

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CENTRAL STATISTICS OFFICE



**An Phríomh-Oifig Staidrimh**  
Central Statistics Office

AND

BENEFACTS

(a company limited by guarantee, company number 553387)

**Benefacts**

March 2017

(the Parties)

## **PREAMBLE**

### **Central Statistics Office (CSO) Mandate and Mission**

The CSO's mandate, as set out in the Statistics Act 1993 is:

*"the collection, compilation, extraction and dissemination for the statistical purposes of information relating to economic, social and general activities and conditions in the State"*

The CSO is also responsible for co-ordinating official statistics of other public authorities and for developing the statistical potential of administrative records.

### **Benefacts Mandate and Mission**

Benefacts is a public database of civil society organisations in Ireland, which provides information on not only charities, but also philanthropies, sports bodies, political, human rights and advocacy organisations, business and trade association.

Its mandate is to establish, maintain and publish extracts from databases derived from publically-available sources augmented by voluntary disclosures, with the aim of assisting government, the non-profit sector and its stakeholders to better understand and assess the objects and performance of such entities.

### **Legal Basis**

Data (being the data to be provided from time to time to the CSO as per Appendix 1 hereto) shall be provided to the CSO on the terms and conditions (Terms and Conditions) as contained in the Benefacts standard licence and which Terms and Conditions as at the date of this MOU are set out in Appendix 2 hereto. For the avoidance of doubt Benefacts reserves the right to update the Terms and Conditions from time to time and on so doing shall inform the CSO in writing. This MOU and the Terms and Conditions (together, the Agreement) are legally binding and any changes to the Terms and Conditions shall be advised to the CSO in a timely fashion. In the event of a conflict between the terms of this MOU and the Terms and Conditions the Terms and Conditions shall prevail.

Data provided to the CSO under this agreement shall be provided on a non – exclusive, non – transferable, revocable basis and used solely for statistical purposes and in accordance with the Statistics Act, 1993 (as amended) (Statistics Act); the Data Protection Acts, 1998 and 2003 (as amended); and EU statistical law including the guidelines provided by Eurostat and the European Statistical System.

For the avoidance of doubt Benefacts shall not be liable to the CSO (or any third party in respect of the Data provided) for any loss suffered or for any direct or indirect damage of any nature, howsoever caused.

### **Usage of data**

Data shall be used by the CSO for statistical purposes, as permitted by the Statistics Act. The CSO shall utilise Benefacts data sources in the production of official statistics. Furthermore, as part of its mandate, the CSO serves the specialist needs of business and the research and academic community

for detailed and focused data. Research Microdata Files (RMFs) are the means through which the CSO grants access to anonymised business microdata. RMFs are made available to persons authorised to access such files under the Statistics Act, 1993 subject to strict criteria. Benefacts agree to allow the usage of their data in the inclusion of RMFs. The CSO agree not to release Data as standalone RMFs but rather subsume data into pre-existing files.

The CSO agree to accredit Benefacts for the usage of Data in compiling official statistics, wherever possible.

The CSO have in place with the Data Protection Commissioner, an agreed protocol for data matching. All linking of the data with other sources, both CSO and non-CSO shall be done in accordance with this protocol, and documented on the CSO website and the CSO. The CSO shall indemnify Benefacts against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with the usage of the Data by the CSO.

#### **Communication**

Any proposed changes to the data collected by Benefacts i.e. structure, additional variables, is a matter for Benefacts alone but shall be communicated to the CSO in a timely fashion. The transfer of data shall continue at agreed intervals until terminated by either party, giving at least 90 days' notice, in writing and in accordance with the Terms and Conditions. Both parties agree to meet, prior to the 31 December 2017 to discuss distribution arrangements, along with any other outstanding issues.

#### **Technical Details**

The data files shall be transferred at regular interval, as specified in Appendix 1. All data shall be transferred by a secure method agreed between both bodies. Metadata, data dictionaries, and other relevant documentation shall be provided for all data.


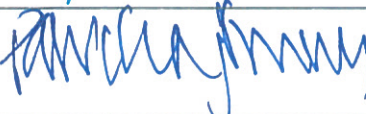
#### **Governing law and jurisdiction**

This MOU and all disputes and claims arising out of or in connection with the MOU, the Terms and Conditions, the Agreement and the arrangement contemplated hereunder shall be governed by and construed in accordance with the laws of Ireland. The Parties agree that the courts of Ireland shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this MOU or the arrangement contemplated hereunder.

**[Signature Page Follows]**

Signed on behalf of:

The Central Statistics Office and Benefacts

Signature	Title and Section	Date
	John Dunne, Senior Statistician, Central Statistics Office, Skehard Road, Cork.	1/3/2017
	Patricia Quinn, Managing Director, Benefacts, 6 Merrion Square, Dublin 2.	2/3/2017



## Appendix 1

### (the Services)

List of files being transferred including timing and frequency.

1. Quarterly extracts of the Benefacts database which includes biographical information on non-profits, along with financial information. Data is to be transferred on the first day of February, May, August and November.

#### File Transfer

Benefacts dataset is to be supplied to the Central Statistics Office in a tab delimited format.

#### File Layout

This section provides information on the file layout including variable names. For ease this is split into organisation and financial information. It should be noted that this is not a definitive list, and as such can be augmented to include additional variables.

Table 1: Organisation Variables			
No.	Variable Name	No	Variable Name
1	Benefacts Id	19	otherName5
2	Registered Name	20	otherName6
3	Subsector Code	21	otherName7
4	Subsector Name	22	otherName8
5	Registered Address	23	otherName9
6	County	24	otherName10
7	Eircode	25	otherName11
8	CRO	26	otherName12
9	CRA	27	otherName13
10	CHY	28	otherName14
11	AHB	29	otherName15
12	DES	30	otherName16
13	RFS	31	otherName17
14	BenefactsUrl	32	otherName18
15	NACE code	33	otherName19
16	PREM number	34	otherName20
17	VAT number	35	otherName21
18	TCC Status	36	otherName22
37...n	Other Organisation Variables (not known)		

Table 2: Details of Financial Accounts Variables						
Section	Totals	Subtotals	SubSubtotals	SubSubSubtotals	SubSubSubSubtotals	Code
Income & Expenditure	Total Income and Endowments					TIR
		Income and Endowments from Generated Funds				IRGF
			Donations, Legacies & Other Similar Income			VI
				Donations and Legacies		VI_D
				Tax Relief		VI_TR
				Grants		VI_G
					State Grants & Foundations	VI_G_SGF
					Corporate Donations	VI_G_CD
				Housing Loan Amortisation		VI_GLA
				Membership Subscriptions & Sponsorships		VI_MSS
				Diocesan, Parochial & Church		VI_DPCC

					Collections				VI_UVI
					Unspecified Voluntary Income				VI_DIK
					Donations In Kind				VI_L
					Legacies				AGF
				Other Trading Activities					AGF_FEA
					Fundraising Events & Activities				AGF_CS
					Charity Shops				AGF_UAFGF
					Other Unspecified Trading Activities				II
				Income from Investments					II_IP
					Investment Properties				II_LI
					Listed Investments				II_MM
					Money Market Funds (incl. Deposit Interest)				II_OUI
					Other Unlisted				







	Income/(Expenditure)							
	Other Unrealised Gains/Losses)						OGL	
					Gains/(Losses) on Revaluation of Fixed Assets		OGL_RFA	
					Transfers Between Funds		OGL_TBF	
					Other Unrealised Gains/Losses		OGL_OGL	
	Net Movement in Funds						NMF	
	Opening Balance						OB	
	Closing Balance						CB	

## Appendix 2

### Terms and Conditions

#### 1. INTERPRETATION

In this Agreement the following words and expressions shall have the following meanings:-

**"Data"** means the data acquired by Benefacts in the main from regulatory sources, including certified and uncertified documents and extracts from the Register of Companies and the Register of Friendly, Industrial and Provident Societies maintained by the Companies Registration Office, information submitted by charities to the Charities Regulatory Authority under the provisions of the Charities Act 2009, information about primary, secondary and tertiary education institutions published by the Department of Education & Science, and information about entities that enjoy the benefit of charitable tax relief from the Revenue Commissioners (Revenue) and provided to the CSO in accordance with Appendix 1.

**"Derivative Works"** means all analogue and/or digital works which are in any way created by Benefacts from or based on the Data.

**"Effective Date"** means *March* 2017.

**"Intellectual Property Rights"** means patents, rights to inventions, copyright, sui generis database rights and related rights, future copyright, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), trade secrets and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

#### 2. THE SERVICES

2.1 Benefacts shall provide the Services to the CSO in accordance with this Agreement.

2.2 Benefacts shall perform the Services with reasonable skill and care.

2.3 During 2017 the Services are provided by Benefacts at no cost, in line with the terms of its proof of concept grant agreement with the Department of Public Expenditure and Reform (DPER). No commitment to the continuation of services after December 2017 is given by Benefacts.

#### 3. CHANGES TO THE SERVICES

Benefacts reserves the right to make alterations to the Services as it may deem fit from time to time. Such changes will be notified to the CSO.



#### 4. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS

- 4.1 Benefacts retains all Intellectual Property Rights in the Derivative Works and Benefacts grants the CSO a non-exclusive licence to such Intellectual Property Rights to the extent required to use the Derivative Works and to exercise its rights under this Agreement. The terms of Benefacts's licence for core datasets shall apply to the use of the Data by the CSO save to the extent that any such terms are inconsistent with this Agreement.
- 4.2 Benefacts hereby grants to the CSO a non-exclusive licence to such Intellectual Property Rights to the extent required to use the Data and the Derivative Works and exercise its rights under this Agreement.
- 4.3 The CSO shall use its best endeavours to notify Benefacts forthwith if it becomes aware of any unauthorised access to use or copying of any part of the Data or the Derivative Works by any person.
- 4.4 Without prejudice to any limitations upon its liability appearing elsewhere in this Agreement, Benefacts shall have no liability to the CSO in respect of any Intellectual Property Rights infringement to the extent that such Intellectual Property Rights infringement arises from or is exacerbated by any material breach of the CSO's obligations under this Agreement.

#### 5. LIMITATION OF LIABILITY

- 5.1 Nothing in this Agreement shall operate to exclude or limit Benefacts' liability for:-
  - 5.1.1 death or personal injury caused by its negligence; or
  - 5.1.2 any other liability which cannot be excluded or limited under applicable law.
- 5.2 Benefacts shall not be liable to the CSO for any damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity or for any indirect or consequential loss or damage, howsoever caused.
- 5.3 Benefacts shall not be liable for the non-availability of the Data or the Derivative Works or the Services for a period not exceeding six (6) working days due to:-
  - 5.3.1 a fault in any hardware on which the Data or the Derivative Works may be installed or the Services may be performed;
  - 5.3.2 the failure of any electricity supply, internet or other communication connections;
  - 5.3.3 the denial of service or malicious attack on the servers on which the Data is hosted;
  - 5.3.4 any virus or other computer programming routine intended to damage, detrimentally interfere with or intercept or expropriate any system, data or personal information.
- 5.4 The CSO acknowledges that any commercial or other decision taken by it as a result of the Services shall be at its own risk. The CSO must satisfy itself of the accuracy of the Data. Benefacts will not be liable for any loss suffered by the CSO as a result of its interpretation of the Data or the Derivative Works.



## **6. PERMITTED USE**

6.1 Subject to clause 6.3, the CSO may:

- 6.1.1 use, reproduce, and combine the Data or the Derivative Works with any other records or data held by it, internally within its organisation. This includes the use of the Data or the Derivative Works within the CSO's organisation on an intranet and on as many computer terminals as it may wish, and the printing of paper copies from the Data or the Derivative Works for use by the CSO's staff. It also includes the storage of the Data in electronic retrieval systems;
- 6.1.2 use the Data or the Derivative Works in promotional material which directly promotes the organisation, and for display (for instance on display boards), in each case only where there is no direct financial gain;
- 6.1.3 use the Data or the Derivative Works in reports, presentations and submissions produced by the CSO (including for clients), where this is part of the CSO's normal business activities and where no financial gain is attributable to the inclusion of the Data or the Derivative Works. .

6.2 The CSO may use the Data or the Derivative Works solely for the CSO's own internal business purposes. In particular, this Agreement does not allow the CSO to sell, give away, trade, let or hire or in any other way commercialise the Data or the Derivative Works.

6.3 The CSO has no rights to use the Data or the Derivative Works other than as expressly set out in this Agreement.

## **7. WARRANTIES**

7.1 Benefacts warrants and undertakes to the CSO that:-

- 7.1.1 to the best of its information and belief the Data and the Derivative Works does not infringe any intellectual property right of any third party;
- 7.1.2 the operation of the Data and the Derivative Works will be conducted in compliance with all applicable laws and regulations in force in Ireland. However, Benefacts gives no warranty that any content inserted into the Data by the CSO will comply with applicable laws and regulations.

7.2 Benefacts does not warrant that the operation of the Data or the Derivative Works and any software contained therein will be uninterrupted or error free. However, Benefacts will use its reasonable endeavours to correct any such errors or interruptions.

7.3 This Agreement sets out the full extent of Benefacts' obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services (whether implied by statute or otherwise) are hereby expressly excluded.

## **8. TERMINATION**

8.1 This Agreement shall commence on the Effective Date and may be terminated by

either party giving to the other not less than ninety (90) days notice in writing.

8.2 This Agreement may be terminated immediately at any time by written notice:-

8.2.1 by either party if the other commits any material breach of its obligations under this Agreement which (in the case of a breach capable of being remedied) shall not have been remedied within twenty eight (28) days of a written request to remedy the same; or

8.2.2 by either party if the other (i) shall pass a resolution for winding up, or (ii) if the court shall make an order that the other party shall be wound up (other than for the purpose of a bona fide reconstruction or amalgamation), or (iii) if a receiver shall be appointed over that other party or any of its assets, or (iv) if circumstances shall arise which entitle a creditor of the other party to appoint a receiver, or (v) becomes insolvent or unable to pay its debts.

8.3 On termination of this Agreement all licences granted by Benefacts under this Agreement shall terminate immediately.

8.4 On expiry or termination of this Agreement all provisions of this Agreement shall cease to have effect except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.

## 9. VARIATION AND WAIVER

9.1 A variation of this Agreement shall be in writing and signed by or on behalf of both parties to this Agreement.

9.2 Any waiver of any right under this Agreement is effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.

## 10. NOTICES

Any notice to be given by either party to the other under this Agreement shall be in writing and be sent to the address of the recipient and shall be deemed to be duly served on the day after being posted if sent by prepaid recorded post or on day received if given by facsimile, email or other means of telecommunication in permanent written form.

## 11. ASSIGNMENT

Neither party shall assign, transfer, charge or deal in any other matter with this Agreement or any of its rights under this Agreement nor subcontract any or all of its obligations under this Agreement without the prior written consent of the other party.

## 12. SEVERABILITY

12.1 If any provision (or part of a provision) of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provisions in question shall

not be affected thereby.

- 12.2 This Agreement, together with the documents referred to herein, contains the whole agreement between the parties in respect of the subject matter of this Agreement and supersedes any prior written or oral agreement between them relating to that subject matter and the parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in this Agreement.

