**WELCOME TO FLEXY!**

Welcome to Flexy. We’re excited to show you how we work.

This is a legal document, but we intend to make your journey through it as simple as possible.

The purpose of this agreement is to specify the relationship between the Expert (Yourself) and Flexy. The relationship between the Expert and Company will be subject to Booking Terms and Conditions.

The purpose of the highlighted text is to explain the complex legal language used in the clause before. We’re all about simplicity and your progress shouldn’t be stalled with wording only lawyer’s use.

**Flexy Services:**

Flexy is an online workforce community platform that exposes exceptional Experts to thousands of companies that are looking to build on-demand freelance teams. The platform has been created to offer Experts the opportunity to join innovative companies as independent contractors; and companies are provided with a software tool that gives them access to search, book, manage and pay a freelance workforce.

**Flexy Fees:**

* Flexy is Free for all Freelance Experts and therefore no fees around this neck of the neighborhood. The rates you receive, are the rates you display on your Flexy Profile.

**IP, Confidentiality, Non-Circumvention and Booking**

* All Intellectual Property created by you under a Booking with a Company belongs to the Company.
* All Confidential Information supplied to or received from Flexy or any Company, shall be kept confidential
* Any Companies introduced to you by Flexy may not be contracted directly by you for a period of 12 months
* Where a Company wishes to employ an Expert, Flexy will facilitate this employment Booking at a standard 15% of annual CTC employment fee to the Company
* Bookings are facilitated by Flexy, however the agreement is directly between the company and the Expert.

**Flexy Payments:**

* You invoice Flexy at month-­end, when the work has been completed or as per your specific Booking.
* Payment of your invoices are done 7 days after booking is completed or on the 26th of each month if it is a monthly booking.

**Tax Implications:**

* You are fully responsible for your own taxation, this means Flexy will not withhold any PAYE or other tax liabilities, unless specified by you on your Flexy Profile. This service is only available for South African Freelancers right now.
* At Flexy we encourage all Experts like yourself to set up your own entity or limited liability company or to operate as a sole proprietor for tax purposes, however this does depend on the Expert’s unique circumstances and Flexy will put any Experts who need advice in touch with Flexy’s tax partners.

**EXPERTS TERMS AND FEES**

These shouty words below tell you that this document outlines your legal relationship with Flexy. You are bound by these terms by accepting them on the platform. Flexy reserves the right to update these terms from time to time, and will notify you when that happens.

THIS AGREEMENT GOVERNS YOUR USE OF FLEXY’S SERVICES AND IS ENTERED INTO BETWEEN YOU AND NEXT PLATFORMS (PTY) LTD t/a FLEXY.

BY ACCEPTING THIS AGREEMENT, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO DO SO, AND YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE MAY MODIFY THIS AGREEMENT WITH PROSPECTIVE EFFECT WITHOUT PRIOR NOTICE TO YOU, AND ANY REVISIONS THERETO, WILL TAKE EFFECT WHEN POSTED ON THE FLEXY PLATFORM, UNLESS A LATER DATE IS OTHERWISE STATED IN THE REVISED AGREEMENT. YOUR CONTINUED USE OF THE FLEXY PLATFORM AND/OR SERVICES WILL BE CONSTRUED AS YOUR CONSENT TO THE AMENDED / UPDATED AGREEMENT AND WILL BE CONDITIONAL UPON THE AGREEMENT IN FORCE AT THE TIME OF YOUR USE. PLEASE CHECK THE FLEXY PLATFORM OFTEN FOR UPDATES TO THE TERMS AND OTHER DOCUMENTS WHICH MAY HAVE A BEARING ON YOUR USE OF THE FLEXY PLATFORM.

This agreement was last updated on **8 March 2018** and is effective between You and Flexy as of the date of You accepting these Terms of Service.

1. **Definitions**

These are standard definitions, it prepares you for the words that follow.

**“Agreement”** means this Agreement, the Platform Terms of Use, and any other annexure, addenda or schedules thereto;

**“Flexy”, “We”, “Us”** means Next Platforms (Pty) Ltd t/a Flexy, bearing registration number 2015/134958/07, and includes our employees, officers, directors, representatives, agents, shareholders, affiliates, subsidiaries, holding companies, related entities, advisers, Companies, service providers and suppliers;

**“Company”** means an individual, company or other legal entity which has been introduced to You by Flexy, which the Company is on the Flexy Company network and uses Flexy’s Platform and Services to execute projects by utilizing services of verified Flexy Experts;

**“Flexy Platform”** means the site found at www.flexyskills.com, and is made available and owned by Flexy;

**“Confidential Information”** means the contents of this Agreement and any information or document in whatever form or format, belonging to, in the possession of, under the control of, in the knowledge of, or howsoever related to a Party, which has been disclosed or made available by the applicable party, directly or indirectly, in any manner which is (i) confidential or proprietary in nature, or (ii) which has been designated as confidential by a Party, or (iii) the unauthorized disclosure of which would, or would be likely to, prejudice the interests of such Party, and this includes all Intellectual Property Rights, trade secrets, know-how, all personal and sensitive data and all discussions, negotiations and services provided or to be provided relating wholly or partly to subject matter of this Agreement;

**“Intellectual Property”** means all and any Intellectual Property Rights in and to the Flexy Platform, the software and systems relating to the Platform, the work performed by You for Flexy pursuant to this Agreement and/or in terms of a BOOKING, and includes patents, rights to inventions, copyright and related rights, all other rights of copyright, trademarks, trade names and domain names, business names, logos, service marks, moral rights, know-how, business methods and trade secrets, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in design, database rights and any other intellectual property rights, (including but not limited to moral rights), in each case whether registered or unregistered and including all applications (and right to apply) for, and renewals, extensions or revivals of, such and all similar or equivalent rights to forms of protection which subsist or will subsist now or in the future and in any part of the world (and “Intellectual Property Rights” means any ownership, license or associated rights relating to Intellectual Property);

**“Party”** means You or Flexy, as the case may be, and “Parties” means You and Flexy collectively;

**“Personal Information”** means personal information that can identify you as an individual or is capable of identifying you and as defined in the Protection of Personal Information Act 4 of 2013. By personal information we don't mean general, statistical, aggregated or anonymized information;

**“Expert”** means a User who has been accepted to provide skills to Companies through the Flexy Platform;

**“User”, “You”, “Yours”** means any person who visits www.flexyskills.com and begins the sign-up process to become an Expert.

**"Booking”** means the booking specifications and requirements that a Company requires to be adhered to by the Expert, and which the Company may elect when appointing the Expert using the “My Booking” portion of the Flexy Platform;

1. **Term and Termination**

You or Flexy can terminate this agreement at any time, for fair reasons as listed below. You may not however terminate this agreement while you are in the process of offering expert services or busy working on a Booking.

* 1. **Term.** This Agreement commences on the date you first accept these Expert Terms of Service and continues until termination by either party in accordance with this clause.
	2. **Termination**. Either Party may terminate this agreement with immediate effect in the event that the other party :
1. commits any material breach of any of the provisions of this Agreement and fails to remedy such breach within 30 (thirty) days after receiving a written notice from the aggrieved party containing full particulars of the material breach and requiring it to be remedied;
2. becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors;
3. is found guilty, of a crime involving dishonesty, by a competent court;
where the Expert has become permanently incapacitated due to illness or accident;
4. agrees to such termination.
	1. Flexy may terminate this Agreement with immediate effect and in its sole discretion, where:
5. You failed to perform in terms of Your obligations as set out in any applicable Bookings entered into with a Company;
6. Where you circumvented this Agreement in contravention with clause 9 (Non - ­Circumvention) hereof;
7. the Company has indicated to Flexy that You are in breach of Your obligations in terms of a Booking with such Company, and Flexy, in its sole discretion, is of the opinion that You are indeed in breach of the Booking terms of service and the issue regarding breach cannot be resolved between You, Flexy and the Company in good faith;
8. Your average reviews received from Companies or mentors are adverse. These rights of termination by Flexy will not detract from any claim, right or remedy afforded to Flexy in terms of this Agreement.
	1. You may terminate this Agreement with Flexy:
9. for convenience and without cause, on 30 days written notice to Flexy, provided that You are not obliged to perform any services under any Booking with a Company within the aforesaid 30 days.
10. where You are obliged to perform Your services to Company(s) in terms of a Booking, Your right of termination of these Flexy Expert Terms and Conditions is subject to Your compliance with the process for termination set forth in the applicable Booking(s). For the sake of clarity, at any time during which there is a Booking in force between You and a Company, You may only terminate this agreement once you have adhered to the process for termination provided for in the applicable Booking(s).
	1. Where this Agreement is terminated in accordance with this clause 2, and any amount is due and owing to You by Flexy in terms of this Agreement, Flexy undertakes to make payment to You of said amount (pro rated, if applicable), as provided for in Clause 2.4 (Fees and Payment Terms), irrespective of date of termination.
	2. Should You terminate this Agreement, or any Booking, in a manner which contravenes this clause 2, or the termination clause in any applicable Booking, Flexy reserves the right to withhold any outstanding payments due to You insofar as to satisfy all expenses and/or damages incurred as a result of such rogue termination.
	3. **Accrued Rights.** Termination of this Agreement, for any reason, shall not affect the accrued rights of the Parties arising in any way out of this Agreement as at the date of termination and, in particular but without limitation, the right to recover damages against the other, the confidentiality and non-­circumvention rights, and all provisions which are expressed to survive this Agreement shall remain in force and effect.
11. **Terms of engagement**

This agreement does not make you an employee of Flexy or any Company on the platform.

You are not entitled to enforce any rights that an employee has against an employer, against Flexy or any Company on the platform.

You set your rate at which you want to work, not Flexy.

You don’t have to work exclusively with or through Flexy.

You will not be entitled to any paid leave, paid sick leave, medical aid etc.

Also, you have to provide your own tools (like laptops, phones) to provide the Expert skills on offer.

* 1. You hereby acknowledge and agree that You are engaged by Flexy as a self-employed consultant and independent Expert and nothing in this agreement and in no event, or under any circumstance, will You be (or be deemed to be) an employee, worker, agent or partner of Flexy or the Company and You shall not hold yourself out as such.
	2. This Agreement sign up terms for the provision of services as a self­-employed consultant and/or independent Expert (not a Booking of employment) and accordingly Flexy shall not be responsible for withholding taxes with respect to Your compensation. You will be fully responsible for all such deductions and matters relating to Your personal taxation and shall indemnify Flexy for and in respect of any such payments.
	3. Flexy shall not be responsible for payments in respect of paid annual leave, paid sick leave, retirement benefits, worker’s compensation, health or disability benefits, unemployment insurance benefits, or employee benefits or any other benefit or remuneration related to a conventional employment relationship whatsoever.
	4. You shall have no authority (and shall not hold Yourself out as having authority) to bind Flexy or the Company, unless specifically authorised to do so, in writing.
	5. During the term of this Agreement You will make use of Your own laptop, software licenses, stationary, motor vehicle and mobile phone in fulfilling Your obligations in terms of this Agreement, the cost of which will be for Your own account.
	6. You will not be required to work exclusively with or for Flexy.
	7. Upon sign­up to the Flexy Platform you will be able to set Your Indicated Price and Availability on your profile, which settings can be amended, by your Flexy Agent, upon Your request.
	8. As an ancillary service, Flexy will provide You with access to a tax adviser and administrator, who can help You to simplify the filing of Your tax returns. This service is free, yet not compulsory, to all Flexy Experts provided that Your Fees are paid up to date.
1. **Fees & Payment Terms**

Flexy is and will always remain FREE for Experts

* 1. Flexy is Free for all Experts and therefore no fees are payable by the Expert.
	2. **Booking Types**
1. **Fixed Price**

which shall be in respect of a fixed deliverable to be provided by the Expert;

1. **Time and Materials**

which shall comprise of a fixed time to be spent and materials to be utilized from the Effective Date until the Termination Date;

1. **Monthly Retainer**

which shall commence on the Effective Date and continue by agreement between the Parties until terminated in accordance with this Agreement.

* 1. **Payments by Flexy.** Where you enter into a Monthly Retainer Booking or a Pay­-and­-use­-as-­you-­go Booking with the Company, Flexy will make the monthly payment on the last day of the month.
	2. **Invoices by Expert.** If invoices for work performed has not been submitted to Flexy within 6 months of the completion date provided in the applicable Booking, Flexy will be under no obligation to make payment of such invoices.

Monthly retainer / Pay-­and-­use-­as-­you-­go = payment on the last day of the month.

Fixed term / Fixed Price = 35% payment upfront and remainder within 7 days of completion, assuming the Company has paid Flexy .

1. **Flexy’s Rights and Responsibilities**
	1. Flexy will provide You with access to a platform through which you can be connected to Companies to whom You can potentially offer services.
	2. Flexy will, on its Platform, build a Professional Profile of You which will aid Flexy in matching You to Companies and projects.
	3. Flexy reserves the right to present You with opportunities which budget is below Your Indicated Price, but You are under no obligation to accept such projects.
	4. Flexy reserves the right to, and will, use the information which You provide it, together with reviews received from Companies, to help companies determine whether Your skills are a match for their project requirements.
	5. If the Company so requires, Flexy will set up, with Your cooperation, an interview with a Company if there is interest.
	6. Where Flexy offers you the opportunity to work on a project, Flexy will require You to enter into a booking agreement with the Company, the terms of which will be determined in the bookings terms of service.
	7. Flexy cannot guarantee that it will be able to provide You with work, however, it is in both Parties’ best interest if Flexy can secure You work with Companies.
	8. It is Flexy’s sole and absolute responsibility to attend to all of its own business administration, at its own cost, and to attend to filing of all applicable returns due in terms of the Income Tax Act (as amended from time to time) and Value Added Tax Act (as amended from time to time), as applicable.

Flexy gives you access to its platform and the opportunity to build a professional profile on it. You set your rate and you will be matched with companies. You will work directly with the Company, under a Booking between you and your Company. Flexy will use your information to match you to opportunities. Flexy cant guarantee you work, but sure as hell will try!

1. **Expert’s Rights and Responsibilities**
	1. You undertake to provide Flexy with all information reasonably required by Flexy in order to create a profile for You on the Platform, which profile will be used by Flexy to match Your skills to Company project requirements.
	2. You reserve the right to, at any time, request an amendment of Your hourly / weekly / monthly price at which you are willing to render Your services to Companies (“Indicated Price”) from your Flexy Agent.
	3. You reserve the right to indicate your availability to perform services in terms of this Agreement on the calendar tool provided on the Platform.
	4. You reserve the right to accept or decline any project which is offered to You to work on, provided that you do so within the period allowed therefore in the offer. Should you fail to advise Flexy of your decision to accept or decline a project within the period afforded in the offer, You will forfeit such offer.
	5. If You are presented with an offer for work on a project with a Company and You already have an existing work relationship with such Company, You should disclose this relationship to Flexy and present proof of such relationship to Flexy, and in which case the provisions of Clause 9 (Non - ­Circumvention) will not apply to any work offered to You by the Company outside the Flexy Platform. For the avoidance of doubt, where Flexy offers You work on a project with a Company (which is also an existing Company of Yours) and such work was not offered to You by the Company directly, Flexy will be entitled to a Matching Fee in the event that You accept the offer for the work through the Platform.
	6. You agree and undertake to subject Yourself to an interview with a Company in the event Flexy requires you to do so, failing which you will forfeit the offer presented to You.
	7. You agree and undertake to enter into a Booking agreement with a Company in respect of any project which Flexy offers You to work on, failing which you will forfeit the offer presented to You. Flexy gives you access to its platform and the opportunity to build a professional profile on it. You set your rate and you will be matched with companies. If you and a new Company decide to work together, Flexy will take care of all the admin around Booking and collection of payment of fees on your behalf. Flexy pays you once the Company has paid Flexy.
	8. You agree and undertake that all Intellectual Property created by You pursuant to this Agreement or any Booking, shall vest in the applicable Company and no right under such Intellectual Property shall vest in You, save as specifically granted to You by the applicable Company, in writing. The terms relating to the assignment of the Intellectual Property will be contained in the Booking concluded with the Company.

You will provide Flexy with all the information required to successfully advertise and offer your skills.

You can amend your rate and the availability at any time from your online profile. You can accept or decline requests. You are required to enter into a separate agreement with a Company to whom you sell skills. The IP you create for a Company, becomes the property of the Company, just like that fridge on gumtree, once you sell it, it is no longer yours!

1. **Flexy’s Warranties and Representations**
	1. Flexy undertakes, warrants and represents that:
	2. it has validly entered into this Agreement and has the legal authority to do so;
	3. except as expressly provided herein, Flexy does not make any representation or warranty of any kind, whether express, implied, statutory or otherwise and Flexy specifically disclaims all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by law. Flexy and ancillary services are provided “as is”, exclusive of any warranty whatsoever. Flexy disclaims all liability and indemnification obligations for any harm or damages caused by any third party and/or ancillary service provider;
	4. it will comply with all agreements, laws and/or legal directives (as applicable) in connection with its business activities, the services it renders, and payments it makes, to You.

Flexy promises to at all times adhere to all legal requirements pertaining to its relationship with you. In short, Flexy is now in a healthy and committed relationship with you,

we say I do :)

1. **Expert’s Warranties and Representations**
	1. You undertake, warrant and represent that:
	2. You have validly entered into this Agreement and have the legal authority to do so;
	3. the information with which You provide Flexy is true and correct and You undertake to keep Flexy up to date with any changes in this information;
	4. Flexy will have no obligations and/or responsibilities towards You that an employer would have towards an employee, save for remunerating You for the services You sell to Companies;
	5. despite any ancillary services Flexy may offer You in respect of tax, financial or general business administration, You understand that it is still Your sole and absolute responsibility to attend to filing of all tax returns and to comply with all laws and/or legal directives (as applicable) in connection with the services You sell to, and the income You receive from, Companies and You warrant and undertake that You will do so;
	6. that You have complied with all the applicable legal requirements, as the case may be, in order for You to lawfully render Your services to Companies;
	7. that You are lawfully entitled to work from the location where you will be rendering Your services from;
	8. You will immediately inform Flexy of any conflict of interest that You are aware of and which may occur should you perform work for a new Company;
	9. where You elect to make use of any of the ancillary services Flexy offers You, where applicable, You will enter into an agreement, separate to this one, to regulate Your relationship with the third party rendering such ancillary services to You;
	10. where You are permanently employed and elect to sign up as an Expert on the Flexy Platform, there is nothing in Your permanent employment agreement which prohibits You from doing part time work for Companies and you hereby indemnify and hold Flexy harmless against any claims that may arise from Your permanent employer.

You are promising us that you are legally allowed to enter into this agreement with Flexy and any subsequent agreements with Companies. No funny business! You agree that Flexy may share some of your personal information with potential Companies. You know that you are a freelancer, and not an employee, and that from the moment you accept our terms and fees, you are also in a healthy and committed relationship with Flexy. We are delighted to share a work life with you :)

1. **Non-Circumvention**
2. You agree that, if and at the moment when, You are accepted as a Flexy Expert, this non-circumvention and non-solicitation clause will come into force and effect.
3. Flexy only collects a Service Fee once a successful booking has been made. Thus, in consideration for making the Flexy Services available to the Expert, for a period of no less than 12 (twelve) months from the date upon which a successful booking by Client was terminated, the Expert may not work (part-time or permanently) for the applicable Client if such working relationship is not administered and paid for through Flexy.
4. In the event that the Expert circumvents Flexy to provide skills to a Client within the 12 month period referred to in clause 8.1.1 above, Flexy reserves the right to a) terminate this Agreement, and/or b) charge both the Client and the Expert for payment of a Circumvention Penalty as defined in the agreement you will enter into if and when you are accepted as a Expert by Flexy.
5. The Expert and the Client will be jointly removed from the platform and shall be banned from working or conducting business on the platform going forward.
6. Where a Client expresses its desire to employ a Expert, on a permanent basis, within 12 (twelve) months of the date of completion of the last project with the applicable Expert and the Expert wishes to accept such offer of employment, they are free to do so, provided that the Client notify Flexy thereof immediately upon the Expert’s acceptance of such offer of employment. In this case a Service Fee equal to 15% of the total annual cost to company remuneration offered to the Expert will be charged to the Client, for which payment will be due before the employment contract takes effect (“Placement Fee”).
7. You agree that You will not circumvent the methods of payment offered by Flexy. By way of example, but certainly not limited to, receiving any payment outside of the Flexy Platform or receiving payment in kind.
8. The Expert undertakes to immediately notify Flexy at support@flexyskills.com upon gaining knowledge, or a suspicion, that another person improperly contacts them or suggests soliciting payments outside the payment methods prescribed by Flexy. The contents of such communication shall be kept confidential.

This Non-Circumvention and Non-Solicitation clause is severable from the balance of this agreement and shall, notwithstanding the termination or cancellation of this agreement, remain in full force and effect. This Non-Circumvention and Non-Solicitation clause will not be applicable where the Expert has a relationship with a Client prior to Flexy introducing such Client.

You can of course in life do whatever you want, but we ask you nicely to please not circumvent your agreement with Flexy by selling offering to Companies or accepting payment directly from Companies who were introduced to you by Flexy. So please do not deal with Companies behind our backs, for now and for 12 months after your last Booking with Flexy.

If you wish to enter into a permanent Booking of employment with a company you have done work for through Flexy, you can! Everything in life is negotiable. Flexy will charge the Company a standard 15% of annual CTC recruitment fee, so please make sure you let Flexy know if this happens.

We would hate to get divorced, so please be faithful and transparent :)

1. **Intellectual Property Rights**
	1. You agree and undertake that all Intellectual Property created by You pursuant to any Booking, shall vest in the applicable Company and no right under such Intellectual Property shall vest in You, save as specifically granted by such Company to You in writing.
	2. Where applicable, and to the extent required, You agree and undertake to assign all Intellectual Property created by You pursuant to a Booking, to the applicable Company. You agree and undertake to sign all necessary documentation which is required to give effect to such assignment.

This one is easy, all the work you do for a Company under a Booking through Flexy belongs to the Company, unless otherwise stated and agreed to by you and the Company.

1. **General Provisions**
	1. Force Majeur. A Party’s obligations under this Agreement shall be suspended during the period, and to the extent that, such Party is prevented or hindered from performing such obligations by any cause beyond its control including without limitation, economic forces, strikes, lock-outs, act of God, war, riot, civil commotion, malicious damage, compliance of any law or governmental order, rule, regulation or direction, accident, breakdown of machinery or equipment, fire, flood, storm. In the event that the cause continues for 10 (ten) consecutive days (or 10 days in any period of 30 days) the unaffected party shall be entitled to terminate this Agreement with immediate effect on written notice.
	2. By entering into these Terms of Service, You remain bound by the terms of the Platform Terms of Use (the terms of which are incorporated hereto), provided where there is an inconsistency between the Platform Terms of Use and these Terms of Service, these Terms of Service will prevail.

Force Majeur is an unforeseeable circumstance that prevents someone from fulfilling a Booking. We’re not savages ­ we won’t make a fuss about your work delivery if the roof blows off your house, your kitchen is flooded and your car exploded. In fact, we may send you a care package instead.

That is it from us for now, if you have any questions do not hesitate to ping us on Slack or drop us an email on support@flexyskills.com

HAPPY WORKING :)