

End user license agreement (EULA)

This is your Terms of Use for breatheHR please read this carefully before using breatheHR and you may want to retain a copy for your records. When I accept these terms, I confirm that I am duly authorised on behalf of the Client to place an order for breatheHR subject to the terms and conditions set out below. I also warrant that the information submitted in signing up is correct and accurate to the best of my knowledge.

A: PROPERTY OF CENTURION FOLLOWING COMPLETION OF THIS CLIENT ORDER FORM AND ACCEPTANCE OF ALL THE TERMS AND CONDITIONS SET OUT BELOW YOU MAY ACCESS AND USE THE BREATHEHR SOFTWARE THROUGH OUR SERVER. THE COPYRIGHT, DATABASE RIGHTS AND ANY OTHER INTELLECTUAL PROPERTY RIGHTS IN THE PROGRAMS AND DATA WHICH CONSTITUTE THIS SOFTWARE PRODUCT ('THE MATERIALS'), ARE AND REMAIN THE PROPERTY OF CENTURION MANAGEMENT SYSTEMS LTD ('CENTURION').

B: LICENCE ACCEPTANCE PROCEDURE BY CLICKING ON THE ACCEPTANCE BUTTON BELOW (MARKED 'DO YOU ACCEPT THESE TERMS AND CONDITIONS?'), YOU INDICATE ACCEPTANCE OF THIS END USER LICENCE AGREEMENT AND THE LIMITED WARRANTY AND LIMITATION OF LIABILITY SET OUT IN THIS END USER LICENCE AGREEMENT. SUCH ACCEPTANCE IS ON BEHALF OF ANY CORPORATE ENTITY WHICH EMPLOYS YOU OR WHICH YOU REPRESENT ('CLIENT'). IN THIS END USER LICENCE AGREEMENT, 'YOU' INCLUDES BOTH THE READER AND ANY CLIENT. YOU SHOULD THEREFORE READ THIS END USER LICENCE AGREEMENT CAREFULLY BEFORE CLICKING ON THE ACCEPTANCE FIELD.

C: ORDER FORM REJECTION CENTURION MAY IN ITS ABSOLUTE DISCRETION REJECT YOUR CLIENT ORDER FORM WITHIN 21 DAYS OF SUBMISSION, IN WHICH CASE YOU WILL BE NOTIFIED OF SUCH REJECTION BY E-MAIL.

Definitions

The following terms as used in this Agreement have the following meanings:

"Agreement" means these terms of use which may be amended by Centurion from time to time in its sole discretion;

"breatheHR" means the online Human Resource service managed by Centurion and provided through the Website;

"breatheHR Technology" means all the proprietary technology used in delivering the

Service (including the software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to the Client by Centurion in providing the Service;

“Card Details” means valid credit or debit card details provided by the Client for payment of the Fees;

“Client” means the corporate entity or organisation ordering the Service(s) as detailed in the Order Form;

“Client Data” means any data, information or material provided or submitted by the Client to the Service or generated by the Service in the course of using the Service including but not limited to employee data held in the Service;

“Content” means the documents, software, products and services contained or made available to the Client in the course of using the Service;

“Defect” means an error in the operation of the Service that causes the Service to fail to operate substantially as documented;

“Effective Date” means the date the Accepting Individual identified in the Order Form clicked the Acceptance Button on behalf of the Client to commence use of the Service;

“Employee Records” means the number of current employee records to be recorded in the Service. For clarity this does not include leavers but does include temporary, bank and contract workers;

“Fees” means any and all fees charges or other payments due from the Client to Centurion under this Agreement;

“Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

“License Administrator(s)” means those Users designated in the Order Form who are authorised to administer the Client use of the Service;

“License Term” means the period during which the Client is licensed to use the Service pursuant to this Agreement;

“Order Form” means the online Client Order Form as completed by the Accepting Individual;

“Trial Period” means the initial period of 30 days from the Effective Date;

“Service(s)” means the online Human Resource services developed, operated, and maintained by Centurion (and its licensors, where applicable), or ancillary online or offline products and services provided to the Client by Centurion, to which the Client is being granted access under this Agreement, including the breatheHR Technology and the

Content;

“**User(s)**” means the Client’s employees, representatives, consultants, contractors or agents who are authorised to use the Service and have been supplied user identifications and passwords by the Client (or by Centurion at the Clients request);

“**Website**” means www.breatheHR.com

Trial Period and Duration

If the Client has selected the Trial Period in the Order Form then the Services will be provided free of charge for the Trial Period only. Thereafter the Client will have to provide Card Details for payment of the Fees referred to below, failing which Centurion may immediately cease provision of the Services and may delete all Client Data and all other data settings information and records in relation to the breatheHR system as set up for the Client. If the Client has provided Card Details to Centurion then the Services shall continue to be provided for so long as the Fees can be paid using the Card Details unless and until this Agreement is terminated in accordance with these terms and conditions.

Privacy; Disclosure

Centurion’s privacy policy in relation to the Client’s use of the Service may be viewed at <http://www.breatheHR.com>. Centurion reserves the right to modify its privacy policy in its reasonable discretion from time to time. With regard to any personal data input by or collected from the Client that may be stored or processed in the breatheHR system, such data shall be stored and processed by Centurion in accordance with UK data protection legislation. Note that because the Service is a hosted, online application, Centurion occasionally may need to notify all Users of the Service of important announcements regarding the operation of the Service. If the Client becomes a paying user of the Service, the Client agrees that Centurion can disclose the fact that the Client is a paying user of the service.

License Grant & Restrictions

Centurion hereby grants the Client a non-exclusive, non-transferable, right to use the Service, solely for the Client’s own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to the Client are reserved by Centurion and its licensors. The Client may not access the Service if they are a direct competitor of Centurion, except with Centurion’s prior written consent. In addition, the Client may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes. The client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in

any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet “links” to the Service or “frame” or “mirror” any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service. The Client may use the Service only for internal business purposes and shall not: (i) store infringing, obscene, threatening, libellous, or otherwise unlawful or tortious material, including material harmful to children or in violation of third party privacy rights; (ii) store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iii) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (iv) attempt to gain unauthorised access to the Service or its related systems or networks.

The Client’s Responsibilities

The Client is responsible for all activity occurring under their User accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with their use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. The Client shall: (i) notify Centurion immediately of any unauthorised use of any password or account or any other known or suspected breach of security; (ii) report to Centurion immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by the Client or their Users; and (iii) not impersonate another breatheHR User or provide false identity information to gain access to or use the Service.

Account Information and Data

Centurion does not own any of the Client Data. The Client, not Centurion, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Client Data, and Centurion shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Client Data. In the event this Agreement is terminated (other than by reason of the Client’s breach), Centurion shall advise the Client how it may retrieve the Client Data but it will be the sole responsibility of the Client to retrieve a copy of their Client Data within 30 days of termination after which time Centurion may delete all such data. Centurion reserves the right to withhold, remove and/or discard Client Data without notice for any breach by the Client, including, without limitation, their non-payment. Upon termination by Centurion for any breach, the Client’s right to access or use Client Data

immediately ceases, and Centurion shall have no obligation to maintain or store or forward any Client Data.

Intellectual Property Ownership

Centurion alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the breatheHR Technology and any content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by the Client or any other party relating to the Service. This Agreement is not a sale and does not convey to the Client any rights of ownership in or related to the Service, the breatheHR Technology or the Intellectual Property Rights owned by Centurion. The breatheHR name, the breatheHR logo, and the product names associated with the Service are trademarks of Centurion or third parties, and no right or license is granted to use them.

Fees and Payment

The Client shall pay all Fees to their account in accordance with the fees, charges, and billing terms in effect at the time a Fee is due and payable, which Fees can be viewed on our Pricing Plans page here: <http://www.breathehr.com/hr-software-prices/>. The Fees will be based on the current number of employee records specified on the Order Form and the appropriate band of employee numbers this falls within as stated on our Fees page currently in effect and as selected by the Client. Fees will be invoiced by Centurion monthly in advance and payments shall be charged concurrently to your Card Details monthly in advance. All payment obligations are non-cancellable and all amounts paid are non-refundable. The Client is responsible for paying for all Services ordered for the entire License Term. If the Client wishes to amend the number of employees with access to the Service the Client must make any such amendment through the Administration pages in the Service and any resulting adjustment to the fees shall be reflected in the next billing month.<p> Centurion reserves the right to modify its Fees and to introduce new Fees at any time, upon at least 30 days prior notice to the Client, which notice may be provided by e-mail or through the Administration pages in the Service . All pricing terms are confidential, and the Client agrees not to disclose them to any third party.

Support services

The Client's subscription to use the Services includes the provision of support services as specified on our Pricing Plans page here: <http://www.breathehr.com/hr-software-prices/>

Set-up and training services

Set-up and training services may be available on request from Centurion. Their availability and cost will be subject to agreement between the parties.

Excess Data Storage Fees

The maximum disk storage space provided to the Client at no additional charge will depend on the Price Plan purchased by the Client details of which are set out on our Pricing Plans page here: <http://www.breathehr.com/hr-software-prices/>. If the Client wishes to increase the amount of disk storage the Client must select the appropriate Pricing Plan through the Administration pages in the Service and any resulting adjustment to the fees shall be reflected in the next billing month. Centurion reserves the right to modify the Plan Pricing Page limits relating to storage of Client Data from time to time.

Billing and Renewal

If the Client wishes to continue with the Service after the Trial Period then the Client must provide Card Details. The provision of such Card Details either upon the Effective Date or subsequently shall be taken as the Client's authorisation to charge all Fees to those Card Details. Centurion charges and collects in advance for use of the Service. Centurion will automatically charge the Client on a monthly basis from the date the Card Details are provided until termination. The monthly charges will be calculated using the Plan fee in effect during the prior month, unless Centurion has given the Client at least 30 days prior written notice of a fee increase, which shall be effective from the month following such notice. Fees for other services will be charged on an as-quoted basis. Centurion's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and the Client shall be responsible for payment of all such taxes, levies, or duties. The Client warrants that it has provided Centurion with complete and accurate billing and contact information in the Order Form. The Client agrees to provide Centurion with updated information within 30 days of any change to it through the Client's Administration Page in the Service. If the contact information the Client has provided is false or fraudulent, Centurion reserves the right to terminate access to the Service in addition to any other legal remedies. breatheHR is only available to corporate entities or organisations and all billing will be in £ sterling. If the Client believes their bill is incorrect they must notify Centurion in writing within 60 days of the date of the disputed invoice, following which Centurion shall assess whether any adjustment or credit is due.

Non-Payment and Suspension

In addition to any other rights granted to Centurion herein, Centurion reserves the right to suspend or terminate this Agreement and the Client's access to the Service if their

account falls into arrears. If any sum payable under this Agreement is not paid within 7 days after the due date or any payment is rejected revoked or refused then (without prejudice to the Company's other rights and remedies) Centurion reserves the right to suspend the provision of any Services being rendered and to delete all Client Data and all other data settings information and records in relation to the breatheHR system as set up for the Client and/or to charge interest on such sum on a day to day basis (as well after as before any judgment) from the date or last date for payment thereof to the date of actual payment (both dates inclusive) at the rate of 4 per cent above the base rate of National Westminster Bank plc from time to time in force compounded quarterly. Such interest shall be paid on demand by the Client. If the Client initiates termination of this Agreement, the Client will be obliged to pay the balance due on their account computed in accordance with the Fees and Payment section above. The Client agrees that Centurion may bill for such unpaid Fees. Centurion reserves the right to impose a reconnection fee in the event the Client is suspended and thereafter requests access to the Service.

Termination upon Expiration/by Notice

This Agreement commences on the Effective Date. This Agreement will automatically expire at the end of the Trial Period unless the Client has provided Card Details. If Card Details have been provided then this Agreement will continue until the Client gives 1 clear months' notice of termination, ie 1 clear billing month, or unless it is terminated under any other provisions of this Agreement. Centurion may also terminate this Agreement where Centurion decides to withdraw the Website (whether on a temporary or permanent basis) or decides to no longer permit access to the Website by the Client (by use of passwords or changes of passwords or by any other means). In such cases, where the Client has paid for any Services and has not received all of the Services the Client has paid for, Centurion may either return any amounts the Client has paid or complete performing the Services which remain unperformed.

Termination for Cause

Centurion may terminate this Agreement if the Client commits any material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified of the breach. Without limit to the generality of the foregoing any breach of the Client's payment obligations or unauthorised use of the breatheHR Technology or Service will be deemed a material and irremediable breach of this Agreement.

Termination consequences

Following termination for any reason Centurion will terminate the Client's password, account and use of the Service.

Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Centurion represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially as documented under normal use and circumstances. The sole remedy for breach of this warranty shall be correction of any Defects by Centurion within a reasonable time from notification by the Client of the Defect that constitutes such a breach, providing that the Client provides all the information that may be necessary to assist Centurion in resolving the Defect, including sufficient information to enable Centurion to recreate the Defect. The Client represents and warrants that they have not falsely identified themselves nor provided any false information to gain access to the Service and that their billing information is correct.

Confidential information

Centurion will keep all Client Data confidential, providing that Client Data may be disclosed to Centurion's employees, representatives, consultants, contractors or agents (who in turn will be legally bound to keep the Client Data confidential). The obligation to keep the Client Data confidential will not apply to any information that: i. Is already known to the public; or ii. Is required to be disclosed by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction, providing that Centurion will give the Client notice of the requirement to disclose of that disclosure as soon as practicable.

Mutual Indemnification

The Client shall indemnify and hold Centurion, its licensors and each such party's parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Client Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by the Client of their representations and warranties; or (iii) a claim arising from the breach by the Client or their Users of this Agreement, provided in any such case that Centurion (a) gives written notice of the claim promptly to the Client; (b) gives the Client sole control of the defence and settlement of the claim (provided that the Client may not settle or defend any claim unless they unconditionally release Centurion of all liability and such settlement does not affect Centurion's business or Service); (c) provides to the Client all available information

and assistance; and (d) has not compromised or settled such claim. Centurion shall indemnify and hold the Client and their parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including all reasonable legal and professional fees and costs) arising out of or in connection with: (i) a proven claim that the Service directly infringes the copyright, or a trademark of a third party; (ii) a claim, which if true, would constitute a substantial and actual violation by Centurion of its representations or warranties; or (iii) a claim arising from Centurion's wilful and knowing disclosure of your Client Data to any unauthorised parties unless required by law; provided that the Client (a) promptly give written notice of the claim to Centurion; (b) give Centurion sole control of the defence and settlement of the claim ; (c) provide to Centurion all available information and assistance; and (d) have not compromised or settled such claim. Centurion shall have no indemnification obligation, and the Client shall indemnify Centurion pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of the Client's products, service, hardware or business process(es).

Disclaimer of Warranties

Centurion and its licensors do not guarantee that: i. the Services will operate error free or without interruption; ii. all program defects in relation to the Services will be corrected; and iii. the Services will operate with any hardware, software, system or data not identified in the ordering process. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY CENTURION AND ITS LICENSORS.

Internet Delays

CENTURION'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. CENTURION IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

Force Majeure

In this Agreement, "force majeure" shall mean any cause preventing Centurion from performing any or all of Centurion's obligations which arise from or are attributable to acts, events, omissions or accidents beyond Centurion's reasonable control including without limitation strikes, lock-outs or other industrial disputes, acts of God, war, riot, civil

commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, interruption or failure of utility service, including but not limited to electric power, gas or water or default of suppliers or sub-contractors. Centurion shall not be in breach of this Agreement if it is subject to a force majeure event, provided that it uses reasonable endeavours to notify you in writing of the nature and extent of the force majeure event causing Centurion's failure or delay in performance. If the force majeure event prevails for a continuous period of more than 2 months, the Client may terminate this Agreement by giving 14 days' written notice to Centurion. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to Centurion's rights in respect of any breach of this agreement occurring prior to such termination.

Limitation of Liability

NOTHING IN THIS AGREEMENT WILL EXCLUDE OR LIMIT CENTURION'S LIABILITY FOR: i. DEATH OR PERSONAL INJURY CAUSED BY CENTURION'S NEGLIGENCE; OR ii. FRAUD OR FRAUDULENT MISREPRESENTATION. SUBJECT TO THE INDEMNITY CLAUSE, CENTURION SHALL NOT BE LIABLE FOR ANY DAMAGES OR LOSSES AS A RESULT OF A FORCE MAJEURE EVENT. CENTURION SHALL NOT BE LIABLE FOR: i. ANY LOSS OF PROFITS OR OTHER ECONOMIC ADVANTAGE; ii. ANY LOSS OF DATA; iii. ANY LOSS OF GOODWILL; iv. ANY LOSS OF ANTICIPATED SAVINGS; v. ANY CONSEQUENTIAL LOSSES; AND/OR vi. ANY EXEMPLARY OR PUNITIVE LOSSES, ARISING IN RESPECT OF ANY REPRESENTATION, STATEMENT, ACT OR OMISSION IN CONNECTION WITH THIS AGREEMENT, WHETHER THE CLAIM ARISES UNDER CONTRACT, TORT, MISREPRESENTATION OR BREACH OF STATUTORY DUTY. SUBJECT TO PARAGRAPH 1 OF THIS CLAUSE, IN NO EVENT SHALL CENTURION'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM THE CLIENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

Notice

Centurion may give notice by means of electronic mail to the Client's e-mail address on record in Centurion's account information, or by written communication sent by first class mail or pre-paid post to the address on record in Centurion's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). The Client may give notice to Centurion (such notice shall be deemed given when received by Centurion) at any time by any of the following: letter sent by confirmed

facsimile to Centurion at the following fax number 08445611223; letter delivered by nationally recognised overnight delivery service or first class postage prepaid mail to Centurion at the following address: Unit 18, Oakhurst Business Park, Wilberforce Way, Southwater, Horsham RH13 9RT.

Modification to Terms

Centurion reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time. Such modified terms and conditions will be issued or made available to the Client electronically via email or the Website and shall be deemed effective 12 hours after electronic delivery or notification. Continued use of the Service after any such changes shall constitute the Clients consent to such changes.

Assignment; Change in Control

This Agreement may not be assigned by the Client without the prior written approval of Centurion but may be assigned without the Clients consent by Centurion to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of the Client that results or would result in a direct competitor of Centurion directly or indirectly owning or controlling 50% or more of the Client shall entitle Centurion to terminate this Agreement for cause immediately upon written notice.

General

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties agree that any dispute relating to its terms or subject matter shall be subject to the exclusive jurisdiction of the English courts. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between the Client and Centurion as a result of this agreement or use of the Service. The failure of Centurion to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Centurion in signed writing authorised by a director of Centurion. This Agreement together with the Order Form and Centurion's privacy policy and any copyright notices on the Website comprises the entire agreement between the Client and Centurion in relation to the Services and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

Third parties

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

Acceptance of Agreement

By ticking the acceptance field below you confirm acceptance of these terms of business which together with the Order Form shall constitute a binding contract between Centurion and the Client, subject to the ability of Centurion within 21 days to reject the Client's Order Form.