

## **Find Me Stock Limited      Standard Terms and Conditions (Ref: 1209)**

### **1. Definitions**

In this agreement, unless the context otherwise requires, the following expressions have the following meanings:

"We", "Our" or "Us" means Find Me Stock Ltd;

"FMS" means Find Me Stock Ltd;

"The Company" means Find Me Stock Ltd;

"You" means the person named in the Service Agreement signed by you;

"This Agreement" means the Service Agreement signed by you, these Terms and Conditions signed by you, the Services Description and the Service Level Agreement as each may be amended from time to time;

"Service Agreement" means the document signed by you setting out the services requested by you, the Service Fees, the Initial Term, the Commencement Date and other terms referred to in these Terms and Conditions;

"Commencement Date" means the date the Services commence;

"Product" means the services selected by you and set out in Service Agreement signed by you;

"Service Fees" means the set up fees and the fees for the provision of the Services described in the Service Agreement signed by you;

"Initial Subscription Term" means the minimum contractual period as agreed on the Service Agreement signed by you. "

### **2. Our Obligations**

We shall:

2.1 provide stock availability and average trade prices from our partnered IT Distributors along with the "Quote IT" customer quotation application (with regard to the Standard Plus product);

2.2 provide stock availability and actual cost prices from our partnered IT Distributors along with the "Quote IT" customer quotation application (with regard to the Custom product);

2.3 where the Custom product is required, use our best endeavors to obtain the customers stock files from our distribution partners before the agreed commencement date. Should the stock files not be made available by this date then FMS will provide the customer with the Standard Plus product until the stock files are made available. FMS reserve the right to charge the agreed monthly service fee during this time.

### **3. Your Obligations**

3.1 You shall enter in to, and abide by the terms and conditions of, the Service Agreement with FMS for use of their IT stock finding system;

3.2 You shall observe all our instructions for the use of the Services which we may send to you from time to time;

3.3 You shall notify us immediately you become aware of any problem with the Services;

3.4 if you ask us for assistance, you shall make available to us:

(a) employees with appropriate skills, knowledge and authority; and

(b) provide us with such facilities at your Site as we may reasonably request; to assist in performing our obligations hereunder; and

3.5 You shall comply with all legislation and regulations including but not limited to those relating to the internet and data protection.

3.6 You are responsible for getting an appropriate connection to the Internet (including local firewall configuration) with your telecommunications provider in order to access the Website. You are responsible for all connection charges to the Internet incurred by you through your use of the Website.

3.7 FMS provides a helpdesk facility which can be contacted via email on support@findmestock.com. You understand and agree that FMS does not provide on-site support at your premises or any other premises.

3.8 FMS will notify you of your account id and password. You are responsible for maintaining the confidentiality of your account id and password. You shall be responsible for all uses of your account, whether or not authorised by you. In order to ensure security of your account, FMS will restrict multiple logins of any one account. You agree to immediately notify FMS if you become aware that there has been or may have been unauthorised use of your password or if you are aware that your password is no longer secure.

3.9 You agree not to permit any third party to use your account or password. You agree not to use the Website or Services in such a way that the Website or the Services become interrupted, damaged or rendered less efficient or in any way impaired.

3.10 You agree not to circumvent or attempt to circumvent any of the security safeguards of FMS or any of its suppliers or business partners.

3.11 You agree NOT to export or migrate any data to any other software or web based application without the prior written consent of Find Me Stock Ltd.

#### **4. Prices and Payment**

4.1 Payments shall be made monthly in advance for access to the FMS Secure Website.

4.2 We shall not increase the Monthly Subscription more than once in any period of twelve months. We shall notify you in writing of any increase to the subscription at least 14 days in advance. If the increase relates to a change in the Services provided, we shall agree with you the amount of the increase prior to the commencement of the new Services. If we intend to decrease the Monthly Subscription, we shall notify you accordingly.

4.3 Monthly Subscription shall be collected by Direct Debit on the same day each month. If the funds are unavailable at this time FMS have the right to suspend service immediately. You shall continue to be liable for the Monthly Subscription during the period of suspension for the agreed contractual term. You shall be liable for all expenses incurred in collecting charges that are in arrears, including solicitor's fees on an indemnity basis.

4.4 You agree to pay the monthly service fee from the commencement date and for the duration of the subscription term even if the service is not used.

4.5 All charges are quoted exclusive of value added tax, which shall be charged at the rate prevailing at the time of invoice.

#### **5. Data Protection and Contact Details**

5.1 You and we shall comply with the provisions of the Data Protection Act 1998 and any related legislation insofar as the same relates to the provisions and obligations of this Agreement or data held by us.

#### **6. Warranties**

6.1 Subject to your compliance with the terms of This Agreement, we warrant the provision of information provided will be carried out with reasonable care and skill by personnel whose qualifications and experience will be appropriate for the tasks which are allocated to them.

6.2 We do not warrant that the Services will be error free or uninterrupted. FMS cannot be held responsible for any breaks in service relating to your internet service provision or related hardware failure.

6.3 You agree to hold no claim of compensation from FMS in respect of financial loss due to inaccuracy of data provided under this subscription.

6.4 Subject to the provisions of clause 6.1, all conditions, warranties and terms implied by statute or otherwise in respect of satisfactory quality, fitness for purpose or an ability to achieve a particular activity are hereby excluded.

6.5 You will be solely responsible for any damage to your computer system or loss of data that results from the download of such material and/or data.

6.6 FMS shall use reasonable endeavors to keep the Website and Services free from viruses and corrupt files but does not warrant that the Website or the Services are free from infection by viruses or anything else with contaminating or destructive properties.

## **7. Limitation of Liability**

7.1 This clause sets out the limit of our liability to you for breach of our obligations under This Agreement, or any misrepresentation, negligence or other wrongful act on our part called an "Act of Default".

7.2 We shall be liable in full and without limitation for death or injury resulting from our own negligence or that of our employees or agents.

7.3 We shall not be liable for:

7.3.1 any indirect, consequential or special loss arising from an Act of Default. Consequential loss includes loss of profits, loss of goodwill any type of special, indirect or other consequential loss;

## **8. Confidentiality**

8.1 Each of the parties undertakes to the other to keep confidential and not use for its own purpose or anyone else all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received from the other party save that which is:

8.1.1 trivial or obvious;

8.1.2 already in its possession other than as a result of a breach of this clause;

8.1.3 in the public domain other than as a result of a breach of this clause;

8.1.4 for reasonable marketing or reference purposes.

8.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this clause by its employees, authorised agents and sub-contractors.

8.3 The provisions of this clause shall survive the termination of This Agreement.

## **9. Term and Termination**

9.1 This Agreement will run for an Initial Term beginning on the Commencement Date and ending on the day before the end of the Initial Subscription Term. This Agreement will automatically be renewed for additional 12 month periods unless terminated by either party giving not less than 30 day's notice in writing to terminate This Agreement.

9.2 This Agreement may be terminated:

9.2.1 forthwith by either party if the other commits any material breach of any term of This Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same;

9.2.2 in the event that your use of the information provided is materially adversely affecting the operation of the service for other users, we may terminate This Agreement on 14 days' notice save in the event of a technical emergency when we may immediately terminate or suspend this Agreement in which case we shall provide such notice to you via telephone and e-mail;

9.2.3 if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

## **10. General**

10.1 This Agreement (together with any documents referred to in This Agreement) constitutes the whole agreement between the parties relating to its subject matter and no variations to this Agreement shall be effective unless made in writing and signed by both parties.

10.2 Neither party hereto shall be liable for any breach of its obligations resulting from causes beyond its reasonable control for so long as such situation exists.

10.3 You shall not be entitled to assign or otherwise transfer This Agreement.

10.4 The Contracts (Rights of Third Parties) Act 1999 shall not apply to This Agreement.

10.5 No waiver by either party in respect of a breach shall operate as a waiver in respect of any subsequent breach.

10.6 If any provision of this agreement is wholly or partly invalid or unenforceable, then:

10.6.1 If by applying to it a restrictive interpretation it would not be invalid or unenforceable, that restrictive interpretation shall be applied to it; and,

10.6.2 Subject to clause 10.6.1 the part of the provision which is invalid or unenforceable shall be deleted and shall not affect the validity of the remainder of this agreement.

## **11. Force Majeure**

The Company reserves the right to suspend, vary or cancel the Service Agreement if events occur which are in the nature of force majeure including (without prejudice to the generality of the foregoing) fire, flood, storms, breakdown, strikes, riots, lock outs, hostilities, non-availability of materials or suppliers or any other event outside the control of The Company; and The Company shall not be held liable for any breach of contract resulting from such an event.

## **12. Consequential Loss**

The Company will not under any circumstances accept responsibility for any consequential losses (including loss of profit, loss of business or pure economic loss) suffered by the customer.

## **13. Law**

This Agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the non-exclusive jurisdiction of the English courts.