

Remeody Ltd & PlanSpatial:

Terms and Conditions for the Supply of Professional Services

These terms and conditions shall govern the provision of Consultancy Services (as defined below) by Remeody Ltd and PlanSpatial to the Client to the exclusion of all other terms and/or conditions whether included in any acknowledgement, communication or otherwise from either party unless otherwise agreed between the parties in writing.

1. DEFINITIONS

In this Agreement, unless the context requires otherwise, the following expressions shall have the following meanings:

1.1 "Agreement" means these Standard Terms and Conditions for the Provision of Consultancy Services;

1.2 "The Company" means Remeody Ltd, Richmond House, 37 Edward Street, Truro, England, TR1 3AJ.

1.3 "The Client" means the person, organisation, partnership, limited company, public limited company or other entity that is the recipient of The Services.

1.4 "Bespoke Software Development" means the supply by the company of Information Technology services for the conception, creation and/or development of software or the like that is specific to the Client's requirement (for example, without limitation, web-site development, new software etc.), as opposed to the supply of third party produced software which is specifically excluded from this Agreement, and "Bespoke Software" shall be construed accordingly;

1.5 "Bespoke Design Services" means the supply by the company of conception and creation of original graphic layouts and copy writing for use with any media including: print and internet web sites.

1.6 "Consultancy Services" shall mean any information technology related services that are detailed in the Schedule of Services but excludes the sale and supply of hardware, sale and licensing of software, provision of Managed Services, supply of maintenance and/or support and the provision of Bespoke Software Development and Bespoke Design Services;

1.7 "The Services" means the collective name for all services provided by the company as described in 1.4,1.5,1.6.

1.8 "Schedule of Services" means the specification document agreed between the Company and the Client. The document will contain: Full Description of the Services to be Provided and expected functionality of Bespoke Software, outline project plan, estimated project delivery schedule, fixed project costs, definition of completion. The Schedule of Services shall form part of this agreement.

1.9 "Confidential Information" means all information, whether provided in writing or orally, and disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party"), or to any employee or sub-contractor of the Receiving Party (the "Recipient"), whether before or after the date of the Agreement, including, without limitation, any information relating to the Disclosing Party's Clients, products, operations, processes, plans or intentions, product information, know how, design rights, trade secrets, market opportunity and business affairs.

1.10 "Intellectual Property" means patents, trade marks (registered and unregistered), utility models, all components of copyright (including rights of transcription, distribution, publishing and moral rights) and other exclusive rights of utilisation, rights in service marks, get-up, logos, designs (whether registered or unregistered) and inventions, trade and business names, rights in goodwill or reputation, database rights (including extraction and re-utilisation rights), rights in compilations, any rights similar to any of the above that come into existence (whether by introduction of a new right through legislation or by some other means), applications for any such rights and interests in any of the above and all rights or forms of protection of a similar nature to any of the above or having equivalent effect anywhere in the world;

1.11 "Price" means the price for the provision of the services contained in the Schedule of Services;

2. SPECIFICATIONS

All performance data and other technical information relating to the Consultancy Services are given by The Company in the belief that they are reasonably accurate. The Company accepts no responsibility whatsoever for any such information which has been prepared by a third party.

3. INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY

3.1 All Intellectual Property created or developed during the supply of The Services will remain the property of The Company.

3.2 On payment in full for The Services to be paid under the relevant Schedule of Services, the Client will be granted a non-exclusive and non-transferable, royalty-free licence to use the product of The Services and any associated documentation in accordance with these terms and conditions. The Company will be entitled to terminate the licence forthwith, should the Client breach the terms of this Agreement, the Schedule of Services and/or any licence granted hereunder. No sub-licences may be granted without The Company's prior written consent.

3.3 For the avoidance of doubt the intellectual property rights that are used in the schedule of services are to be deemed to Confidential, this is to include all code developed in the bespoke software defined in the schedule of services.

3.4 The Company will defend, at its own expense, any legal action brought against the Client to the extent that it is based on a claim that The Services or any Bespoke Software (or any part thereof), when used in accordance with any documentation that accompanies The Services, infringes a copyright of a third party, and The Company will pay any final judgement awarded to the third party against the Client PROVIDED THAT: Client shall

- (i) notify The Company promptly in writing of any such claim;
- (ii) permit The Company to have sole control of the defence, compromise or settlement of such claim, including any appeals;
- (iii) not make any prejudicial statements or settlement offers without the prior written consent of The Company; and
- (iv) fully co-operate with The Company in the defence or settlement of such claim. The Company will pay such reasonable costs, damages or fees incurred by Client in connection with such action or claim.

3.5 Should The Services become, or in The Company's opinion be likely to become, the subject of any such infringement claim, Client shall permit The Company, at The Company's option and expense, to

- (i) procure for Client the right to continue using the Bespoke Software or the Consultancy Services, or
- (ii) replace or modify The Services so that they become non-infringing, or
- (iii) terminate the right to use The Services, upon which termination Client shall, and shall procure that End Users, promptly destroy all copies of The Services and certify the same to The Company.

3.6 The Company shall have no liability for any Intellectual Property infringement claim to the extent that it is based on

- (i) the use or combination of The Services with software, hardware or other materials not recommended by The Company, provided such infringement would not have arisen but for such use or combination; or
- (ii) the use of the Bespoke software in a manner other than that for which it was designed or contemplated as evidenced by The Company's documentation; or
- (iii) any unauthorized modification of the Bespoke Software or Consultancy Services by any party; or
- (iv) any compliance with designs, plans or specifications furnished by Client. This section states the entire liability of The Company, and Client's sole and exclusive remedy, with respect to infringement of any Intellectual Property rights, and The Company shall have no additional liability with respect to any alleged or proved infringement.

3.7 The Company requires a hyper link to be enabled on a publicly visible interface (home page or login page) of The Services

- (i) Where all or more than 50% of The Services have been performed by The Company it shall read, "built by: Remeody Ltd" or "built by planSpatial"
- (ii) Where 50% or less of The Services have been performed by The Company it shall read, "built in conjunction with: Remeody Ltd" or "built in conjunction with: planSpatial"

4. PRICE AND PAYMENT

4.1 Unless otherwise stated in a Schedule of Services, the payment of the services shall be 45% of the fixed price upon The Client providing written confirmation that they require the services, herein after called the Deposit. An additional 45% of the fixed price shall be invoiced upon completion of the Schedule of Services as set out in the Definition of Completion in the Schedule of Services. The balance of the fixed price shall be invoiced 30 days after the Schedule of Services is completed. The Client shall not be permitted to make any deduction from the Price whether in respect of set-off, counter claim or otherwise.

4.2 The Client shall pay to The Company the Price as invoiced. Apart from the Deposit all invoices issued shall be payable within 30 days. The Deposit invoice is payable upon receipt.

4.3 The Price, and any additional charges payable hereunder, are exclusive of VAT, customs charges and duties, which shall be paid by the Client in the amount and manner prescribed by law.

4.4 The Company may charge interest at the rate of 5% monthly from the due date until the date of payment, whether before or after judgement, on any unpaid sum due from the Client to The Company under this Agreement or Schedule of Services.

4.5 Without prejudice to any of its other rights, The Company shall be entitled to suspend its obligations under this Agreement or a Schedule of Services for so long as any payment due hereunder remains outstanding.

5. TERMINATION

5.1 Otherwise than as may be provided in relation to the Services, either party may terminate this Agreement or a Schedule of Services by giving no less than 90 days notice in writing to the other.

5.2 Either party ("Initiating Party") may terminate this Agreement at any time forthwith by notice in writing if:

5.2.1 the other party (the "Breaching Party") is in material breach of any of its material obligations under this Agreement and (if the breach is capable of remedy) fails to remedy the breach within 30 days after receipt of notice in writing from the Initiating Party giving particulars of the breach and requiring the Breaching Party to do so;

5.2.2 a resolution is passed or an order is made for the winding up (or equivalent order in the relevant jurisdiction) of the other party otherwise than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction and in such manner that the entity resulting from the amalgamation or reconstruction effectively agrees to be bound by or assume the obligations imposed on the other party under this Agreement; or

5.2.3 the other party becomes subject to an administration order; a liquidator, receiver or administrative receiver or similar is appointed over, or an encumbrancer takes possession of, any of the other party's property or assets; the other party enters into an arrangement or composition with its creditors; the other party ceases or threatens to cease to carry on business; the other party becomes insolvent; or the other party ceases to be able to pay its debts as they fall due.

5.3 The Company shall be entitled to immediately terminate any licence granted under Clause 3.2 on the occurrence of any of the circumstances detailed in Clauses 5.2.2 and 5.2.3. The agreement shall be considered terminated if the Client fails to acknowledge the provision of 11.1 and effectively refuses to pay for additional services not specified in the Schedule of Services. A termination of the agreement in these circumstances shall require the Client to pay all outstanding time charges up and until the point of agreement termination.

6. EFFECTS OF TERMINATION

6.1 Any termination of this Agreement (howsoever occasioned) or a Schedule of Services shall not affect any accrued rights or liabilities of either party which have arisen on or before the date this Agreement or a Schedule of Services terminates, nor shall it affect the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

6.2 Unless terminated pursuant to Clause 5.2, the licence to use the Bespoke Software contained in Clause 3.2 shall survive any termination of this Agreement.

6.3 The following Clauses shall survive termination of this Agreement: 1, 2, 3, 4, 6, 8, 9, 14 and 18.

7. ASSIGNMENT and SUBCONTRACTING

7.1 Neither party shall be entitled to assign this Agreement nor any Schedule of Services to any other party without the other party's express written consent. However, The Company shall be entitled to assign this Agreement to any company.

7.2 The Company shall be entitled to sub-contract the supply of the Consultancy Services or the provision of Bespoke Software Development and Design Services to any third party that it deems is appropriately skilled to provide the same, although The Company shall remain primarily liable to the Client notwithstanding the use of such subcontractors.

8. CONFIDENTIALITY

8.1 During the term of this Agreement and after the termination or expiry of this Agreement for any reason whatsoever the Receiving Party shall:

8.1.1 keep the Confidential Information confidential;

8.1.2 not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with Clauses 8.2, 8.3 and 8.4; and

8.1.3 not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.

8.2 During the term of this Agreement the Receiving Party may disclose the Confidential Information to its Recipients to the extent that it is necessary for the purposes of this Agreement.

8.3 The Receiving Party shall use all reasonable endeavours to ensure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient were a party hereto.

8.4 The obligations contained in Clauses 8.1 to 8.3 shall not apply to any Confidential Information which:

8.4.1 is at the date of this Agreement in, or at any time after the date of this Agreement comes into, the public domain other than through a breach of this Agreement by the Receiving Party or any Recipient;

8.4.2 can be shown by the Receiving Party to the satisfaction of the Disclosing Party to have been known to the Receiving Party prior to it being disclosed by the Disclosing Party to the Receiving Party;

8.4.3 subsequently comes lawfully into the possession of the Receiving Party from a third party; or

8.4.4 is otherwise disclosed through process of law.

8.5 No public announcements concerning the existence or contents of this Agreement shall be made by either party without the prior written consent of the other party.

9. LIABILITIES AND INDEMNITIES

9.1 Neither party shall, nor shall they purport to, exclude or restrict liability for death or personal injury resulting from the negligence of that party or its employees, servants or agents acting in the course of their employment.

9.2 Save as expressly set out herein, all conditions, warranties and obligations which may be implied or incorporated into this Agreement by statute, common law, or otherwise, including those in respect of satisfactory quality and fitness for purpose, and any liabilities arising therefrom, are hereby excluded.

9.3 Other than in respect of Clause 9.1, neither party shall in any circumstances be liable to the other for loss of profits, business or contracts or any other indirect or consequential loss caused in any way by some act, omission, or misrepresentation (excluding any fraudulent or negligent misrepresentation) committed in connection with this Agreement (whether arising from negligence, breach of contract or howsoever), even if such loss was reasonably foreseeable or if one party had advised the other of the possibility of such loss.

9.4 Other than in respect of Clause 9.1, the total aggregate liability of one party to the other from any cause relating to or arising out of this Agreement, regardless of the form of action whether in contract, tort or otherwise, will not, in respect of The Consultancy Services and/or Bespoke Software Development or the resulting Bespoke Software shall not exceed the Price paid by the Client.

9.5 Other than in respect of Clause 9.1, neither party shall have any liability to the other in any respect unless it shall have served notice of the same on the other party within 12 months of the date on which it became aware of the circumstances giving rise to any such claim or the date when it ought reasonably to have become so aware.

9.6 Each provision of this Clause 9, limiting or excluding liability, operates separately and shall survive independently of the other provisions and the invalidity, illegality or unenforceability of any provision of this Clause 9 shall not affect or impact the continuation in force of the remainder of this Agreement.

10. WARRANTIES

10.1 The Company warrants that:

10.1.1 it will carry out all aspects of The Services with reasonable skill and care and to generally accepted industry standards;

10.1.2 that they will repair at its own expense any deficiencies found in the delivery of the Schedule of Services located in the 30 day period after the date of completion.

10.1.3 it reserves the right to make a charge for any repairs to the delivery of the Schedule Services located after the 30 day period after the date of completion.

10.1.4 it has the right and authority to enter into this Agreement.

10.2 Client's sole remedy in relation to any breach of any of the above warranties during the warranty period (i.e. 30 days from the date of completion) shall be that The Company shall perform, at its sole expense, all rectification services necessary to render The Services compliant with the above warranties.

10.3 Except as expressly set out in this Agreement (as amended by any Schedule of Services), all conditions, warranties, representations, terms and undertakings including any and all implied warranties or conditions of satisfactory quality or fitness or suitability for any purpose (whether or not the warranting party knows, has reason to know, has been advised or is otherwise aware of such purpose) which could otherwise be incorporated into this Contract by way of statute, common law or otherwise are hereby excluded to the maximum extent permissible by law.

11. VARIATIONS

11.1 Client shall be entitled at any time prior to completion of The Services to request that The Company modify any aspect of the scope of such Services. The Company can in the instance of modifications, with the agreement of the Client, change the fixed price of the Schedule of Services. The Company can refuse to include the requested modifications if the Client does not agree to changes to the fixed price, provided that changes to the fixed price are calculated in the same manner as the original fixed price.

11.2 Client shall provide The Company with full particulars of any requested modification and such further information as The Company may reasonably require. Within 14 days of receipt of such request The Company shall inform Client in writing of the alterations to any time frame that may have been agreed for completion of The Services and any additional prices payable to implement such modification. For the avoidance of doubt, the Price originally payable for The Services shall not be reduced because of a request for modification.

11.3 If Client elects to proceed with such modification then the time frame and prices payable shall be amended as indicated by The Company pursuant to Clause 11.2 above and accepted by the Client in writing.

12. PERSONNEL

12.1 The Company shall use all its reasonable endeavours to avoid replacing the personnel assigned to perform The Services during the currency of the Schedule of Services. However, in the event of

replacement being necessary or desirable, The Company shall replace such personnel with personnel of commensurate skill and expertise. Nothing in this clause shall relieve The Company of any of its obligations or its responsibilities for any acts or omissions of its personnel under this Agreement.

13. FORCE MAJEURE

13.1 Save for the obligations in Clauses 3 and 5, neither party shall be liable for failure to perform its obligations under this Agreement if such failure results from circumstances beyond that party's reasonable control including but not limited to strikes, lock-outs, labour disputes, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood or storm ("Event of Force Majeure").

13.2 Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

14. NON-SOLICITATION

14.1 During the term of this Agreement and, should the Agreement terminate, for a period of 12 months from the date of the agreement, neither party will employ or solicit for employment any member of the other's then current personnel connected with the performance of this Agreement, nor use independently or solicit to use independently any sub-contractor connected with the performance of this Agreement.

14.2 In respect of any breach by either party of Clause 14.1, both parties understand and agree that damages would be an inadequate remedy and further acknowledge the right of the aggrieved party to be entitled to injunctive relief.

15. GENERAL

15.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties by a duly authorised officer of each of the parties.

15.2 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy. The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

15.3 The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect or impact the continuation in force of the remainder of this Agreement.

15.4 Nothing in this Agreement shall be construed as creating a partnership or joint venture of any kind between the parties or as constituting either party as the agent of the other party for any purpose whatsoever and neither party shall have the authority or power to bind the other party, or to contract in the name of, or to create a liability against, the other party in any way or for any purpose.

16. ENTIRE AGREEMENT

16.1 This Agreement (as amended from time to time), together with any document expressly referred to in any of its terms, contains the entire agreement between the parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of this Agreement.

16.2 The Client confirms that, in agreeing to enter into this Agreement, it has not relied on any representation save insofar as the same has expressly in this Agreement been made a representation and agrees that it shall have no remedy in respect of any misrepresentation which has not become a term of this Agreement, save that the agreement of the Client contained in this Clause 16.2 shall not apply in respect of any fraudulent or negligent misrepresentation, whether or not such has become a term of this Agreement.

16.3 The parties agree that the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

17. NOTICES

17.1 Any notice under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by recorded delivery or email to the address of the party set out in this Agreement or to any other person or address subsequently notified by one party to the other.

17.2 In the absence of evidence of earlier receipt any notice shall be deemed to be duly given:

17.2.1 if delivered personally when left at the address referred to in the Schedule of Services; or

17.2.2 if sent by recorded delivery three (3) days after posting it;

17.2.3 if sent by email, when received.

18. GOVERNING LAW

This Agreement and any Schedule of Services agreed hereunder shall be governed by, and construed in accordance with, the laws of England and Wales and the Client agrees to submit to the exclusive jurisdiction of the English courts.