

BirdDog Australia Pty Ltd, ACN 612 531 245, ABN 45 612 531 245, a company incorporated in Australia having its registered office at 21/459 Collins Street, MELBOURNE, VIC 3000 (**BirdDog, us or we**), makes available the Remedi app for virtual conferencing along with the camera and physical equipment (if any) you purchase from BirdDog for audio-visual communications and related services (if applicable) (together, known as the **Remedi Solution**), in accordance with and subject to these terms and conditions (**Terms**).

CONSENT TO OVERSEAS DISCLOSURE: We may disclose the licensee's (referred to as Licensee, you or your) personal information to Google Cloud and AWS (Amazon Web Services) whom provide us with fully-encrypted TURN Servers and online database storage services respectively, in Europe and in the USA and to any remote practitioner who is located overseas while using the Remedi Solution (Overseas Recipients). We will not take any steps to ensure that the Overseas Recipients comply with the Australian Privacy Act 1988 (Cth) (Australian Privacy Act) including the Australian Privacy Principles. This means that if an Overseas Recipient handles your personal information in breach of the Australian Privacy Act, you cannot seek redress under the Australian Privacy Act and we will not be accountable under the Australian Privacy Act. You may also not be able to seek redress in the overseas jurisdiction. In addition, an Overseas Recipient could be subject to foreign law that could compel the disclosure of your personal information to another third party, such as an overseas authority.

By agreeing to these Terms and using the Remedi Solution:

- You consent to us disclosing your personal information overseas to the Overseas Recipients in circumstances where we will not take any steps to ensure that the Overseas Recipients will comply with the Australian Privacy Act including the Australian Privacy Principles; and
- You acknowledge and agree that you have read and understood the implications of us disclosing your personal information to the Overseas Recipients in the above circumstances, including that you cannot seek redress under the Australian Privacy Act or against us for the manner in which an Overseas Recipient handles your personal information.

Part A: General Remedi Solution terms

1. Your acceptance

- a. These are the Terms on which BirdDog permits the Licensee to:
 - i. install the Remedi Solution on no more than one licensed device (which may be either a mobile device or a computer) (Licensed Device) per Subscription at a time;
 - ii. access and use the Remedi Solution on a Licensed Device including accessing the standard features, functionality and material made available through the Remedi Solution (**BirdDog Content**) and the virtual conferencing video streams;
 - iii. virtually connect with other practitioners using a video conference system through the Remedi Solution and associated equipment;
 - iv. view and interact with any content, information, communications, advice, text or other material provided by us or any User Content (as defined in clause 8); and
 - v. transmit User Content through the Remedi Solution and communicate with us.
- b. If an individual downloads, installs and activates the Remedi Solution on a Licensed Device on behalf of a business, corporation or other legal entity, the term **Licensee**, and references to **you** and **your**, means the legal entity that is specified on the online form used to purchase the relevant Subscription (as defined in clause 4(a)) or the legal entity specified in the Remedi Solution at the time of activation. If no valid legal entity is so specified, **Licensee, you** and **your** refers to the individual who activates the Remedi App, and only that individual will be licensed to use the Licensed Device.
- c. If and when an individual downloads, installs and

activates the Remedi Solution on a Licensed Device on behalf of a business, corporation or other legal entity in accordance with clause 1(b), that individual represents and warrants to BirdDog that they, as the individual identified in the Subscription and activation process, have the authority to provide that business or entity's information and to agree to these Terms on behalf of that business or entity, and that the information provided by that individual to BirdDog is true and correct.

- d. You agree to be bound by these Terms when you download and install, use, browse or access any part of the Remedi App. If you do not accept these Terms, you must not use the Remedi Solution and you must uninstall it. If you breach any of these Terms, we may remove or block your access to the Remedi Solution in accordance with these Terms.
- e. You must also ensure that any person who accesses and uses the Remedi Solution on the Licensed Device is aware of and complies with the Remedi User Terms and Conditions available at [remedi.live/tsandcs](#) (**User Terms**).
- f. Subject to clause 1(h), BirdDog may from time to time review and update these Terms including to take account of new laws, regulations, products or technology. Your use of the Remedi Solution will be governed by the most recent Terms posted on our website or made available through the Remedi App. By continuing to use the Remedi Solution after notice of such changes is provided, you agree to be bound by the most recent Terms. It is your responsibility to check our website and the Remedi Solution regularly for updated versions of the Terms.
- g. Subject to clause 1(h), BirdDog reserves the right at any time in its absolute discretion to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Remedi Solution or associated equipment and services provided under these Terms. BirdDog also reserves the right to upgrade the Remedi Solution at any time including by adding features and capabilities available for additional purchase (or as an upgraded Subscription level) that are not available at the initial level of Subscription that you purchased, but that you may subscribe to or activate as an additional feature of your Subscription for additional cost at any time during a Subscription term.
- h. Except for urgent changes that are necessary to address or mitigate any identified or potential

security vulnerability in the Remedi Solution or associated equipment or services or that are required to comply with applicable law, any:

- i. price change to Subscriptions (except for optional additional features which you may purchase as an upgrade to your Subscription mid-term);
- ii. material reduction in your rights to use the Remedi Solution or material increase in your obligations and responsibility under these Terms; or
- iii. material decrease in the features, specifications, capabilities, or functionality of the Remedi App,

will only take effect from the beginning of your next Subscription term. Price changes will not apply retrospectively to Subscriptions, equipment or services that you have already paid for but not yet received.

2. Remedi Solution licence

- a. Subject to, and in accordance with, these Terms, we grant you a worldwide (subject to clause 22), non-exclusive, revocable and non-transferrable licence (without a right to sub-licence) to:
 - i. if you are an individual Licensee:
 - A. install and activate one copy of the Remedi App, in machine executable object code form, on only one Licensed Device per Subscription; and
 - B. use that copy of the Remedi Solution on that Licensed Device, only in conjunction with camera equipment purchased from BirdDog under these Terms for that purpose or camera equipment that otherwise meets the minimum requirements specified by BirdDog on its website ([remedi.live](#)) (**Website**), for the sole purposes of:
 - i. allowing you (as the **Primary User** who is performing surgery or other patient treatments and interventions) to virtually connect and collaborate with other medical practitioners who you have invited for this purpose using the Remedi app's video conference system;
 - ii. allowing you (as the **Primary User**) to virtually connect and collaborate with and obtain medical device industry support from representatives of medical device suppliers who you have invited for this

- purpose using the Remedi app's video conference system; and
 - iii. allowing you (as the **Primary User**) to virtually connect and collaborate with other individuals who you have invited for this purpose using the Remedi app's video conference system for educational activities.
- ii. if you are a business or legal entity:
 - A. install and activate one copy of the Remedi App, in machine executable object code form, on only one Licensed Device per Subscription; and
 - B. allow you and your **Group's** (which means you and any related body corporate of you, where **Related Body Corporate** has the meaning given to that term in the Corporations Act 2001 (Cth)) employees, and other individuals engaged by your Group, or (if your Group is a medical device supplier) other individuals using medical devices that you supply who you permit to use that Licensed Device (each a **Primary User**), to use that copy of the Remedi Solution on that Licensed Device, only in conjunction with camera equipment purchased from BirdDog under these Terms for that purpose or camera equipment that otherwise meets the minimum requirements specified by BirdDog on its Website, for the sole purposes of:
 - i. allowing the Primary User (who is performing surgery or other patient treatments and interventions) to virtually connect and collaborate with other medical practitioners who the Primary User has invited for this purpose using the Remedi app's video conference system;
 - ii. allowing the Primary User to virtually connect and collaborate with and obtain medical device industry support from representatives of medical device suppliers who the Primary User has invited for this purpose using the Remedi app's video conference system; and
 - iii. allowing the Primary User to virtually connect and collaborate with other individuals who the Primary User has invited for this purpose using the Remedi app's video conference system for educational activities,
- b. If you download the Remedi Solution through the Apple Solution Store, in addition to the terms set out here, your use of the Remedi Solution is also subject to Apple's End User License Agreement currently available at <https://www.apple.com/legal/internet-services/itunes/dev/stdeula/>.
- c. Without prejudice to any other right or remedy under these Terms available to us, our ongoing provision of the Remedi Solution and associated services is subject always to:
 - i. your compliance (if you are an individual), or you procuring that your users comply, with these Terms and the User Terms; and
 - ii. your payment of any Subscription Fees (as defined in clause 4(a)).
- d. We reserve the right to suspend, terminate or otherwise deal with your Licence or any user account at any time in accordance with these Terms.
- e. All rights not expressly granted in these Terms are reserved by BirdDog.

3. Activation of the Remedi Solution on your Licensed Device

- a. In order to access the features and functionality of the Remedi Solution after downloading and installing it, you will have to purchase a Subscription (as defined in clause 4(a)) to activate the Remedi Solution on your Licensed Device by using the method made available by BirdDog, including providing all of the information required during the activation process and paying the Subscription Fee (as defined in clause 4(a)).
- b. When purchasing a Subscription and activating the Remedi App, you warrant that you are of legal age to form a binding contract with BirdDog and have the necessary capacity to enter into a binding contract (including, where you are doing so on behalf of a business, corporation or other legal entity, that you have the authority to do so on behalf of that business or entity), and that all information you have provided is true, accurate and complete. You must provide an email address that you (or the applicable business or entity) own or control.
- c. Once you have completed payment of the Subscription Fee, a QR code will be sent to the email address or phone number that you provided at the time of payment, for you to scan with the Remedi Solution on your Licensed Device in order to complete the activation process. During the acti-

(Licence).

- vation process, information about your Licensed Device will be transmitted to BirdDog. You must not interfere with or disrupt this process. Once successfully activated, you will have full access to the features and functionality of the Remedi Solution on the Licensed Device applicable to your Subscription.
- d. The activation code(s) sent to you will only work once per purchased Subscription. If you have purchased multiple Subscriptions at the same time, an activation code may (at BirdDog's option) work to activate multiple Licensed Devices up to the number of Subscriptions you purchased. You are only permitted to use the activation code for the number of Licensed Devices that the activation code is provided to you for, as specified by BirdDog at the time the activation code is provided to you.
 - e. You may transfer your Licence to an alternate Licensed Device only if you first obtain our express written consent in each case and uninstall the Remedi Solution from the previous Licensed Device.
 - f. You will be fully responsible for all acts and omissions of any person who accesses and uses the Remedi Solution on your Licensed Device, as well as for such persons' compliance with the User Terms, as if they were your own acts and omissions. You agree that you will not share, disclose, or permit disclosure of, the Remedi Solution on your Licensed Device to any person who is not expressly permitted under the Licence, or let anyone else access the Remedi Solution on your Licensed Device or do anything that would risk the security of the Remedi Solution or your Licensed Device. Except to the extent caused by BirdDog's gross negligence, fraud, criminal conduct or wilful misconduct, we will not in any event be liable for any loss, damage, claims, costs or expenses arising out of the use or misuse of your password and account, and you will indemnify us against all loss, damage, claims, costs or demands in this regard.
 - g. You must notify us immediately if you become aware of any misuse or unauthorised access or use of the Remedi App, your Licensed Device or the User Terms. You agree that if we disable or terminate your access to the Remedi Solution on your Licensed Device for any reason, you will not activate another version of the Remedi Solution on that Licensed Device without our permission.
 - h. We retain the right to refuse activation of any Remedi Solution on any Licensed Device, at our sole discretion.
 - i. BirdDog may make updates to the Remedi Solution available automatically via the features on your Licensed Device (such as automatic solution updates provided via the Apple Solution Store).
- #### 4. Subscription and renewals
- a. In order to access the features and functionality of the Remedi Solution you must purchase a subscription (**Subscription**) for your Licensed Device by paying the specified fee (**Subscription Fee**) in advance. If monthly or annual payment options for your Subscription are made available to you by BirdDog, the applicable payment will be required in advance of your use of the Remedi Solution for the corresponding month or year (as applicable). Regardless of the agreed payment frequency, the Subscription term which you have chosen (and on which the Subscription Fee is based) represents a minimum commitment by you to pay for the Subscription for the entirety of that term and is non-cancellable except in accordance with these Terms. However you may have rights by law which arise under these Terms and these Terms are subject to those rights.
 - b. A Subscription is for an initial period of time as specified on the website or other method made available by BirdDog and selected by you when purchasing your Subscription, and subject to the remainder of this clause 4 each Subscription automatically renews for the same period of time as the initial Subscription.
 - c. The initial Subscription period will begin immediately upon your purchase of the Subscription and our provision of the activation QR code to you, even if you do not activate the Subscription on your Licensed Device until a later time. For this reason we encourage you to only purchase the Subscription when you are ready for the initial period to begin. You may not purchase multiple Subscriptions at once in respect of one Licensed Device to 'stack' those Subscriptions for multiple years.
 - d. Your Subscription is automatically renewed immediately after the last day of the previous Subscription period, unless you contact us at least 14 days before the renewal date to cancel it or we decide to no longer offer the Subscription. Such automatic renewal is continuous and you will be billed for each continuous Subscription term at our then-current Subscription Fee for that Subscription length, which we may automatically deduct using the credit card or payment information

you provided upon your initial Subscription registration. We will contact you via email at least 30 days before the end of the term of your Subscription to remind you that the term of your Subscription will automatically renew, and to specify the due date of the renewal payment.

- e. Each time your Subscription is renewed, you will be charged a renewal Subscription Fee as set out in clause 4(d).
- f. We can terminate your Subscription immediately by notice in writing at any time after the due date for the renewal payment has passed if:
 - i. your Subscription is automatically renewed in accordance with clause 4(d) but we do not receive the renewal payment by the due date for such payment; or
 - ii. you chose not to renew your Subscription in accordance with clause 4(d).

5. Online service features of the Remedi App

- a. Although the Remedi Solution is designed primarily for use via a direct peer to peer connection between the Primary User and an invited user (where BirdDog plays no active part in transmitting the video stream), certain features of the Remedi Solution may involve an online service component through which BirdDog facilitates an encrypted video connection between the Primary User and invited users and distributes the video stream among those users while the video conference is being created from the Remedi Solution on the Licensed Device (**Online Service Component**). All references to the Remedi Solution in these Terms include access to and use of the Online Service Component.
- b. BirdDog will use reasonable endeavours to deliver the Online Service Component in accordance with the user manual made available to you by BirdDog (**User Manual**) in all material respects. However we rely on third party services and infrastructure to provide the Online Service Component and the Online Service Component has not been designed to be, and we do not make any representation that it will be, accessible and functional on a continuous basis, or that it will be fault free. If you have any issues in accessing or using the Online Service Component that cannot be resolved by pow-

er cycling the Remedi Solution and associated equipment, please refer to our technical support team as provided by clause 6.

- c. In providing the Online Service Component, we will use reasonable endeavours to ensure that the Online Service Component will be accessible and functional on a continuous basis, subject to:
 - i. internet disruption;
 - ii. any Scheduled Downtime; or
 - iii. a Force Majeure Event (as defined in clause 20(b)).
- d. As the Remedi Solution and associated equipment and services are not a diagnostic tool and are not to be used as a replacement for onsite expertise, they must not be designated or relied upon by you as a critical tool. The Remedi Solution and associated equipment and services must not be used in any setting or context in which a failure of the Remedi Solution or associated equipment or services could lead to adverse health outcomes, injury or death.
- e. We may make any repairs, modifications, additions and upgrades to the Online Service Component, including engaging in system maintenance, as we deem necessary or desirable (the **Scheduled Downtime**), provided that:
 - i. the repairs, modifications, additions or upgrades do not substantially change (other than through improvements) the functionality of the Online Services Component during your current Subscription term; and
 - ii. we take reasonable steps to advise you in advance of any Scheduled Downtime.

We will take reasonable steps to ensure Scheduled Downtime is scheduled at times to minimise disruption to the Online Service Component.

- g. You agree that the Online Service Component is provided "as-is" and that your decision to enter into these Terms is not contingent on the delivery of any future functionality or features.

6. Support

- a. If you have any issues in accessing or using the Remedi Solution or associated services that cannot be resolved by power cycling the Remedi Solution and associated equipment, you should notify our support team by using the support contact details specified on our Website.

- b. You must provide to BirdDog a description of the issue and provide as much detail as possible, including screenshots.
 - c. Once BirdDog confirms that there is a problem and confirms that it is addressing an issue under this clause 6, BirdDog will use reasonable endeavours to correct the problem.
 - d. Following resolution of the problem, BirdDog may deliver updates to the Remedi Solution or further advice to you on how to resolve the problem.
 - e. If BirdDog is unable to resolve the problem within a reasonable period of time and the problem has a material impact on your ability to use the Remedi Solution and associated services, you may terminate your Subscription by giving written notice to BirdDog and we will provide you a pro-rata refund of any prepaid and portion of the Subscription Fee relating to the unused period of your Subscription term remaining beyond the termination date.
- and privacy policies of the Payment Provider.
 - g. When submitting your credit card or other payment information on our Remedi Solution or BirdDog's website you represent:
 - i. that you are properly authorised to use the credit card or other payment method for payment of the relevant fee;
 - ii. the information you provide is true, correct and complete;
 - iii. any fees or charges incurred by you will be honoured by your credit card company or other payment provider; and
 - iv. you will pay all charges incurred by you at the listed prices, including any applicable taxes.
 - h. We reserve the right at our discretion to cancel any payment if it appears fraudulent in any way, and we may notify the card holder and the relevant authorities.
 - i. We will provide you with a receipt at the time of confirmation of your payment (including any renewal Subscription Fee).

7. Fees

- a. All currency references are to, and transactions are processed in, United States dollars (USD).
 - b. We reserve the right to vary the Subscription Fee and all other prices and fees in respect of additional equipment and services in our absolute discretion, in accordance with clause 1(g).
 - c. Unless otherwise expressly stated, all prices or other sums payable or **Consideration** (as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth)) to be provided under or in accordance with these Terms are stated exclusive of **GST** (as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth)), VAT or similar consumption tax.
 - d. GST will be applied (if applicable) and shown on the total amount of your order when you confirm the order and check out.
 - e. Except for GST, all prices or other sums payable under or in accordance with these Terms are inclusive of all other taxes, duties and charges imposed or levied in Australia in connection with the supply of goods or services.
 - f. Payment of any fees under or in accordance with these Terms is required to be made via facilities provided by such payment provider as made available to you via the Remedi Solution or BirdDog's website (**Payment Provider**), as directed by BirdDog. Your use of the Payment Provider's system is subject to any relevant user agreements
- j. If You fail to pay any amount when due in accordance with these Terms, we may, without limiting any other rights under these Terms, do one or both of the following:
 - i. suspend your access to or our provision of the Remedi Solution and any associated services until you pay the amount in full; and
 - ii. charge interest on the amount overdue at a rate of 10% (or the maximum amount permitted by law) per annum calculated daily from the date the relevant payment was due until the date on which it is paid in full.

8. User Content

- a. When you use the Remedi App, you may upload or transmit text-based invites or registration links from the Remedi Solution to other individuals who a Primary User invites to connect and collaborate with them through the Remedi App, in addition to the videoconferencing video stream that you create and share through the Remedi Solution and associated equipment and services (together, **User Content**). If additional functionality is enabled by BirdDog that permits the uploading or transmission of other material via the Remedi Solution (including pictures, photographs, graphics, information, comment, content, communication or other material), that material will also be

- considered User Content.
- b. Any User Content you upload to or transmit via the Remedi App:
- i. may be accessed and viewed by other users of the Remedi Solution on your Licensed Device, as well as any invitee who has received an email invite link from you to participate in a particular video conference with you;
 - ii. will be used by us to distribute invites to invitees for particular video conferences according to the instructions and selections you make via the Remedi App, and to provide the Remedi Solution and provide associated services;
 - iii. may be used by us to support or troubleshoot problems with the Remedi Solution and associated services;
 - iv. can be used by us to monitor and enforce your compliance with these Terms;
 - v. can be used by us in accordance with the licence terms set out in clause 8(e); and
 - vi. can be used by us as otherwise permitted or required by applicable law.
- c. You agree to be solely responsible for any User Content you or your users upload to the Remedi Solution on your Licensed Device.
- d. For the purposes of these Terms, the term **Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing, including:
- i. patents, inventions, designs, copyright, trademarks, brand names, product names, domain names, rights in circuit layouts, plant breeder's rights, know how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
 - ii. any application or right to apply for registration of any of these rights;
 - iii. any registration of any of those rights or any registration of any application referred to in paragraph (ii); and
 - iv. all renewals, divisions and extensions of these rights.
- e. You retain all Intellectual Property Rights in the User Content you upload to or transmit via the Remedi App. By uploading or transmitting the User Content, you grant us a perpetual, non-exclusive, royalty free, irrevocable, transferable and world-wide licence (including the right to sub-licence) to use, adapt, copy, communicate, reproduce, modify, display, exploit, publish, re-distribute, broadcast, transmit, create derivative works from and incorporate in other works, the User Content, at any time in the future in any form, solely for the purposes specified in clause 8(b) or as otherwise expressly permitted by these Terms.
- f. You consent to your User Content being altered, edited or adapted by us for any reason in connection with the purposes specified in clause 8(b) including to ensure your User Content does not infringe these Terms. To the extent that you have any moral rights (pursuant to the Copyright Act 1968 (Cth)) in the User Content, by agreeing to these Terms, you provide an irrevocable and unconditional consent in favour of us, our successors, assignees, licensees and any other person authorised by any of them to use, modify or deal with your User Content (whether or not currently in existence) to (but solely for the purposes specified in clause 8(b) or another purpose expressly permitted by these Terms):
- i. perform, exhibit, reproduce, adapt and communicate any part of your User Content in any medium and anywhere in the world without attributing you or any other person as an author of or contributor to that User Content;
 - ii. do any act or omission that would constitute a derogatory treatment of your User Content;
 - iii. make any use of your User Content that may falsely attribute authorship of the User Content to another person;
 - iv. delete, adapt or change any of your User Content in any way, including by addition to or subtraction from your User Content; or
 - v. combine or juxtapose your User Content with anything else.
- g. Where the User Content uploaded or transmitted by you to or via the Remedi Solution contains material from third parties, you warrant that you have obtained the moral rights consents described in clause 8(f) from such third parties.
- h. You acknowledge that we:
- i. have no responsibility or liability for the deletion or failure to store any User Content uploaded by you or any other user on, or transmitted by you or any other user via, the Remedi App; and

- ii. are not responsible for any User Content uploaded to or transmitted via the Remedi Solution by you or any user nor under any obligation to monitor, move, remove, block, modify, edit, refuse to upload or transmit or disable access to it.
 - i. You represent and warrant that:
 - i. you own the User Content or have the necessary licences, rights, consents and permissions to publish and communicate the User Content you upload on or transmit via the Remedi App;
 - ii. you have the right and power to grant the licence contained in clause 8(e) to us;
 - iii. the User Content uploaded or transmitted by you will not infringe the intellectual property rights of any third party;
 - iv. you will not upload User Content that will cause you to breach these Terms, in particular clauses 11 and 15(h); and
 - v. any User Content you upload to or transmit via the Remedi Solution will not violate these Terms.
 - j. You understand that we do not guarantee any confidentiality with respect to any User Content you upload to or transmit via the Remedi App. You understand that we also do not verify the identity of invitees whose email addresses you have entered into the Remedi Solution to participate in video conferences with you via the Remedi App. It is your sole responsibility to ensure the accuracy of the email address you enter in respect of the intended invitee and subsequently visually identify your intended invitee in the Remedi app's "virtual waiting room" before allowing them to connect to your video conference and share any potential Information (as defined in clause 15(a)) with them.
 - k. You acknowledge and agree that we are under no obligation to take legal action in relation to commencing, defending, enforcing, settling or compromising (as appropriate) any infringement, claim or action relating to your Intellectual Property Rights in User Content.
- es including but not limited to collaborations with third parties and information provided by third parties under licence. Inclusion of BirdDog Content on the Remedi Solution is not an endorsement of any organisation, product, service or advice.
- c. All Intellectual Property Rights, including copyright, in the Remedi Solution and BirdDog Content are owned or licensed by BirdDog or any of its related entities or licensors. You must not copy, modify or transmit any part of the Remedi Solution or BirdDog Content except solely as expressly permitted by these Terms.
 - d. The Remedi Solution may contain trademarks, logos and trade names of BirdDog or third parties which may be registered or otherwise protected by law. You are not permitted to use any trademarks, logos or trade names appearing on the Remedi App.
 - e. Your access to and use of the Remedi Solution and BirdDog Content is for your own personal use (if you are an individual) or for the use of your Group and its employees, other individuals engaged by your Group, or (if your Group is a medical device supplier) other individuals using medical devices that you supply who you permit to use that Licensed Device, only, and subject to the restrictions specified elsewhere in these Terms. The Remedi Solution and BirdDog Content is not to be otherwise used for commercial exploitation.
 - f. If you have a complaint regarding any BirdDog Content or User Content, BirdDog's sole obligation will be to review any written complaint notified to it and, if it sees fit, in its sole discretion, to modify or remove the particular BirdDog Content or User Content.

Part B: Optional additional products and services

10. Optional additional products and services

10.1 You may purchase optional additional products and services

9. BirdDog Content

- a. This Remedi Solution and the BirdDog Content is owned by BirdDog or our licensors.
- b. The BirdDog Content on the Remedi Solution is obtained and developed from a variety of sourc-

- a. BirdDog may make available to be selected and purchased via its website additional products (such as camera and hardware kits) and services (such as administrative, commissioning and education, or on-site service and education services) for use in connection with the Remedi Solution on your Licensed Device. If you would like to procure such equipment or services please contact BirdDog or visit our website for more information.

- b. By placing an order for such additional equipment or services via our website you are making an offer and commitment to purchase products, services or both in accordance with these Terms. An order is subject to acceptance or rejection by BirdDog in its discretion after receipt of the order. Provided you have not accepted delivery of the products, where possible, BirdDog may in its discretion permit an order to be cancelled on your request, but cancellations cannot be guaranteed once any applicable payment is received for the order. The order cannot be cancelled by you once you accept delivery of the products.
 - c. Once you have placed an order in accordance with these Terms you will receive an email confirming the details of your order and receipt of payment (where applicable) (**Confirmation Email**). If you do not receive a Confirmation Email, your order may not have been accepted. If you haven't received a Confirmation Email, please contact BirdDog to check the status of your order.
 - d. Notwithstanding anything to the contrary, we may at any time following receipt of your order accept, decline, or limit your order for any reason whatsoever, whether or not your credit card has been charged or we have otherwise received payment from you.
 - e. We will issue you with a refund if your credit card has been charged or we have received payment from you, and your order is cancelled by us.
 - f. Where you order additional hardware, you may:
 - i. arrange to collect the hardware directly from us at an agreed location, in which case title to and risk in the hardware will pass to you at the later of the time you pay for that hardware or the time that you collect the hardware from us; or
 - ii. select to have the hardware delivered to you, in which case title to and risk in the hardware will pass to you once we have delivered the hardware to the address you specified for delivery when ordering from our Website.
- i. to cancel your service contract with us; and
 - ii. to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods.

If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

10.3 Additional warranties on certain equipment

- a. In addition to your rights under the ACL, BirdDog may offer an additional warranty on indoor cameras you purchase from us under these Terms, as may be further detailed in respect of the applicable hardware products on our website.
- b. Without limiting your rights under the ACL, if you encounter a defect or problem with an indoor camera you have purchased from BirdDog under these Terms within the warranty period specified by BirdDog when you purchased that equipment, please contact BirdDog using the contact details specified for that purpose on the Website so that we can arrange with you to return the equipment to us for repair or replacement.
- c. If a hardware product you purchased from us under these terms has a defect and it is outside any additional warranty period specified for that product or no additional warranty period was provided for that product, please contact us. If the product fails to comply with a consumer guarantee under the ACL, you have the rights set out in clause 10.2 (subject to clause 18(g)). If there is no failure to comply with a consumer guarantee under the ACL, you will need to purchase a new replacement or equivalent product.
- d. As between BirdDog and you in respect of these Terms, you are responsible for all other hardware and equipment you purchase for use in connection with the Remedi Solution that you have not purchased under these Terms, including for ensuring that such equipment meets the minimum requirements specified by BirdDog in accordance with clause 2(a).

10.2 Consumer guarantees under the Australian Consumer Law

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law (being Schedule 2 to the Competition and Consumer Act 2010 (Cth) (**ACL**)). For major failures with the service, you are entitled:

- e. BirdDog is not responsible for the installation of any cameras, hardware or equipment, including any cameras, hardware, software or equipment you purchase from BirdDog. You must ensure that any cameras, hardware, software and equipment used in connection with the Remedi Solution are correctly installed.

Part C: General terms

11. Prohibited uses

You agree that in installing, accessing and using the Remedi Solution and uploading or transmitting User Content, you will not engage or attempt to engage, and you will ensure that any person using the Remedi Solution on your Licensed Device does not engage or attempt to engage, in any activities that:

- a. copy the Remedi App, in whole or part (except that you may make and retain one copy of the Remedi Solution for back-up and archival purposes, to the extent permitted by the Copyright Act 1968 (Cth));
- b. disrupt, impair, alter or otherwise interfere with the functions, features or operation of the Remedi Solution and BirdDog Content;
- c. record all or any part of the User Content, except where this is expressly made available to you as a feature of your Subscription and you do so in accordance with any requirements specified in the User Manual and these Terms, including without limitation clause 15(h) of these Terms;
- d. violate any applicable local, state, federal or international law including, without limitation the Spam Act 2003 (Cth), the Copyright Act 1968 (Cth), principles of law or equity established by decisions of courts and statutes, regulations or by-laws of the Commonwealth of Australia, or any State or Territory of the Commonwealth of Australia or a government agency;
- e. violate the rights of any third party (including, without limitation abusing, stalking, threatening or otherwise, infringement of copyright, trademark, or other Intellectual Property Right, misappropriation of trade secrets, confidential information, electronic fraud, invasion of privacy, pornography, obscenity or libel);
- f. modify, adapt, translate, decompile, reverse engineer, disassemble or otherwise attempt to derive or gain access to the source code of the Remedi Solution or reduce the Remedi Solution or its contents, or a portion of them, to a human-perceivable form, except to the extent permitted by any law that cannot be excluded by the parties;
- g. impersonate or falsely claim to represent a person or organisation;
- h. are commercial, including renting, leasing, offering as a service bureau, modifying, displaying, distributing or otherwise using the Remedi Solution or any BirdDog Content or User Content, in whole or in part, for any public or commercial purpose without BirdDog's prior written consent, marketing, advertising or promoting goods or services, or re-selling, sublicensing or translating the Remedi App, except as may be expressly permitted elsewhere in these Terms;
- i. frame the Remedi Solution without BirdDog's express written permission;
- j. post, link to, or otherwise communicate or distribute any misleading or deceptive, inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or information, or otherwise use the Remedi Solution in a manner which is unlawful or would infringe the rights of another person including any privacy or Intellectual Property Rights;
- k. post, link to, or otherwise communicate or distribute any material or information that we deem inappropriate;
- l. gain unauthorised access to, or bypass (or attempt to bypass) any security mechanisms imposed by, the Remedi App, including to attempt to conduct or undertake any penetration testing of the Remedi Solution or its related networks;
- m. involve the unauthorised use of any machine or network, denial of service attacks, falsification of header information or user identification information, monitoring or scanning the networks of others;
- n. restrict or inhibit any other authorised user from using the Remedi App, including, without limitation, by means of "hacking" or defacing a portion of the Remedi App;
- o. provides access or links to any material (including links to peer to peer network trackers/beacons) which may infringe the privacy or Intellectual Property Rights of another person;
- p. removes, deletes or alters or attempts to remove, delete or alter attributions, legal notices, trademarks, copyright or proprietary marks on any material contained in the Remedi App;

- q. knowingly posts, distributes or transmits or permits the posting, distribution or transmission of any material which contains a computer virus or other harmful data, code or material;
- r. solicit information or access another person's Subscription; or
- s. use the Remedi Solution for purposes of: (i) benchmarking or competitive analysis of the Remedi App; (ii) developing, using, or providing a competing software product or service; or (iii) any other purpose that is to BirdDog's detriment or commercial disadvantage.

12. No medical advice or recommendations

The Remedi Solution is an audio-visual tool for communications between medical practitioners only. It does not:

- a. provide any medical advice or replace a medical practitioner's diagnosis or independent judgment about the appropriateness or risks of a procedure or treatment;
- b. act as an endorsement or recommendation of any medical practitioner using the Remedi App; or
- c. act as an endorsement or recommendation of any comments or instructions of any medical practitioner using the Remedi App.

13. Links and advertisements

- a. The Remedi Solution may contain links to other websites or applications. We have not reviewed all of the third party websites or applications linked on the Remedi Solution and are not responsible for and will not be liable in respect of their content or accuracy (including websites linked through advertisements). BirdDog provides those links as a ready reference for finding third party goods and services on the internet and not as an endorsement, support or sponsorship of those web sites, their operators, the goods, services or content that they describe.
- b. Social media and other applications and third party websites which are linked to the Remedi App, are not covered by these Terms, and may have their own terms and conditions and privacy policies. If you choose to access these third party linked applications or sites, you do so at your own risk. BirdDog is not responsible for and will not be liable in respect of the content or operation of those applications or websites or any of

the goods, services or content that they describe. BirdDog is not responsible for and will not be liable in respect of any incorrect link to an external application or website.

14. Access and communication

- a. Subject to the consumer guarantees provided for in consumer protection legislation including the ACL (as defined in clause 10.2), BirdDog does not warrant that you will have continuous access to the Remedi Solution or to all of its features and functionality and associated services, or that they will be supplied fault free.
- b. BirdDog will not be liable if the Remedi Solution or the full functionality of the Remedi Solution is unavailable to you for any reason beyond our control, including due to network or hardware downtime attributable to malfunctions, upgrades, preventative or remedial maintenance activities, interruption in telecommunications supply, or otherwise.
- c. BirdDog does not guarantee the delivery or security of communications over the internet as such communications rely on third party service providers, and electronic communication (including electronic mail) is vulnerable to interception by third parties.
- d. Whilst BirdDog takes reasonable precautions to protect information transmitted via the Remedi App, BirdDog cannot and does not guarantee the security or confidentiality of these communications or the security of the Remedi App, or that it will be free from any virus or other potentially harmful programs.
- e. BirdDog does not provide, and has no control over, communications, networks or services, the internet or other technology required or used across the Remedi Solution and accepts no responsibility for any direct or indirect loss in any form associated with them, whether due to congestion, technical malfunction, viruses or otherwise.

15. Privacy

- a. BirdDog collects and uses personal information (**Information**) for the purposes contemplated by these Terms and to provide you with, develop and continue to improve the Remedi App, including:
 - i. to process and confirm payments made for purchasing a subscription to the Remedi App,

- associated equipment or services from BirdDog;
- ii. to send you a unique connection link to activate the Remedi app, once the Subscription Fees have been paid;
 - iii. to allow your users to send invites to other practitioners, and to virtually connect those invited practitioners with users of your Licensed Device using video conferencing technology;
 - iv. to otherwise provide you with the Remedi Solution and the equipment, goods and services that you have purchased from BirdDog;
 - v. to provide you with a summary of your and your users' use of the Remedi app, including the total time your Licensed Device is connected to the Remedi app; and
 - vi. for other purposes described in the Remedi Privacy Policy, accessible either on the Website or at remedi.live/privacy (**Remedi Privacy Policy**).
- b. While BirdDog generally collects Information directly from the relevant individual, we may collect Information from third parties such as the Licensee, or other medical practitioners who use or wish to use the Remedi App. If you or a relevant individual do not wish to provide Information requested by BirdDog, BirdDog may not be able to provide you or your users with the Remedi Solution or relevant services.
 - c. BirdDog may disclose Information to third parties such as data storage and IT services providers. Some of these services providers may be located overseas and they may store Information overseas, including in the USA. With respect to the Overseas Recipients, BirdDog will not take any steps to ensure that the Overseas Recipients comply with the Australian Privacy Act including the Australian Privacy Principles. This means that if an Overseas Recipient handles Information in breach of the Australian Privacy Act, you cannot seek redress under the Australian Privacy Act and BirdDog will not be accountable under the Australian Privacy Act. You may also not be able to seek redress in the overseas jurisdiction. In addition, an Overseas Recipient could be subject to foreign law that could compel the disclosure of Information to another third party, such as an overseas authority.
 - d. BirdDog collects, holds, uses and discloses Information in accordance with the Remedi Privacy Policy which is available either on the Website or at remedi.live/privacy. The Remedi Privacy Policy contains further information about how BirdDog handles Information in connection with the Remedi App. This includes information on how individuals can seek to access and/or correct the Information that BirdDog holds about them as required by law and make a complaint about the way the Information is being handled by BirdDog and how BirdDog will deal with complaints. If you have any questions about how BirdDog handles Information, please contact the Privacy Officer at privacy@birddog.tv or as otherwise specified in the Remedi Privacy Policy.
- e. By installing and using the Remedi Solution or communicating with us, you acknowledge and agree that you have read the Remedi Privacy Policy and Consent to Overseas Disclosure and you consent to the collection, handling, use and disclosure of Information in accordance with this clause 15, the Remedi Privacy Policy and Consent to Overseas Disclosure.
 - f. You undertake to take reasonable steps to ensure that your staff, contractors, practitioners and patients (as applicable) are aware:
 - i. that BirdDog may from time to time collect Information about them in order to perform our obligations under these Terms; and
 - ii. of the Remedi Privacy Policy.
 - g. You must ensure that you have provided the appropriate notifications and procured the necessary consents or authorisations to allow BirdDog to collect the Information referred to in this clause 15 and to use and disclose such Information as contemplated by these Terms and the Remedi Privacy Policy and in accordance with applicable privacy laws, including without limitation the Australian Privacy Act, the Australian Privacy Principles under that Act, and any other applicable laws relating to privacy or to health information (**Privacy Laws**). Without limiting the above, you must ensure that you have:
 - i. completely and clearly explained to staff, contractors, practitioners and patients (as applicable) all of the matters set out in the Consent to Overseas Disclosure, including the implications for them of us disclosing their Information to the Overseas Recipients; and
 - ii. obtained informed written consent from staff, contractors, practitioners and patients (as applicable) in relation to the matters set out in the Consent to Overseas Disclosure.
 - h. You must ensure that any users of the Licensed

Device do not upload or stream via the video conferencing technology any Information of another individual (including any patient) unless the user has first made that individual aware of the Remedi Privacy Policy and the matters set out in the Consent to Overseas Disclosure and obtained their consent to upload or transmit such Information, including in accordance with any terms for patient consent as set out in the User Terms (including with respect to the matters set out in the Consent to Overseas Disclosure).

- i. You must notify us immediately upon becoming aware of any breach of any Privacy Laws that may be related to the operation of the Remedi Solution or associated equipment or services, or the Information.
- j. EU/UK GDPR: If you are subject to the application of the General Data Protection Regulation 2016/679 or its equivalent in the United Kingdom (together, "GDPR"), you acknowledge that for the provision of the Remedi Solution, you will be determining the purposes and means of the data processing operation and thereby acting as a data controller and BirdDog will be exclusively acting on your behalf, i.e. as a data processor. In this regard, by entering into these Terms, you agree you be bound by the terms of our Data Processing Agreement. Due to the novel technology implemented in the Remedi Solution, you may be required under GDPR or the laws applicable to you, to conduct a data protection impact assessment – BirdDog remains available to assist you in this process. Furthermore, you acknowledge that, by making any recording available to a third party, such third party may also be acting as a data controller, which may require (i) you to inform the data subjects of the categories of recipients for the personal data, (ii) you to ensure that the relevant safeguards to the transfer of personal data outside of the EU/UK have been implemented and (iii) such third party to comply with GDPR, notably with regard to the information of the data subjects vis-à-vis the indirect collection of their personal data. You shall hold BirdDog harmless against any adverse consequences pertaining to the noncompliance with the data protection requirements bearing on you and/or any third party with whom you would share the personal data.

For all issues related to the processing operation and GDPR, you may contact our GDPR representative at BirdDog.GDPR.Representative@klgates.com.

16. Infringement of Intellectual Property Rights

- a. If you become aware of any infringements or suspected infringements by any third party of any Intellectual Property Rights in the Remedi App, you must promptly notify BirdDog.
- b. You must at BirdDog's request and expense take such action as we reasonably deem appropriate to protect BirdDog's Intellectual Property Rights.
- c. If the Remedi App, or any part of the Remedi App, is, or in BirdDog's opinion is likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if your use of the Remedi Solution is enjoined or threatened to be enjoined, BirdDog may, at its option and sole cost and expense:
 - i. obtain the right for you to continue to use the Remedi Solution materially as contemplated by these Terms;
 - ii. modify or replace the Remedi App, in whole or in part, to seek to make the Remedi Solution non-infringing, while providing materially equivalent features and functionality, and such modified or replacement software will constitute the Remedi Solution under these Terms; or
 - iii. if, after BirdDog's exercise of commercially reasonable efforts, none of the remedies set forth in the above clause 16(c)(i) or clause 16(c)(ii) is reasonably available to BirdDog, terminate these Terms, in their entirety or with respect to the affected part or feature of the Remedi App, effective immediately on written notice to you, in which event:
 - A. you shall cease all use of the Remedi Solution (or the affected part or feature of the Remedi App, if only partial termination has been specified in BirdDog's notice) immediately on receipt of BirdDog's notice; and
 - B. provided that you fully comply with your post-termination obligations set forth in clause 19.3(b), BirdDog shall promptly refund to you, on a pro rata basis, the share of any Subscription Fees prepaid by you for the future portion of the term of these Terms that would have remained but for such termination.
- d. The provisions of clause 16(c) state the sole, exclusive, and entire liability of BirdDog (including its licensors and service providers), and is your sole

remedy, with respect to the infringement or misappropriation of third party Intellectual Property Rights.

17. Indemnity

You will fully indemnify BirdDog in respect of all loss, damage, costs, expenses (including legal fees on a full indemnity basis), fines, penalties, claims, demands and proceedings howsoever arising, whether at common law (including negligence) or under statute, in connection with any of the following:

- a. any breach of these Terms by you;
- b. any wrongful, wilful or negligent act or omission of you or any of your officers, employees, agents or contractors;
- c. your specific use of the Remedi Solution or BirdDog Content;
- d. your communications with BirdDog; or
- e. your use of third party websites or applications linked to the Remedi app,

except to the extent caused or contributed to by BirdDog's gross negligence, fraud, criminal conduct or wilful misconduct.

18. Warranties, consumer guarantees and limitation of liability

- a. You agree that you have not relied on any representation, description, illustration or specification that is not expressly stated in these Terms.
- b. The Remedi Solution has not been written to meet the individual requirements of the Licensee and is supplied on an "as is" basis. However, you may have rights by law which arise under these Terms and these Terms are subject to those rights.
- c. Subject to the consumer guarantees provided for in consumer protection legislation including the ACL, the sole warranty given by BirdDog in connection with the Remedi Solution is that the Remedi Solution will work substantially in the manner described in the User Manual for the duration of your Subscription. The Licensee's sole remedy for any breach of this warranty is to request support as set out in clause 6 and, if BirdDog is unable to resolve the problem within a reasonable period of time and the problem has a material impact on your ability to use the Remedi Solution and associated services, to terminate these Terms as set out in clause 6(e).

- d. Subject to the consumer guarantees provided for in consumer protection legislation including the ACL, the sole warranty given by BirdDog in connection with the provision of associated services purchased under these terms is that the services will be provided with reasonable care and diligence. The Licensee's sole remedy for any breach of this warranty is for BirdDog to supply the services again.
- e. Subject to clause 18(f), any representation, warranty, condition, guarantee or undertaking that would be implied in these Terms by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law. To the extent permitted by law (including the ACL), BirdDog excludes all warranties, whether express or implied (not including any consumer guarantees under the ACL), including any warranties or representations concerning availability of the Remedi App, quality, completeness, accuracy, suitability, acceptability or fitness for purpose in relation to the Remedi Solution including BirdDog Content and User Content and all links to or from the Remedi App.
- f. Nothing in these Terms excludes, restricts or modifies any consumer guarantee, right or remedy conferred on you by the ACL or any other applicable law that cannot be excluded, restricted or modified by agreement.
- g. To the fullest extent permitted by law, the liability of BirdDog for a breach of a non-excludable guarantee referred to in clause 18(f) is limited, at BirdDog's option, to:
 - i. in the case of goods supplied or offered by us, any one or more of the following:
 - A. the replacement of the goods or the supply of equivalent goods;
 - B. the repair of the goods;
 - C. the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - D. the payment of the cost of having the goods repaired; or
 - ii. in the case of services supplied or offered by us:
 - A. the supplying of the services again; or
 - B. the payment of the cost of having the services supplied again.
- h. Except where BirdDog fails to meet a consumer guarantee under the ACL and notwithstanding

any other provision of these Terms, BirdDog will not be liable to you for any damage, loss or expense resulting from or caused by:

- i. any act or omission of any third party;
 - ii. any inaccurate or incorrect third party information or content (including any other user of the Remedi App);
 - iii. any inaccurate or incorrect information provided by you;
 - iv. the incorrect installation of any cameras, hardware, software or equipment by you, or the failure of such items to meet the minimum requirements specified by BirdDog in clause 2(a), for use in connection with the Remedi Solution;
 - v. any event or circumstance beyond BirdDog's reasonable control including, without limitation, a Force Majeure Event;
 - vi. any breach of these Terms, negligence, default, fraud or dishonesty by you.
- i. To the fullest extent permitted by law, BirdDog will not be liable to you for any indirect, incidental, special or consequential loss or damage, or for any direct or indirect loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data, loss of reputation or loss of revenue (irrespective of whether the loss or damage is caused by or relates to breach of contract, tort (including negligence), statute or otherwise and regardless of whether it was foreseeable or not) arising in connection with the Remedi Solution, the BirdDog Content, all links to or from the Remedi Solution or the goods and services advertised or referred to on the Remedi Solution or advertised or referred to on the BirdDog website for use in connection with the Remedi Solution.
 - j. Subject to this clause 18, the maximum aggregate liability of BirdDog for all proven losses, damages and claims arising out of or in connection with these Terms or a supply under these Terms, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the amounts paid by you to BirdDog under these Terms in the previous 12 months.

19. Termination or suspension of your access to the Remedi Solution

19.1 Suspension

- a. Without prejudice to any right, action or remedy

which has accrued or which may accrue in favour of us, if we suspect on reasonable grounds that you are in breach of clause 11 we may immediately suspend your access to the Remedi Solution until you satisfy us that the issue has been rectified and that you and your users are not, or are no longer, in breach of clause 11.

- b. Any such suspension will be limited to the minimum extent and duration necessary to address the suspected breach.

19.2 Termination

- a. BirdDog may by notice in writing immediately terminate these Terms (in whole or in part) or suspend your access to the Remedi Solution if you become unable to pay amounts owed to us under these Terms.
- b. Either party may terminate these Terms immediately upon written notice to the other party if the other party is in material breach of these Terms and:
 - i. the breach is incapable of remedy; or
 - ii. the other party fails to remedy the breach within 14 days of receiving written notice of the breach from the first party.

19.3 Consequences of termination

- a. Any termination under this clause 19 will be without prejudice to any right, action or remedy which has accrued or which may accrue in favour of either party.
- b. Upon termination of these Terms by either party:
 - i. you must cease your access to and use of (and ensure your users of the Licensed Device cease their access to and use of) the Remedi Solution and associated services, and you must delete the Remedi Solution from your Licensed Device;
 - ii. unless terminated by you for our breach in accordance with clause 19.2(b), all unpaid Subscription Fees that you are committed to pay for the remainder of your Subscription period will automatically become due and owing, and we will provide you with a final invoice for these, for any outstanding Subscription Fees and for any services performed but not paid for up to and including the date of termination under these Terms;

- iii. we may retain any moneys paid by you; and
 - iv. you shall promptly pay to us any outstanding sums due to us pursuant to these Terms.
- c. This clause 19.3 and clauses 2(b), 2(e), 8, 10.2, 10.3, 11, 12, 14, 15, 16(a), 16(b), 17, 18, 21, 22, 24, 25 and 26 will survive termination of your access to the Remedi Solution and will continue to the benefit of and be enforceable by BirdDog.

20. Force Majeure

- a. Where any failure or delay by a party (**Affected Party**) in the performance of its obligations under these Terms is caused, directly or indirectly, by a Force Majeure Event:
- i. the Affected Party must as soon as practicable give the other party written notice of that fact;
 - ii. the Affected Party is not liable for that failure or delay;
 - iii. the Affected Party's obligations under these Terms are suspended, to the extent to which they are affected by the relevant Force Majeure Event, for the duration of the Force Majeure Event; and
 - iv. if the Force Majeure Event continues for more than 90 consecutive days and while it continues, any party other than the Affected Party may, at its sole discretion, terminate these Terms by giving written notice to the Affected Party and all other parties (if any).
- b. For the purposes of these Terms, **Force Majeure Event** means any act, event or cause, other than a lack of funds, which:
- i. directly or indirectly results in a party being prevented from or delayed in performing any of its obligations under these Terms; and
 - ii. is beyond the reasonable control of that party.

21. Jurisdiction and law

These Terms are governed by and must be construed in accordance with the laws of Victoria. The parties submit to the exclusive jurisdiction of the courts of Victoria and the Commonwealth of Australia in respect of all matters arising out of or relating to these Terms, their performance or subject matter.

22. International Use

- a. We make no representation or warranty that the Remedi Solution or any features, functionality, services or content accessible through the Remedi App, or equipment available for purchase on our website, is appropriate or lawful for use in locations outside Australia. If you choose to access, purchase or use the Remedi Solution and any associated equipment, content, material and services from other locations, you do so at your own risk and are responsible for compliance with all applicable laws. You are not authorised to access the Remedi Solution or specific features or functionality of the Remedi Solution from any location where doing so would be illegal.
- b. You understand that some countries have import restrictions on certain goods or materials. If you are outside Australia, you will be responsible for checking whether such restrictions apply before purchasing a Subscription, additional services or equipment, and uploading or transmitting User Content. If you are outside Australia, you will become the importer of the Remedi Solution and any associated equipment, content, material and services, and you will be liable to pay local taxes or duties, and you will assume all liability under any customs or import laws and regulations.

23. Push notifications

- a. In this clause 23, **Push Notifications** mean notifications generated by Remedi Solution on the Licensed Device and include alerts, badges, banners and sounds.
- b. Remedi Solution is enabled to allow BirdDog and its subcontractors to use Push Notifications to send messages to you.
- c. During installation of the Remedi Solution on your Licensed Device, the Remedi Solution will ask you whether you would like it to send you Push Notifications.
- d. If you choose to receive Push Notifications, the Remedi Solution will generate Push Notifications on your Licensed Device. You acknowledge and consent to receive these Push Notifications, subject to clause 23(e) below.
- e. You may choose to stop receiving Push Notifications by deactivating the Push Notifications in the settings on your Licensed Device.

24. Wireless carrier charges and availability

- a. You acknowledge and agree that by using the Remedi Solution you may incur charges from your usage of data over the internet and that any such charges will be your sole responsibility.
- b. BirdDog does not promise you that you will have uninterrupted or error-free access to and use of the Remedi Solution or to all of its features and functionality.

25. General terms and interpretation

- a. These Terms, and any provision of these Terms, are not to be construed to the disadvantage of a party because that party was responsible for their preparation.
- b. Headings in these Terms are intended for convenience of reference only. Forms of words will be construed to include singular or plural, and any gender, masculine, feminine, or neutral, as the context requires, and "including" means "including but not limited to". Reference to a person includes an individual, corporation, trust or statutory body.
- c. Nothing in these Terms will be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary between you and BirdDog.
- d. These Terms together with the User Terms constitute the entire agreement between the parties relating to the subject matter of these Terms and the User Terms and supersede all prior communications and agreements between the parties as to its subject matter, and each party agrees that unless expressly stated in these Terms or the User Terms, that party has not relied on any representation, warranty or undertaking of any kind in relation to the subject matter of these Terms and the User Terms.
- e. Any provision of these Terms (or any part thereof) which is invalid in any jurisdiction must, in relation to that jurisdiction:
 - i. be read down to the minimum extent necessary to achieve its validity, if applicable; and
 - ii. be severed from these Terms in any other case, without invalidating or affecting the remaining provisions of these Terms or the validity of that provision in any other jurisdiction.
- f. You must not, without prior written consent of

BirdDog, assign, lease, charge, sub-license, or otherwise transfer any of your rights or obligations under this agreement in whole or in part.

26. Minimum terms required by Apple

- a. If you have obtained the Remedi app via Apple's App Store, this clause 26 applies.
- b. You acknowledge and agree that:
 - i. these Terms are concluded between you and BirdDog, and not Apple, Inc. (**Apple**);
 - ii. BirdDog, and not Apple, is solely responsible for the Remedi app;
 - iii. the Licence granted to you under clause 2 is subject to Apple's Usage Rules set out in the App Store Terms and Conditions available at <https://www.apple.com/au/legal/inter-net-services/itunes/au/terms.html>;
 - iv. Apple has no responsibility whatsoever to furnish any maintenance and support services with respect to the Remedi app;
 - v. in the event of any failure of the Remedi app to conform to any applicable warranty, you may notify Apple and Apple will refund the purchase price you paid for the Remedi app;
 - vi. to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Remedi app;
 - vii. Apple is not responsible for any claims that you have arising out of your use of the Remedi app;
 - viii. Apple will have no responsibility whatsoever for the investigation, defence, settlement or discharge of any third party claim that the Remedi app infringes that third party's intellectual property rights; and
 - ix. Apple and its subsidiaries are third party beneficiaries of these Terms and, upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary.
- c. You represent and warrant that:
 - i. you are not located in a country that is subject to a US Government embargo, or that has been designated by the US Government as a "terrorist supporting" country; and

- ii. you are not listed on any US Government list of prohibited or restricted parties.

27. Contacting us

If you have questions about the Remedi app, these Terms, or the Remedi Privacy Policy, please contact us using the contact details provided on our Website.

