

EMBEDDED USER SERVICES AGREEMENT

INTRODUCTION

Embedded provides a platform and maintains a database of Technology and Telecoms Suppliers, and provides an advisory online service ('Directory') that matches institutions, companies and businesses with a known requirement for Technology or Telecoms to Customers; and Customers wish to benefit from the Directory service. For the purpose of this service, "Customers" are defined as businesses seeking to procure Technology or Telecoms services and "Suppliers" are defined as businesses seeking to provide Technology or Telecoms services, with the Directory providing a facility to suggest appropriate Suppliers to satisfy the Customers need, based on a set of core Supplier attributes.

Suppliers and Customers who participate in the Directory Service do so as independent parties subject to their own terms vis a vis Customer and subject to these User Services Terms Agreement with Embedded

Embedded does not act as a disclosed commercial agent for and on behalf of customers and suppliers who participate in the Directory Service who do so as independent parties subject to the terms of this User Agreement.

Embedded does not have possession of anything listed or sold through the Directory, and is not involved in the actual transaction between buyers and sellers. Any contract for the sale of goods or services is directly between buyer and seller.

By using the Services you are entering into a contract with Embedded (UK) Limited, registered in England and Wales number 9054394 whose registered office is 4500 Parkway, Solent Business Park, Whiteley, Fareham, PO15 7AZ; 'Embedded',

ACCURATE INFORMATION - USERS

1. Embedded take no responsibility for the accuracy or currency of the data within the Directory service. Embedded has no control over, and does not guarantee the existence, quality, safety or legality of, goods or services included in the Directory; the truth or accuracy of users' content, listings or Feedback; the ability of sellers to sell items; the ability of buyers to pay for items; or that a buyer or seller will actually complete a transaction.

Users shall enter into any transactions between themselves in good faith. Users shall warrant to the Supplier or Customer respectively the accuracy of the details entered into the Directory service, and that the details are not disclosed in breach of any duties of confidentiality.

MATCHING PROCESS

2. Embedded will take the Customer requirements and attempt to match to the Supplier information based on our pre-determined algorithm that assesses technical, commercial and operational attributes of the Supplier against the stated requirement. The output of this matching process will be a score, the 'Suitability Score', which is an assessment of the Supplier's ability to provide the Customer requirement in the context of capability, and other attributes.

PRESENTATION OF CUSTOMER DETAILS

3. The Directory service will present a list of Suppliers to the Customer, ordered by the Suitability Score, giving initial information about the Supplier's capabilities. Customer will select the Suppliers it wishes to engage with from this list at its sole discretion. Embedded are making no recommendation regarding the quality, suitability or capability of a given Supplier, nor does it take any responsibility for the performance of the Supplier in a given project. All decisions made regarding the selection and award of a Supplier for a Customer's requirement are made at the Customers sole discretion.

4. Once Suppliers have been selected, the Directory service will notify the Supplier of the Customer requirement giving:

- i. Customer Size, Industry, Location
- ii. Customer technical and operational requirement as stated by the Customer
- iii. Any other information that the Customer has elected to provide in support of its project

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CUSTOMER ACCEPTANCE OF TERMS

5. Suppliers will register their interest in the Customer project by accepting the Invitation sent by the Directory service. The Customer and Supplier warrant that:
- i. The Customer will hold all information passed to it in relation to the Supplier as confidential, and will not discuss this information with any party outside of the Supplier or Embedded.
 - ii. On conclusion of a contract with the Supplier for the project, the Customer will notify Embedded of the terms of the successful award, along with information regarding the contractual scope and revenues for the project including copies of all purchase orders.
 - iii. Embedded will receive a Commission Fee from the Supplier for the successful award of a project. No further charges will be levied by Embedded to the Customer for the Directory service unless otherwise agreed.
 - iv. Upon request by Embedded, the Supplier will make available to Embedded all billing and contractual documentation between the Customer and the Supplier to audit the relevant details for the sole purposes of calculation and recovery of the supplier Commission Fee.
6. The Customer will ensure that all agreements between the Customer and the Supplier contain provisions to allow audit rights for Embedded to support the process outlined in the clause 8 iv above.

USER ENGAGEMENT

7. The Customer will provide to the Supplier all relevant and appropriate information to support the successful conclusion of the project.
8. The Customer will only contact the Supplier directly to discuss the project in support of achieving an award through the Directory service. Neither Customer nor Supplier will make any attempt to bypass Embedded or the Directory service for the award of the projects as stated.
9. Upon receiving all information from the Supplier, the Customer will update the Directory service to award the project to the chosen Supplier ('Awarded Supplier'), or update the Directory service to advise that the project is not proceeding. The Directory service will notify the Suppliers of the outcome as follows:
- a. If the project has concluded and an Awarded Supplier has been awarded;
 - i. For the Awarded Supplier, the Directory service will notify them that they have been successful.
 - ii. For all other Suppliers, the Directory service will notify them stating they have been unsuccessful.
 - b. If the project is not proceeding, for all Suppliers, the Directory service will send a notification advising that a given project has been cancelled.

USER FEEDBACK

10. Upon request by Embedded, the Customer will enter Feedback on performance of the Supplier, and the Directory service and process in a timely manner. Feedback will take the form of a survey to establish the level of satisfaction with the Supplier, with a view to improving the Directory service over time.
11. Upon request by Embedded, the Supplier will enter Feedback on performance of the Customer, and the Directory service and process in a timely manner. Feedback will take the form of a survey to establish the level of satisfaction with the Customer, with a view to improving the Directory service over time.
12. Comments and scores provided by the Customer and Supplier may be published on the Directory site.
13. The Customer will promptly inform Embedded of any complaint or after-sales enquiry made by the Customer concerning the Supplier project.

USER RESTRICTIONS

14. In connection with using or accessing the Services, Users shall not:
- post, list or upload content in inappropriate categories or areas on our site;
 - breach or circumvent any laws, third-party rights or our systems or policies;
 - sell any counterfeit items or otherwise infringe the copyright, trademark or other rights of third parties;
 - use our Services if you are not able to form legally binding contracts (for example if you are under 18), or are temporarily or indefinitely suspended from using our Services;
 - manipulate the price of any item or interfere with any other Suppliers listings;
 - post false, inaccurate, misleading, defamatory, or libellous content;
 - transfer your Embedded account (including feedback) and user ID to another party without Embeddeds' consent;
 - distribute or post spam, unsolicited or bulk electronic communications, chain letters, or pyramid schemes;

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- use the contact information of other users for any purpose other than in relation to a specific Embedded transaction on the Directory site, including using this information to send marketing materials directly to Embedded users unless the user has given explicit consent to receiving these materials;
 - distribute viruses or any other technologies that may harm Embedded, or the interests or property of other Embedded users;
 - use any robot, spider, scraper or other automated means to access our Services for any purpose;
 - bypass our robot exclusion headers, interfere with the working of our Services, or impose an unreasonable or disproportionately large load on our infrastructure;
 - infringe the copyright, trademark, patent, moral, database or other intellectual property rights (collectively, “Intellectual Property Rights”) that belong to or are licensed to Embedded. Some, but not all, actions that may be infringement are reproducing, performing, displaying, distributing, copying, reverse engineering, decompiling, disassembling, or preparing derivative works from content that belongs to Embedded or someone else;
 - infringe any Intellectual Property Rights that belong to third parties affected by your use of the Services or post content that does not belong to the User;
 - commercialise any Embedded application or any information or software associated with such application;
 - harvest or otherwise collect information about users, such as email addresses, without their consent;
- or
- circumvent any technical measures we use to provide the Services.

PAYMENT TERMS

15. Embedded will make no charge for the Customer’s use of the Directory service, unless the Customer specifically requests additional consulting support beyond the scope of the service provided by the Directory, such additional support will be subject to a separate agreement between Embedded and the Customer.

16. Suppliers shall be charged as follows. Embedded will be entitled to a Subscription Fee and a Commission Fee associated with the services provided under this Agreement, such Subscription Fees, Commission Fees and associated Contract Terms will be outlined on Embedded’s website (www.embedded-it.co.uk/Pricing)

Embedded reserve the right to vary these terms and prices at its discretion from time to time, such variations to take effect in the period after the Suppliers Contract Term.

Similarly, Embedded may elect to offer discounted Subscription Fees to Suppliers from time to time, at Embedded’s entire discretion.

17. Unless otherwise expressly stated, all sums payable under this agreement are exclusive of any Value Added Tax or other applicable sales tax (if any).

18. The Supplier shall pay the Subscription Fee by electronic transfer or payment card managed online through the Directory service.

19. The Supplier shall, as soon as is reasonably practicable and in any event within thirty days of receipt of an invoice, pay the Commission Fee to Embedded, which shall apply to all revenues (including VAT) invoiced by the Supplier to the Customer related to the project

i. For Up-Front Charges, Embedded shall invoice its Agreed Commission Fee on notification of award from the Awarded Supplier

ii. For Ongoing Charges, Embedded shall invoice its Agreed Commission Fee in line with the payment schedule agreed between the Supplier and Customer,

iii. For Variable Charges, the Supplier shall notify Embedded in line with its payment schedule the level at which those charges have been charged by the Supplier to the Customer, and Embedded will invoice its Agreed Commission Fee as a calculation of the Variable Charge levied.

20. Any invoice remaining unpaid for more than thirty (30) days from receipt shall accrue interest at a rate of 8% above the base rate of HSBC Bank in the UK

21. In the event of any good faith dispute with regard to a portion of an invoice, the undisputed portion shall be paid as provided in this Agreement.

22. TERMINATION

Users are responsible for all taxes (including but not limited to penalties, fines, charges, or late payment interest) related to transactions on the Directory site. To the extent possible under English law, you shall pay to Embedded as a debt on demand all costs incurred by us, including but not limited to tax, penalties and interest, levied by any competent tax authority due to your failure to provide a valid VAT registration number and/or your failure to pay any such taxes, penalties or interest; You can cancel this User Agreement by informing us

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that you wish to delete your account on the Directory service. We may recoup the cost of any Services provided up to the point of cancellation.

23. Without prejudice to any rights that have accrued under this Agreement or any of its other rights or remedies, either Embedded or the User may, by written notice, terminate this Agreement:

- a. if a party has been in breach of any term of this Agreement which, in the case of a breach capable of remedy, shall not have been remedied by that party within seven days of its receipt of a written notice from the other party, specifying the breach and requiring its remedy; or
- b. if the other party ceases to carry on business or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- c. the other party makes or offers to make any arrangement of composition (including any voluntary arrangement) with any one or more of its creditors, or commits any act of bankruptcy or if any petition or receiving order in bankruptcy is presented or made against that party, or if any resolution or petition to wind up that party is issued, passed or presented (other than for reconstruction of amalgamation), or if a receiver is appointed over any of that party's assets; or
- d. immediately if the User has conducted itself in any manner which, in the reasonable opinion of Embedded, has brought or is likely to bring it into disrepute or has or is likely to impair the User's ability to perform its obligations under this Agreement.

24. Termination shall not affect any provision which expressly, or by implication, is intended to come into or remain in force and effect. The Suppliers obligation for payment of the Commission Fee will survive termination of this Agreement

CONSEQUENCES OF TERMINATION

25. Other than as set out in this clause, neither party shall have any further obligation to the other under this Agreement after its termination.

26. Following termination of this Agreement for any reason whatsoever:

- a. The Customer or Supplier will be deleted from the Directory service by Embedded
- b. The Customer or Supplier shall not represent that it is in any way connected with Embedded
- c. Any rights and licenses granted to the Customer or Supplier under this agreement shall automatically terminate.

27. Neither party shall be entitled to a compensation or indemnity on the termination of this Agreement for and direct or indirect loss, loss of income, profit, opportunity, agency rights, goodwill or any other similar loss.

28. Termination of this Agreement for any reason shall otherwise no affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

DATA PROTECTION and PRIVACY

29. Embedded will store information regarding the Customers and the Suppliers use of the Directory service and store it appropriately in accordance with Data Protection Act 1998 and GDPR.

30. Users and Embedded shall process personal data received under and/or in connection with this User Agreement each as a separate and independent controller. In no event will Embedded and you process personal data under and/or in connection with this User Agreement as joint controllers or in a controller-to-processor relationship. As such separate and independent controllers, you shall be individually and separately responsible for complying with the obligations that apply to you as a controller under applicable data protection laws.

31. You shall comply with your obligations under applicable data protection laws (including but not limited to Regulation (EU) 2016/679 (EU General Data Protection Regulation "GDPR") and supplementing EU and local data protection laws. This includes, but is not limited to, the obligation to provide appropriate safeguards for the transfer of personal data to a third country or an international organisation.

32. You shall process personal data received from Embedded exclusively for the purpose(s) you received the personal data under and/or in connection with this User Agreement. You shall erase the personal data received under this User Agreement immediately after the respective purpose(s) has/have been fulfilled. Any further processing of the personal data is not permitted except when legally required (e.g. if a retention obligation applies).

LIABILITY

33. Embedded (including our parent, subsidiaries, affiliates, directors, agents and employees) shall not be liable to Users in contract, tort (including negligence) or otherwise for any business losses, such as loss of data,

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profits, revenue, business, opportunity, goodwill, reputation or business interruption or for any losses which are not reasonably foreseeable by us arising, directly or indirectly from:

- your use of or your inability to use our Services;
- pricing, postage or other guidance provided by Embedded;
- delays or disruptions in our Services;
- viruses or other malicious software obtained by accessing, or linking to, our Services;
- glitches, bugs, errors, or inaccuracies of any kind in our Services;
- damage to your hardware device from the use of any Embedded Service;
- the content, actions, or inactions of third parties, including items listed using our Services or the destruction of allegedly fake items;
- we do not accept any responsibility to verify the accuracy and truth of the information provided by Users. Embedded cannot and does not confirm, and is not responsible for ensuring, the accuracy or truthfulness of users' purported identities or the validity of the information which they provide to us or post on our site.
- Regardless of the previous paragraphs, if we are found to be liable, our liability to you or to any third party is limited to the lesser of amount of Commission Fees in dispute not to exceed the total Commission Fees which you paid to us in the 12 months prior to the action giving rise to the liability, or (b) £1000.
- Nothing in this User Agreement shall limit or exclude our liability for fraudulent misrepresentation, for death or personal injury resulting from our negligence or the negligence of our agents or employees, or for any other liability that cannot be limited or excluded by law.

GENERAL TERMS

34. During the period of this Agreement, Embedded may accept and perform engagements from other companies, firms or persons which do not impinge upon its ability to provide the Services at such times and in such manner as may be convenient to Embedded.

35. Embedded hereby excludes (to the fullest extent permitted by law) any warranty, condition, term or undertaking of any kind, express or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with this Agreement.

36. Each party accepts liability for (a) death or injury to the extent it results from the negligence of the other in the course of performing the Services; and (b) fraudulent misrepresentation.

37. Embedded will not be liable (whether in contract, tort, including negligence or otherwise) for any indirect, incidental, punitive or consequential loss, damage, cost or expense of any kind whatsoever and howsoever caused nor any loss of production, loss of or corruption to data, loss of profits or of contracts, loss of operation time, loss of goodwill, loss of anticipated savings and wasted management time.

38. The Customer's exclusive remedy for any claim arising out of this Agreement shall be for Embedded, upon receipt of written notice, to the return of the Agreed Commission Fee paid to Embedded for the Services in respect of only direct damages flowing from the breach (whether the claim relates to the contract, tort, negligence, strict liability in tort, by statute or otherwise).

39. Any action by either party must be brought within six months after the cause of action arose. Embedded's liability for a breach of this Agreement shall be limited to direct damages up to the value of the 100% of the Commission Fees paid to Embedded in the 12 months immediately preceding the breach causing said loss.

40. The Customer shall be responsible for:

- a. operation and use of any materials produced pursuant to the Services;
- b. ensuring that the scope of Services meets the Customer's requirements, and that information, working papers, documentations, answers and approvals are accurate and complete;
- c. compliance with all applicable laws and regulations; and
- d. obtaining all necessary consents from third parties required for the Customer to perform its obligations under this Agreement

41. During the term of this Agreement, each party may be given access to information that is identified by the discloser as confidential ("Confidential Information"). In connection with Confidential Information, the following shall apply:

- e. The Confidential Information of the discloser may be used by the receiver only in connection with the Services and may only be copied or reproduced to the extent reasonably necessary for the receiver to perform its obligations, in order to comply with legislation or regulatory requirements or to receive advice from its professional advisers;

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- f. Each party agrees to protect the confidentiality of the Confidential Information of the other in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall either party exercise less than reasonable care in protecting such Confidential Information;
- g. nothing in this Agreement shall prohibit or limit either party's use of information (including, but not limited to, ideas, concepts, know-how, techniques, and methodologies) (i) previously known to it without an obligation of confidence, (ii) independently developed by or for it, (iii) acquired by it from a third party which is not, to its knowledge, under an obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of this Agreement.
42. Unless otherwise explicitly agreed by Embedded in writing in advance for a particular project, all intellectual property conceived or made by Embedded in the course of providing the Services shall belong to Embedded. Embedded hereby grants to the Customer a non-exclusive licence to use the said intellectual property in the UK (and such other territories as are necessary in order for the materials to be used in the manner for which they were intended) for its own internal use and for use by the Customer, provided that such use is in the manner in which it was originally intended.
43. The Customer agrees that Embedded can make reference to it being a Customer in marketing literature and on Embedded's website, including a short overview of the scope of services being provided, such overview to be written by Embedded and agreed in advance by the Customer (such agreement not to be unreasonably withheld).
44. This Agreement is personal between the Customer /or the Supplier and Embedded, and neither may sell, assign or transfer any duties, rights or interests created under this Agreement without the prior written consent of the other. Except as expressly stated in this Agreement, the parties hereto do not intend that any term of the same shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party.
45. Neither party shall be liable for any delays or failures in performance (other than payment obligations under this Agreement), losses or damage due to circumstances beyond its reasonable control.
46. This document contains the entire agreement of the parties and sets forth the entire understanding between the parties. It supersedes all prior agreements, conditions, warranties, representations, arrangements and communications, whether oral or written, with respect to the subject matter of this Agreement. This Agreement may not be changed by oral agreement but only in writing signed by both parties, other than in respect of general changes applicable to all Customers which shall be made by notice by Embedded and shall become effective within 30 days of such notification.
47. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right to thereafter enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise of these rights or any other right.
48. Nothing in this Agreement shall be construed as entitling Embedded or its staff to receive the benefits (including but not limited to medical, life, accident or disability insurance, pensions, unemployment or worker's compensation or profit sharing plans) received by employees of the Customer; or requiring the Customer to pay, in respect of Embedded staff, any income taxes or social security or related contributions.
49. Nothing in this Agreement shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between the Customers and Embedded.
50. If a dispute arises between you and Embedded, we strongly encourage you to first contact us directly to seek a resolution by contacting us. We will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation or arbitration, as alternatives to litigation. Any claim, dispute or matter arising under or in connection with this User Agreement shall be governed and construed in all respects by the laws of England and Wales. You and Embedded both agree to submit to the non-exclusive jurisdiction of the English courts...."non-exclusive jurisdiction of the English courts" means that if you were able to bring a claim arising from or in connection with this User Agreement against us in court, an acceptable court would be a court located in England, but you may also elect to bring a claim in the court of another country instead. English law will apply in all cases.
51. This Agreement shall be governed by and construed in accordance with the laws of England, and subject to the exclusive jurisdiction of the English courts. All provisions of this Agreement which are by their nature intended to survive the expiration or termination of this Agreement shall survive such expiration or termination.
52. If any provision of this User Agreement is held to be invalid, void or for any reason unenforceable, such provision shall be struck out and shall not affect the validity and enforceability of the remaining provisions.

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53. You agree that we may at any time and without notice set-off any of the amounts held in Embedded user accounts held or controlled by you with any Commission Fees, charges or other amounts you owe us and (unless prevented by insolvency law) any such amounts you owe other members of the Embedded group (including, without limitation, in respect of any services provided by any member of the Embedded group). Our right to set-off means that we may deduct such Commission Fees, charges or other amounts mentioned in this paragraph from an Embedded credit balance held or controlled by you.

54. We may assign our rights and obligations under this User Agreement in accordance with the below (but without your prior express consent), provided that we assign the User Agreement on the same terms or terms that are no less advantageous to you.

55. Headings are for reference purposes only and do not limit the scope or extent of such section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. We do not guarantee we will take action against all breaches of this User Agreement.