and use the Benefit Management Platform or part thereof as permitted by the Agreement, or (v) relates to Downtime during Scheduled Maintenance or Emergency Maintenance;
- 1.5 “**Scheduled Maintenance**” means any planned maintenance operation that is scheduled to perform non-critical error fixes and/or implement changes and updates to the Benefit Management Platform;
- 1.6 “**Support Hours**” means the hours between [9.00am to 5.00pm] on any Business Day; and
- 1.7 “**Workaround**” means a solution that provides a temporary or permanent fix to a problem and causes the Benefit Management Platform to perform as expected; and
- 1.8 “**Uptime**” means the overall time the Benefit Management Platform is available in the course of any given month, calculated as the percentage value of the total number of minutes in any given calendar month, minus the total number of minutes of Downtime (outside of any Excluded Event) in that month, divided by the total number of minutes in that month.

2. AVAILABILITY

SideUp will use reasonable commercial efforts to make the Benefit Management Platform available in accordance with this Agreement with an Uptime of ninety nine percent (99%).

3. SUPPORT REQUESTS

- a. The Client can request support during the Support Hours through the following means:
 - i. **Email:** help@sideup.com

- ii. **Help desk:** “Help” session at Business Application
(together the “Support Notification Tools”)
- b. Client shall submit support requests through the Support Notification Tools (the **“Support Requests”**) providing a detailed description of the assistance needed including:
 - i. the specific functionality at issue or being impacted;
 - ii. the steps that occurred before and/or after issue occurred;
 - iii. an estimated time frame in which the issue was observed;
 - iv. screenshots and other descriptive support information illustrating the issue (where possible).
- c. Following notification, SideUp shall promptly log the Support Request, identify severity level and provide the Customer with a response in accordance with paragraph 4 (*Response and Resolution Times*) below.

4. RESPONSE AND RESOLUTION TIMES

- d. SideUp will use reasonable commercial efforts to respond to Support Requests and resolve them in accordance with severity level and target response and resolution times identified in the table below:

	Priority Level 1	Priority Level 2	Priority Level 3
Severity Level			
Description of each severity level	A non-critical element of the Benefit Management Platform is not functioning as intended; Workaround likely available	A critical element of the Benefit Management Platform is not functioning as intended; a Workaround may be available	A critical element of the Benefit Management Platform is not functioning as intended, causing interruption to critical business processes; no Workaround available
TARGETS			
Target Response Time	By the end of the following Business Day	Within 3 hours	Within 1 hour
Target Resolution Time	Within fifteen (15) days	2-5 Business Days	24 hours

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e. In the above table:

- “**Response**” means initial triaging and providing confirmation to the Customer (using any reasonable means) that the Support Request has been received by SideUp; and
- The Target Response Times and Target Resolution Times shall not apply to Excluded Events.

f. SideUp may charge a reasonable fee for dealing with any Support Requests related to an Excluded Event that have been caused by the negligence of the Customer.

5. **MAINTENANCE**

g. If SideUp considers that any Scheduled Maintenance is to include Downtime, SideUp shall notify the Client at least forty-eight (48) hours in advance of the Scheduled Maintenance taking place.

h. Scheduled Maintenance sessions are primarily scheduled to be performed depending on the Benefit Management Platform load for the time when it is the lowest (typically outside Support Hours and on days which are not Business Days).

i. Where Emergency Maintenance is required, SideUp shall use commercially reasonable endeavours provide the Customer with a Downtime notification as soon as is reasonably practicable.