

## **CETU TERMS FOR AWS MARKETPLACE**

These terms (the "**Terms**") together with any other agreements or terms incorporated by reference (collectively, the "**Agreement**"), govern your use of the CeTu Platform through the marketplace operated by AWS located at <https://aws.amazon.com/marketplace> (as it may be updated from time to time, the "**AWS Marketplace**"). These Terms constitute a binding and enforceable legal contract between CeTu and the AWS customer (the "**Customer**" or "**You**"). By subscribing to the CeTu Platform through AWS Marketplace, Customer agrees to these Terms.

### **1. License**

**1.1.** Subject to the terms and conditions of this Agreement, CeTu shall provide Customer with the CeTu Platform (the "**CeTu Platform**").

**1.2.** Subject to Customer's compliance with the terms and conditions of this Agreement, CeTu grants Customer a non-exclusive, non-transferable, non-sublicensable, limited, revocable right for Customer employees, agents, representatives, and contractors who are permitted access to the CeTu Platform ("**Authorized Users**") to access the CeTu Platform, for Customer's internal business use, according to CeTu's documentation ("**Documentation**").

**2. Customer's Obligations.** Customer hereby undertakes to:

**2.1.** install the CeTu Platform in accordance with the Documentation and instructions provided by CeTu. Customer acknowledges that if Customer does not provide accurate and up-to-date data, the usage of the CeTu Platform, including technical support, may be negatively impacted, or may not be possible at all;

**2.2.** use the CeTu Platform, and all related software and Documentation in compliance with all applicable laws and regulations, including but not limited to applicable data security and privacy laws; and

**2.3.** manage and secure all data and login credentials used by Authorized Users in connection with their use of the CeTu Platform and protect the same against unauthorized use or disclosure.

**3. Pricing.** All fees and payment terms are governed by, and subject to, the AWS Marketplace payment terms located at <http://aws.amazon.com/marketplace/help/buyer-payment>.

### **4. Intellectual Property Rights; Confidentiality**

**4.1.** All intellectual property rights in the CeTu Platform, Documentation, and any part thereof, including any and all derivatives, changes and improvements thereof lie exclusively with CeTu. Customer shall (i) not attempt to infiltrate, hack, reverse engineer, decompile,

or disassemble the CeTu Platform, or any part thereof for any purpose or use it to build a competitive service or product; (ii) not represent that it possesses any proprietary interest in CeTu Platform,, Documentation or any part or derivative thereof; (iii) not directly or indirectly, take any action to contest CeTu's intellectual property rights or infringe them in any way; (iv) except as specifically permitted in writing by CeTu, not use the name, trademarks, trade-names, and logos of CeTu; (v) except as specifically permitted herein, not copy any part or content of the CeTu Platform, reports or documentation other than for Customer's own internal business purposes; (vi) not copy any features, functions or graphics of the CeTu Platform or use it to build a competitive product or service; and (vii) not remove the copyright, trademark and other proprietary notices contained on or in the CeTu Platform, products, services or documentation. All intellectual property rights in the data stored on Customer Clusters and in any modifications, enhancements and derivatives thereof (collectively, "**Customer IPR**") lie exclusively with Customer or its licensors. Customer shall take no action, directly or indirectly, to register CeTu trademarks (or their variation), domain names, or copyrights in its own name and shall provide commercially reasonable assistance to CeTu to prevent the occurrence of such activity by any third parties.

**4.2.** Customer hereby grants to CeTu a non-exclusive, non-sublicensable, revocable, non-transferable, royalty-free, worldwide license to use, reproduce, and prepare derivative works of all data provided to CeTu by Customer in connection with this Agreement solely to permit CeTu to perform the services to Customer as set forth in this Agreement, and to analyze anonymized data obtained through the CeTu Platform in order to provide Customer with analytics and reports, all subject to CeTu's compliance with applicable law and privacy regulations.

**4.3.** The receiving party agrees (i) not to disclose the disclosing party's Confidential Information to any third parties other than to its directors, employees, advisors, or consultants (collectively, its "**Representatives**") on a "need to know" basis and provided that such

Representatives are bound by confidentiality obligations not less restrictive than those contained herein; (ii) not to use or reproduce any of the disclosing party's Confidential Information for any purposes except to carry out its rights and responsibilities under this Agreement; (iii) to keep the disclosing party's Confidential Information confidential using at least the same degree of care it uses to protect its own confidential information, which shall in any event not be less than a reasonable degree of care. Notwithstanding the foregoing, if the receiving party is required by legal process or applicable law, rule, or regulation to disclose any of the disclosing party's Confidential Information, then prior to such disclosure, if legally allowed, receiving party will give prompt notice to the disclosing party so that it may seek a protective order or other appropriate relief. The confidentiality obligations hereunder shall expire five years from the date of termination or expiration of this Agreement (and with respect to trade secrets- in perpetuity) and shall supersede any previous confidentiality undertakings between the parties.

4.4. For the purposes hereof, "**Confidential Information**" means any proprietary or trade secret information disclosed by one party to the other which can be reasonably understood under the circumstances to be confidential, but excluding any information that: (i) is now or subsequently becomes generally available in the public domain through no fault or breach on the part of receiving party; (ii) the receiving party can demonstrate in its records to have had rightfully in its possession prior to disclosure of the Confidential Information by the disclosing party; (iii) the receiving party rightfully obtains from a third party who has the right to transfer or disclose it, without default or breach of this Agreement; (iv) the receiving party can demonstrate in its records to have independently developed, without breach of this Agreement and/or any use of or reference to the Confidential Information. For the avoidance of doubt, Customer IPR shall be deemed Customer Confidential Information.

## **5. Customer Data**

5.1. As between the parties, Customer owns and retains all right, title and interest (including all Intellectual Property Rights) in and to any data or information that is provided by Customer, or allowed by Customer to be processed by CeTu or that originates, resides on, is otherwise processed through or derived from CeTu Platform (or anyone operating on their behalf) and processed by CeTu in the provision of the CeTu Platform or its associated services ("**Customer Data**"). Customer shall be solely responsible and liable for the legality, reliability, integrity, accuracy and quality of all Customer Data. Customer hereby grants to CeTu a non-exclusive, worldwide, royalty-free, perpetual right to use Customer

Data to the extent necessary to perform its obligations and provide the CeTu Platform under this Agreement or to improve the CeTu Platform. As the exclusive owner of the Customer Data, Customer represents, warrants and covenants that to the extent the Customer Data includes any personally identifiable information, Customer has provided all appropriate notices, received any and all required consents or permits, and/or have any and all ongoing legal bases, and has acted in compliance with any and all applicable privacy laws, to allow CeTu to use the Customer Data solely in order to perform the CeTu Platform and its associated services on the Customer's behalf. CeTu may however be required to disclose the Customer Data: (a) to satisfy any applicable law, regulation, legal process, subpoena or governmental request; or (b) to collect, store, transfer, and/or process the Customer Data through CeTu's affiliates, subsidiaries, third party service providers and vendors as reasonably necessary to provide the CeTu Platform and its associated services.

5.2. Customer shall implement and maintain appropriate administrative, physical, and technical measures to protect, and prevent the accidental loss or unauthorized access, use or disclosure of, Customer Data, (including, without limitation, encryption). To the extent that Customer needs a Data Processing Agreement, Customer shall send an email request to [help@cetu.io](mailto:help@cetu.io), requesting CeTu's Data Processing Agreement ("**DPA**") and return it signed to CeTu as described therein.

5.3. Upon cancellation of this Agreement, and unless otherwise provided in the DPA, CeTu shall delete or return the Customer Data to Customer within sixty (60) days of such cancellation .

## **6. Warranties; Disclaimer; Limitation of Liability**

6.1. **EXCEPT AS EXPLICITLY SET FORTH IN THIS AGREEMENT, CETU PROVIDES THE CETU PLATFORM, AND DOCUMENTATION TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OR REPRESENTATION OF ANY KIND, AND CETU EXPRESSLY DISCLAIMS ALL WARRANTIES - STATUTORY, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY. CETU FURTHER DISCLAIMS ANY WARRANTY THAT THE OPERATION OF THE CETU PLATFORM OR ANY RELATED SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.**

6.2. **EXCEPT FOR WILLFUL MISCONDUCT OR FRAUD, OR INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY UNDER, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO CETU DURING THE 12 MONTHS PRECEDING THE DATE THE LIABILITY FIRST**

ARISES. EXCEPT WITH RESPECT TO SECTION 8.2, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA (INCLUDING END-USER INFORMATION), COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.3. You represent, warrant and covenant that you are fully responsible and liable for any data and content (including without limitation, any URLs you input) you provide in or to the CeTu Platform or its associated services and that you have all necessary rights and permissions to access, provide and use such data and content. You represent, warrant and covenant that such data does not and will not contain any personal or sensitive data, any unlawful content or any data or content from third-party products or services without the necessary authorizations or rights.

## **7. Indemnification.**

7.1. CeTu's Indemnification. CeTu shall defend, indemnify and hold harmless Customer, from and against any claims, damages, costs, liabilities and expenses (including reasonable attorneys' fees) arising out of or related to any third-party claim that the CeTu Platform and/or Documentation infringes any third party intellectual property right. Indemnification hereunder shall be conditioned upon: (a) Customer notifying CeTu of the claim immediately upon becoming aware thereof, (b) Customer allowing CeTu to assume full control of the defense and settlement of such claim, and (c) Customer reasonably cooperating with CeTu in the defense and settlement of the claim.

7.2. Customer's Indemnification. Customer agrees to defend, at its sole expense, fully indemnify and hold harmless CeTu from and against any third-party claim, action, allegation or suit brought against CeTu arising from or related to the Customer's use of CeTu Platform or associated services, the Customer's infringement, violation or breach of applicable laws, third party rights or the terms of this Agreement.

## **8. Cancellation**

8.1.

8.2. Customer may cancel or suspend his use of the CeTu Platform via the "Your Account" section of the Customer's AWS account on the AWS Marketplace. CeTu may cancel or suspend Customer's use of the CeTu

Platform for any reason upon 15 days' written notice to the Customer. Upon any such cancellation or suspension by either party, CeTu will cease providing the CeTu Platform, and the Customer will only be liable to pay for the CeTu Platform provided prior to such cancellation or suspension.

8.3. Upon cancellation of this Agreement, Customer will immediately cease use of the CeTu Platform, each party shall return to the other party or destroy (at disclosing party's option) all of the other party's Confidential Information in its possession and any outstanding undisputed Fees shall become due and payable. Sections 4.1, 4.3, 4.4, 7 and 8 shall survive any expiration or cancellation of this Agreement.

9. **Notices.** All notices or other communications hereunder shall be in writing and given through the AWS Marketplace or the CeTu Platform or by email with written confirmation of receipt. All notices and other communications given by email or through the AWS Marketplace or the CeTu Platform shall be deemed given on the business day following transmission.

10. **General.** This Agreement constitutes the entire agreement between CeTu and Customer and supersedes any previous agreements or representations, either oral or written, with respect to the subject matter of this Agreement. All amendments will be made only in writing. Neither party shall assign any of its rights and obligations under this Agreement, except with the other's prior written consent, which shall not be unreasonably withheld; provided that such consent shall not be required in the event of a merger, acquisition or for assignment to a purchaser of all or substantially all of the assets or equity securities of either party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Any purported assignment contrary to this section shall be void. If any part of this Agreement is declared invalid or unenforceable for any reason, such part shall be deemed modified to the extent necessary to make it valid and operative and in a manner most closely representing the intention of the parties, or if it cannot be so modified, then eliminated, and such elimination shall not affect the validity of any remaining portion, which shall remain in force and effect. Any failure by a party to insist upon or enforce performance by the other of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance. AWS Marketplace and Customer are parties to the AWS Customer Agreement offered by AWS, and to the extent of any conflict between that agreement and these Terms, the AWS Customer Agreement shall govern. This



Agreement is governed by the laws of the State of New York, without regard to its conflict of laws principles. The

parties agree that exclusive jurisdiction for any dispute arising out of or relating to this Agreement lies within the federal or state courts in New York, NY, USA.