



16 December 2011

Vinode Ramgopal



Dear Vinode

**Letter of Re-appointment as a Non-Executive Director of Earthport plc**

I write to formalise the terms of your re-appointment as a Non-Executive Director of Earthport plc ("**Earthport**") which have been agreed by the Board of Directors of Earthport (the "**Board**").

This letter sets out the main terms of your re-appointment. It is agreed that this is a contract for services and not a contract of employment.

By accepting this re-appointment, you confirm that you are not subject to any restrictions which prevent you from holding office as a Non-Executive Director of Earthport.

The detailed terms and conditions of your re-appointment are as follows:

**1. Re-appointment and Fees**

**1.1** Subject to the remaining provisions of this letter, your appointment will be for an initial term of three years commencing on the date of this letter unless terminated by either party giving to the other three months' prior written notice.

**1.2** Your appointment is subject to the provisions of the Companies Act 2006 as amended from time to time, and to the articles of association of Earthport as amended from time to time (the "**Articles**"). Nothing in this letter shall be taken to exclude or vary the terms of the Articles as they apply to you as a director of Earthport. Your appointment will need to be approved by the Earthport's shareholders at the first annual general meeting ("**AGM**") of the Earthport following your appointment. Continuation of your appointment is then subject to your continued satisfactory performance and re-election by the shareholders at subsequent AGMs in accordance with the Articles, if you are not re-elected to your position as a director of Earthport by the shareholders, your appointment will terminate automatically and with immediate effect.

**Earthport Plc**

21 New Street London EC2M 4TP

**Telephone:** +44 (0)207 220 9700

**Facsimile:** +44 (0)207 220 9701

[www.earthport.com](http://www.earthport.com)

Registered Office: 21 New Street, Bishopsgate, London EC2M 4TP

Registered Number: 03428888. VAT Registration Number: GB 701 6854 47





**1.3** Notwithstanding the other terms of this letter, your appointment shall terminate immediately if:

- (a) you are not re-appointed when appropriate as a Non-Executive Director by the Board; or
- (b) you become bankrupt or make any arrangement or composition with your creditors generally; or
- (c) you are admitted to hospital for treatment under the Mental Health Act 1983 (as amended) or have an Order made by any competent Court for your detention or for the appointment of a Receiver, Curator Bonis or other person to exercise powers with respect to your property or affairs; or
- (d) you become disqualified or prohibited from being or acting as a Director of any company by reason of any statutory provision or an Order made by any competent Court; or
- (e) you are convicted of any criminal offence other than an offence which in the reasonable opinion of the Board adversely affects neither the reputation of Earthport nor your ability to fulfil your duties adequately; or
- (f) you have been absent for more than one month without the permission of the Directors from meetings of Directors held during that period and the Directors resolve that your office be vacated; or
- (g) you are served with written notice under the hand of a director or the secretary of any company which is for the time being Earthport's holding company that the board of directors of such company has resolved that your appointment be terminated; or
- (h) a written notice signed by the holders of more than 50% per cent of the issued share capital of Earthport requiring you to vacate your office is delivered to Earthport's registered office; or
- (i) you are the subject of or cause Earthport to be the subject of a penalty or reprimand imposed by any regulatory authority by which Earthport is governed or to which its activities are subject.

**1.4** During the term of appointment, you will be paid monthly in arrears for your services being director's fees of £18,000 (excluding VAT, as appropriate) per annum.

## **2. Time Commitment**

**2.1** Overall it is anticipated that you will provide your services as a Non-Executive Director for 3 days per month of actual business time depending on what committees you are responsible for attending at such times notified by Earthport from time to time. This will include your attendance which is required, at scheduled quarterly board meetings, board committee, general meetings, board meetings, away days and Directors' training sessions. In addition, you will be expected to





devote such time ahead of each meeting as is required to ensure that you are adequately prepared.

- 2.2 In the event that you are asked to serve on one or more of the board committees, you will receive a copy of the committee's terms of reference and such briefing as is required to enable you to participate fully in committee meetings.
- 2.3 You will be entitled to request all relevant information about Earthport's affairs as is reasonably necessary in order to enable you to discharge your duties.

### **3. Role**

- 3.1 Directors have the same general legal responsibilities to Earthport as any other director. In particular you must be aware of and abide by the seven statutory duties for Directors which are detailed in s.171 to s.177 of the Companies Act 2006 (details of these duties will be included in your Induction Pack).
- 3.2 The Board as a whole is collectively responsible for promoting the success of Earthport by directing and supervising Earthport's affairs. The Board:
  - (a) sets Earthport's strategic goals, ensures that appropriate resources are in place to enable Earthport to meet its goals and reviews management performance;
  - (b) provides leadership within a framework of controls which enable risk to be assessed and managed;
  - (c) sets Earthport's values and standards and ensures its obligations to shareholders and others are understood and met.
- 3.3 All Directors must act in the way they consider, in good faith, would be likely to promote the success of Earthport for the benefit of its members as a whole. In doing so, as a Director, you must have regard, among other matters, to:
  - (a) The likely consequences of any decision in the long-term;
  - (b) The interests of Earthport's employees;
  - (c) The need to foster Earthport's business relationships with suppliers, customers and others;
  - (d) The impact of Earthport's operations on the community and the environment;
  - (e) The desirability of Earthport maintaining a reputation for high standards of business conduct; and



(f) The need to act fairly as between the members of Earthport.

3.4 In addition to these general requirements, Director's are expected to bring objectivity and an independent perspective to the Board's discussions and the role has the following key elements:

- **Strategy:** Director's should constructively challenge and contribute to the development of strategy;
- **Performance:** Director's should scrutinize the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- **Risk:** Director's should satisfy themselves that financial controls and systems of risk management are robust and defensible;
- **People:** Directors are responsible for determining appropriate levels of remuneration and have a prime role in appointing and, where necessary removing, senior management and succession planning;
- **Compliance:** Directors should at all times comply with the Articles and constitution of Earthport;
- **Law:** Directors should abide by their statutory, fiduciary or common law duties as Directors of Earthport; and
- **Duties:** Directors should diligently perform their duties and use their best endeavours to promote, protect, develop and extend the business of Earthport.

3.5 Throughout your appointment, you are expected continually to update and refresh your skills and knowledge to keep up to date to be able to perform the role of Non-Executive Director. You will also receive ongoing training, as considered necessary by Earthport, to keep you up-to-date with relevant legislation and with any regulatory requirements.

#### 4. Expenses

4.1 Earthport will reimburse you for reasonable and properly documented expenses for your travelling, hotel and incidental expenses which you incur whilst you are performing duties as a Non-Executive Director of Earthport. If you are in any doubt as to whether or not an expense is reasonable you should discuss it with Earthport's Company Secretary prior to you incurring such expense. Expenses should be claimed monthly in accordance with Earthport's expenses polices.



**5. Independent Professional Advice**

5.1 On occasion you may consider that you need to obtain professional advice in the furtherance of your duties as a Director. You will be entitled to obtain, at Earthport's expense up to £5,000, such independent professional advice as is reasonably necessary to enable you to carry out your duties as a Non-Executive Director of Earthport with prior approval from the Company Secretary.

**6. Outside Interests**

6.1 It is accepted and acknowledged that you and/or your family have business interests other than those of Earthport and you will declare any conflicts that are apparent at present. In the event that you become aware of any potential conflicts of interest with your role as a Non-Executive Director, these should be disclosed to the Board and Company Secretary as soon as you become aware of them. You will not vote on any resolution of the Board or on any of its committees, on any matter where you have any direct or indirect interest.

**7. Confidentiality**

7.1 You shall not during or at any time after the termination of your appointment use for your own purposes or for another's benefit or disclose to any third party any Confidential Material and you shall use your best endeavours to prevent such publication or disclosure.

7.2 All Confidential Material and all other documents, papers and property (on whatever media and wherever located) which may have been made or prepared by you, or at your request or have come into your possession or under your control in the course of your appointment or which relate in any way to Earthport, the business (including prospective business) or affairs of Earthport or of any customer, supplier, agent, distributor or sub-contractor of Earthport shall as between Earthport and you be deemed to be the property of Earthport. You shall deliver up all such documents and other property including all copies, to Earthport immediately upon the termination of your appointment or at any earlier time on demand.

7.3 You shall immediately inform Earthport if you become aware of the possession, use or knowledge of any of the Confidential Material by any person not authorised to possess, have use of or knowledge of the Confidential Material, whether during or after your appointment and you shall at Earthport's request provide such reasonable assistance as is required to deal with such an event.

7.4 The provisions of this paragraph 7 shall not apply to any Confidential Material which is in or enters the public domain other than by breach of this agreement, is obtained from a third party who is lawfully authorised to disclose such information, is authorised for release by prior written consent of the Board.

7.5 Nothing in this paragraph 7 shall prevent you from disclosing Confidential Material which it is required to be disclosed by law or any regulatory or government authority.





- 7.6 For the purposes of this paragraph 7, “**Confidential Material**” means any information relating to Earthport or the business, prospective business, technical processes, computer software, intellectual property rights or finances of Earthport, or compilations of two or more items of such information whether or not each individual item is in itself confidential, including without limitation price lists, lists of customers and suppliers (both current and those who were customers or suppliers during the previous two years), information relating to research and development, marketing strategies and tactics and development of new products which comes into your possession by virtue of your appointment, and which Earthport regards, or could reasonably be expected to regard as confidential, whether or not such information is reduced to a single tangible form or marked in writing as “confidential”, and any and all information which has or may be derived or obtained from any such information.
- 7.7 Your attention is also drawn, in particular, to the requirements under both legislation and regulation as to the disclosure of inside information. Consequently you should avoid making any statements that might risk a breach of these requirements, without prior clearance from the Board.
- 7.8 Nothing in this paragraph 7 shall prevent you from disclosing information which you are entitled to disclose under the Public Interest Disclosure Act 1998, provided that the disclosure is made in accordance with the provisions of that Act and you have complied with Earthport’s policy from time to time in force regarding such disclosures.
- 8. Review Process**
- 8.1 The performance of individual directors and of the Board as a whole is evaluated annually. If, in the interim, there are any matters which cause you concern about your role, you should discuss them with the chairman/CEO as soon as appropriate.
- 9. Insurance**
- 9.1 Earthport shall use its reasonable endeavours to obtain appropriate directors’ and officers’ liability insurance and to maintain the cover in force for the full term of your appointment, subject to the provisions governing such insurance and on such terms as the Board may from time to time decide.
- 10. Tax Indemnity**
- 10.1 You undertake that you will be responsible for all liabilities in respect of taxes including National Insurance or similar contributions in respect of any of your fees as a Non-Executive Director and will jointly and severally indemnify Earthport in full, without any rights of set off, against all claims and liabilities in respect of any demand by HM Revenue and Customs, Contributions Agency or other relevant authority against Earthport in respect of tax or National Insurance contributions due in relation to the fees payable to you as a Non-Executive Director PROVIDED THAT, this indemnity shall not apply to all forms of withholding taxes or other taxes which Earthport is statutorily required to deduct from the Director’s fees.





**11. Data Protection**

11.1 By signing this letter, you consent to Earthport holding and processing information (including sensitive personal data) about you for legal, personnel, administrative and management purposes and in particular to the processing of sensitive personal data (as defined in the Data Protection Act 1998) including, as appropriate:

- (a) information about your physical or mental health or condition in order to monitor sick leave and decisions as to your fitness for work; or
- (b) your racial or ethnic origin or religious or similar beliefs in order to monitor compliance with equal opportunities legislation; or
- (c) information relating to any criminal proceedings in which you have been involved for insurance purposes and in order to comply with legal requirements and obligations to third parties.

11.2 You consent to Earthport making such information available to any of its group companies, those who provide products or services to Earthport (including Earthport's advisers), regulatory authorities, potential or future employers, governmental or quasi-governmental organisations and potential purchasers of Earthport or the business in which you work.

11.3 You also consent to the transfer of such information to Earthport's business contacts outside the European Economic Area in order to further its business interests.

**12. Third Party Rights**

12.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this letter. No person other than you and Earthport shall have any rights under this letter and the terms of this letter shall not be enforceable by any person other than you and Earthport.

**13. Entire Agreement**

13.1 This letter constitutes the entire terms and conditions of your appointment and will take effect in substitution for all previous agreements and arrangements, whether written, oral or implied, between you and Earthport relating to its subject matter. You acknowledge that, on entering into this letter, you have no outstanding claims against Earthport.

13.2 You agree that you shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this letter and you shall not have any claim for innocent or negligent misrepresentations based on any statement in this letter.





**14. Variation**

14.1 No variation or modification of this letter shall be effective unless it is in writing and signed by you and Earthport (or respective authorised representatives).

**15. Governing Law and Jurisdiction**

15.1 Your appointment with Earthport and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales and you and Earthport irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle, any dispute or claim that arises out of or in connection with this appointment or its subject matter or formation (including non-contractual disputes or claims).

We request that you kindly complete, sign and return to me the enclosed copy of this letter to confirm that you agree to these terms of your appointment. If you have any questions, please do not hesitate to let me know.



Phil Hickman  
Non-Executive Chairman  
**For and on behalf of Earthport Plc.**

I have read and agree to the above terms of my appointment as a Non-Executive Director of Earthport Plc as set out in this letter.

Signed by Vinode Ramgopal

Signature

