

Software Services Agreement

between

- 1 The client specified in the Schedule ("**Client**"); and
- 2 UrbanTide Limited, a company incorporated in England and Wales (registered number 9222463) having its registered office at 71-75 Shelton Street, Covent Garden, London WC2H 9JQ ("**Licensor**")

Background

- (A) The Licensor is the proprietor of the Software Tools;
- (B) The Client wishes to subscribe to use the Software Tools.

Now therefore the parties agree as follows:

1 Definitions

- 1.1 In this Agreement (including the Schedule) the following expressions shall, unless the context otherwise requires, have the following meanings:-

"**Agreement**" means this agreement, including the schedule appended hereto;

"**Client Data**" means any data, information or material provided or submitted by the Client to the Service in the course of using the Service;

"**Effective Date**" means the earlier of either the last date of this Agreement or the date the Client begins using any of the Services;

"**Intellectual Property Rights**" means inventions, patent applications, patents, design rights, copyrights, trade marks, 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;

"**Licence Administrator**" means the individual designated as such by the Client in the Schedule or as otherwise notified in writing by the Client to the Licensor;

"**Licence Term**" means the initial licence term specified in the Schedule and any subsequent extension in terms of Clause 5;

"**Licensed Services**" means such of the Services as the Client subscribes for as indicated in the Schedule or as otherwise agreed between the parties in accordance with Clause 2;

"**Output**" means the audio and visual information and data arising from the Client's use of the Service;

"Service(s)" means the use of the Software Tool and other services operated and maintained by us, accessible via the Website, or ancillary online or offline products and services provided to the Client by the Licensor, to which the Client is being granted access under this Agreement, including the Technology and the Output;

"Software Tool" means the Licensor's USMART proprietary software and related system;

"Technology" means all of the Licensor's technology (including 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 in providing the Service;

"User(s)" means the Client's employees, representatives, consultants, contractors, agents or guests who are authorised to use the Service and have been supplied user identifications and passwords by the Client (or by the Licensor at the Client's request); and

"Website" means <https://usmart.io>.

2 **Grant of Licence**

- 2.1 The Licensor hereby grants to the Client a non-exclusive, non-transferable, right to use the Licensed Services, subject to the terms and conditions of this Agreement.
- 2.2 The Client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available in any way to any third party the Service or the Output. This does not prevent the Client from passing the Output to third parties in the ordinary course of its business.
- 2.3 User licences cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who no longer use the Service.
- 2.4 The number of User Licences for any Licensed Service may only be reduced with effect from the end of any Licence Term and by giving at least 3 months' prior written notice and shall not exceed the number specified in the Schedule.
- 2.5 An authorised Licence Administrator may add Licences of Services and/or Users by submitting a written request which once accepted by the Licensor in writing will be binding. Added licences of Services and/or Users will be subject to the following: (i) added licences will be coterminous with the pre-existing Licence Term (either the initial Licence Term or any renewal term); (ii) the licence fee for the added licences will be the then current, generally applicable licence fee; and (iii) licences added in the middle of an invoicing period will be charged in full for that period.
- 2.6 The licence granted for the Services will run from an initial date of the date upon which the initial invoice for the Licensed Services is paid in full by the Client until expiry of the initial term of the licence in the Schedule. The Licence Term will automatically renew for a further period of the same length on expiry of such initial term and each subsequent expiry date unless the Client shall give written notice terminating the Licence Term on the next expiry date at least one month prior to such date.

3 Client Obligations

- 3.1 The Client is responsible for all activity on User accounts and shall comply with all applicable laws and regulations in connection with its use of the Service, including those related to data protection, international communications and the transmission of technical or personal data.
- 3.2 The Client shall notify the Licensor immediately of any unauthorised use of any password or account or any other known or suspected breach of security.
- 3.3 The Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Client Data.

4 Security

- 4.1 The Licensor shall use all reasonable endeavours to maintain the security of Client Data stored as part of the Services (being to a standard no less than that to which the Licensor maintains the security of its own data), but otherwise shall have no liability for any unauthorised access gained to such Client Data or its deletion, corruption, destruction, loss or failure where it arises:
 - 4.1.1 from use of a User identification or password; or
 - 4.1.2 otherwise than due to the Licensor's gross or wilful negligence.

5 Charges and Fees

- 5.1 The Client shall pay all fees or charges to its account in accordance with the fees and charges specified in the Schedule. Such fees and charges may be amended and new charges introduced at any time to be effective from commencement of the next Licence Term, upon at least 3 months' prior notice. All pricing terms are confidential and the Client agrees not to disclose them to any third party.
- 5.2 The Client shall pay all fees and charges to Licensor on the terms specified in the Schedule or otherwise within 30 days of the relevant invoice date.
- 5.3 All payments to the Licensor under this Agreement shall be made in Sterling by electronic transfer to such bank account as the Licensor may direct from time to time.
- 5.4 All payments due to the Licensor under this Agreement shall be exclusive of Value Added Tax and any sales or other applicable taxes, levies or charges, which shall, if applicable law so requires, be paid by the Client in addition to such payments at the applicable rate from time to time.
- 5.5 In the event of any delay in effecting payments due under this Agreement by the relevant due date, the Client shall pay to the Licensor interest calculated on a daily basis on the overdue payment, from the date such payment was due to the date of actual payment, at a rate of 3% over the base lending rate of the Bank of England from time to time.

6 Non-payment and Suspension of Service

- 6.1 In addition to any other rights, the Licensor reserves the right to suspend or terminate this Agreement and the Client's access to the Service if any amount due to the Licensor is in arrears.
- 6.2 The Client will continue to be charged for User licences for all Licensed Services during any period of suspension. On termination the Client will be obliged to pay the balance due on its account calculated in accordance with Clause 5 above.
- 6.3 The Licensor reserves the right to impose a reconnection fee in the event the Client is suspended and requests access to the Service. The Client agrees and acknowledges that the Licensor has no obligation to retain Client Data or Output and that such Client Data and Output may be irretrievably deleted if the Client's account is 30 days or more in arrears.

7 Intellectual Property

- 7.1 The Licensor (and its licensors, where applicable) own all right, title and interest, including all related Intellectual Property Rights, in and to the Technology and the Service.
- 7.2 Other than the right to use the Service as licensed by this Agreement the Client acquires no right to use any of such items and has no right to any intellectual property right in them.
- 7.3 The Client will retain all Intellectual Property Rights in the Client Data and the Output.

8 Indemnities

The Client shall indemnify and hold the Licensor and its licensors harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including solicitors' fees and costs) arising out of or in connection with: (i) any claim alleging that use of the Client Data and/or Output infringes the rights of, or has caused harm to, a third party; or (ii) a claim arising from the breach by the Client or its Users of this Agreement.

9 Termination

- 9.1 The Client's right to use the Services (and the Licensor's obligation to continue to provide them, including storage of Client Data and/or Output) will terminate automatically at the end of the relevant Licence Term.
- 9.2 The Licensor may terminate this Agreement (in whole or in part relating to any Service) with effect from the expiration of the then current Licence Term, by at least one month's prior written notice.
- 9.3 The Licensor may, at its sole discretion, terminate the Client's (or any User's) password, account or use of the Service if the Client breaches or otherwise fails to comply with this Agreement.

10 **Disclaimer**

- 10.1 Neither the Licensor nor its Licensors make any representation or warranty as to the reliability, timeliness, quality, suitability, availability, accuracy or completeness of the service or any content. Neither the Licensor nor its Licensors represent or warrant that (a) the use of the Service will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data, (b) the quality of any products, services, information, or other material purchased or obtained by the Client through the service will meet its requirements or expectations, (c) the Service will meet the Client's requirements or expectations, (d) the Service or the server(s) that make the Service available are free of viruses or other harmful components. The Service and all content is provided strictly on an "as is" basis, (e) any stored data will be accurate or reliable, or (f) errors or defects will be corrected.
- 10.2 All conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, 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 us and our Licensors.

11 **Limitation of Liability**

In no event shall either party's aggregate liability exceed the amount actually paid by and/or due from the Client in the three (3) month period immediately preceding the event giving rise to such claim. In no event shall either party and/or its Licensors be liable to anyone for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with this service, including but not limited to the use or inability to use the service, or for any content obtained from or through the service, any interruption, inaccuracy, error or omission, regardless of cause in the content, even if the party from which damages are being sought or such party's Licensors have been previously advised of the possibility of such damages.

12 **Cookies and Other Policies**

- 12.1 By entering into this Agreement, the Client consents and agrees to the use of all cookies and related tracking devices on the Website. Details of such devices as applicable to the Website are detailed in the "Cookies Policy" section on the Website. The Client confirms that it will make all Users aware that it has consented to this as the party paying for the Services and that this consent will therefore be deemed to apply to their own use of the Services.
- 12.2 The Client also acknowledges that use of the Website will be subject to such other policies as are specified on the Website from time to time.

13 **Assignment**

This Agreement may not be assigned by the Client without the Licensor's prior written approval, but may be assigned without the Client's consent by the Licensor.

14 **Notices**

- 14.1 The Licensor may give notice by means of a general notice on the Service, electronic mail to the Client's e-mail address on record in the Licensor's account information, or by written communication sent by first class mail or pre-paid post to the Client's address on record in the Client's account information.
- 14.2 The Client may give notice to the Licensor (such notice shall be deemed given when received) at any time by written communication sent by first class mail or pre-paid post to the Licensor's registered office.
- 14.3 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).

15 **Governing law and jurisdiction**

This Agreement shall be governed by the laws of Scotland and the parties agree to submit to the non-exclusive jurisdiction of the Scottish courts.

Signed on behalf of the Client

By

*Authorised Signatory/Director/Company Secretary
Full Name of Signatory (Please Print)

at
on
before

Witness (Signature)
Witness Name (Please Print)
Witness Address

*Please delete as applicable

Signed on behalf of UrbanTide Limited

By

*Authorised Signatory/Director/Company Secretary

Full Name of Signatory (Please Print)

at

on

before

Witness (Signature)

Witness Name (Please Print)

Witness Address

*Please delete as applicable

Schedule

The Client

Name:

Address:

Designated Licence

Administrator:

Services and Fees

The subscription plan / modules selected below of the Licensor's Software Tool service accessed through the Website.

Subscription Plan / Module	Number of Users	Price for initial Licence Term

Initial licence term

From

(the "**Effective Date**") to

(the "**Initial Term**")