

INVENTORY GENIUS

TERMS AND CONDITIONS OF SERVICE

1st JULY 2015 VERSION

KEY POINTS

InventoryGenius may only be used for dwellings in the UK, and such other countries as we may specify on our Website from time to time. *InventoryGenius* may not be used for business premises.

The Customer is required to purchase Credits to use certain functionality of *InventoryGenius* (e.g. creation of an inventory). Credits have a default validity period of 90 days from date of purchase, unless a different validity period is stated on our website at the time of purchase. Credits are non-transferable, and cannot be exchanged for cash. Credits are non-refundable, except where this Agreement is terminated because of our fault, as detailed in Conditions 8.4 and 8.5.

Exclusions and limitations of our liability apply as detailed in Conditions 16 and 17.

CONTENTS

1.	ABOUT US.....	1
2.	ABOUT THIS DOCUMENT	1
3.	DEFINITIONS.....	1
4.	COMMENCEMENT AND TERM	3
5.	PROVISION OF SERVICES	4
6.	ADDITION AND REMOVAL OF PROPERTIES.....	4
7.	CHARGEABLE ACTIONS.....	5
8.	CREDITS AND PAYMENT.....	5
9.	DELIVERY OF SERVICE.....	6
10.	DATA MANAGEMENT.....	7
11.	THE CUSTOMER'S OBLIGATIONS.....	8
12.	INTELLECTUAL PROPERTY RIGHTS.....	9
13.	CONFIDENTIALITY.....	9
14.	TERMINATION.....	10
15.	CONSEQUENCES OF TERMINATION	11
16.	CONSUMERS: EXCLUSIONS AND LIMITATIONS OF LIABILITY.....	11
17.	BUSINESSES: EXCLUSIONS AND LIMITATIONS OF LIABILITY, AND INDEMNITY	12
18.	FORCE MAJEURE.....	13
19.	NOTICES.....	13
20.	MISCELLANEOUS.....	14

INVENTORY GENIUS TERMS AND CONDITIONS

1. ABOUT US

InventoryGenius is the trading name and product name used of **HUDE LIMITED** (referred to in this document as "**we**", "**us**", "**our**" or "**HUDE**"), a company registered in England and Wales, with registered number 07887472, and registered office at Suite 3, Charlton House, Raynesway, Derby DE21 7BF. Website: <http://www.Inventorygenius.co.uk/>. E-mail: hello@Inventorygenius.co.uk. Phone Number 01332 653888. Your agreement is with Hudde Limited.

2. ABOUT THIS DOCUMENT

This document contains the standard terms and conditions ("**Conditions**") which apply to agreements under which we provide remote software application services consisting of our *InventoryGenius* property management system.

3. DEFINITIONS

Unless otherwise stated:-

- 3.1 "**App**" means that part of *InventoryGenius* which consists of a browser based application that logs

into the Account and contains functionality to create and manage Properties on the Account, functionality to spend Credits and create and manage Inventories for those Properties, and such other functionality as we may unilaterally determine from time to time. The App is intended to be accessed from the range of browsers and mobile devices unilaterally determined by us, as detailed on the Website from time to time. The App is intended to be accessed only by the Customer and its Users, using the Account Log-In or User Log-Ins. The App may be accessed from such website address as we may specify from time to time;

- 3.2 **"Access Credentials"** means any usernames, passwords and other data required to access the Account or App, whether issued by us for the Account Log-In, or created by the Customer for any User Log-In through any functionality in any Account Administration Pages;
- 3.3 **"Account"** means an account within *InventoryGenius* which enables the Customer to access and use the functionality of *InventoryGenius*. The Account records and stores the Customer's details and the Customer's Contact Data, Users, Properties, Property Data, Inventories, and Credits associated with the account. The Account is connected to using the Account Administration Pages and the App;
- 3.4 **"Account Administration Pages"** means a set of web pages on the Website which the Customer may use to administer the Account, purchase Credits, and create and manage Users, and which has such other functionality as we may unilaterally determine from time to time. The Account Administration Pages are intended to be accessed from a web browser, as specified on the Website, by the Customer and its Users, using the Account Log-In. The Account Administration Pages may be accessed from such website address as we may specify from time to time;
- 3.5 **"Account Log-In"** means a log-in to the Account Administration Pages, together with its associated Access Credentials;
- 3.6 **"Agreement"** means the agreement which incorporates these Conditions;
- 3.7 **"Agreement Terms"** means these Conditions, any terms stated in the Website, Account Administration Pages, or App, and any notice, communication or documentation from us which records any variation to or determination made in relation this Agreement from time to time;
- 3.8 **"Business Day"** means Monday to Friday, excluding public, bank and statutory holidays in England;
- 3.9 **"Charges"** means our charges for Credits from time to time, as stated in the Website, Account Administration Pages or otherwise by us, at the point at which Credits are ordered by the Customer, and as varied from time to time in accordance with the Agreement Terms;
- 3.10 **"Chargeable Action"** means any action, process or function within *InventoryGenius* which we unilaterally determine from time to time will consume a Credit, as detailed within *InventoryGenius* from time to time, including the creation or updating of an Inventory;
- 3.11 **"Credit"** means a time-limited contractual right against us to carry out a single Chargeable Action through the Account. Credits may either be purchased through the ordering functionality in the Account Administration pages, or be purchased separately by special arrangement with us. Credits may only be used by the Customer and its Users in connection with the Account and Properties registered from time to time within the Account. Credits are uniquely associated with the Account, are non-transferrable, and may not be exchanged for cash;
- 3.12 **"Credit Validity Period"** means, in relation to a Credit, such period, measured from the date of purchase, as may be stated by us at the time of purchase, including in any ordering pages within the Account Administration Pages, or if no period is stated, a default period of 90 days from the date of purchase will apply;
- 3.13 **"Customer"** means the person who is party to this Agreement with us, as stated in the Account;
- 3.14 **"Contact Data"** means any Personal Data which is provided by the Customer from time to time to us about any User or any other individual who is a representative of the Customer, including the individual who holds any Account Log-In or User Log-In;
- 3.15 **"DPA"** means the Data Protection Act 1998;
- 3.16 **"Hosting Provider"** any person whom we contract with from time to time to provide the Hosting Service;
- 3.17 **"Hosting Service"** means any third party service that we use to host, administer, operate, maintain, back-up and support *InventoryGenius* and the other Services, and provide World Wide Web access to the Account Administration Pages, App and *InventoryGenius* from time to time;
- 3.18 **"Intellectual Property Rights"** means copyrights, design rights, database rights, patents and rights to

inventions, trademarks and trade names, rights to sue for passing off, rights to confidentiality, and any other intellectual property rights, in any part of the world, whether registered or unregistered, and all rights in and arising from applications for the same;

- 3.19 "**Internet**" means the global system of interconnected computer networks of that name that use the standard internet protocol suite (TCP/IP);
- 3.20 "**Inventory**" means an inventory or report for a Property, including any general inventory for a Property, any check-in inventory for a new tenant, any inspection or condition inventory or report, and any check-out inventory for a departing tenant;
- 3.21 "**Occupant Data**" means any Personal Data concerning any owner, interest holder, or lease holder of any Property and any tenant or other occupant of any Property, which is inputted into *InventoryGenius* as part of any Property Data;
- 3.22 "**Permitted Property Types**" means such type or types of property (including associated usage) as we may unilaterally determine from time to time may be created in and managed using *InventoryGenius*. As at the publication date of these Conditions, the Permitted Property Type is limited to dwellings, which are located in the United Kingdom of Great Britain and Northern Ireland, or such other countries as may be determined by us from time to time on our Website. *InventoryGenius* may not be used for commercial, business, office or factory premises. Where we allow any country other than the UK, we may unilaterally remove that country at any later date by 30 days' prior notice to the Customer;
- 3.23 "**Personal Data**" means any Contact Data or Occupant Data which is personal data (as defined under the DPA);
- 3.24 "**Property**" means any property which is created by the Customer or its Users in the Account, using any functionality in the App or Account Administration Pages, and for the purposes of this Agreement and consumption of the Credits, each house or flat shall be considered to be a separate Property, and where a house or other property is in multiple occupation, each part of that property which is separately occupied or is subject to a separate ownership or is subject to a separate lease, tenancy or other occupancy agreement, shall be considered to be a separate Property;
- 3.25 "**Property Data**" means any and all data inputted into the Account by the Customer or its Users using the App or Account Administration Pages with respect to any Property, including by the Customer or any other User, which *InventoryGenius* is from time to time designed to capture, including property description, Occupant Data, and Inventory information;
- 3.26 "**Services**" means the provision of the Account in *InventoryGenius*, the provision of the functionality of *InventoryGenius* through the Account, the provision of access to the Account and the functionality of *InventoryGenius* through the Account Administration Pages and App, the storage of Contact Data and Property Data in *InventoryGenius*, and the provision of any other services specified in this Agreement, in each case in accordance with the Agreement Terms;
- 3.27 "**Start Date**" means the date that the Customer's Account was opened by us;
- 3.28 "**InventoryGenius**" means our property management system for letting agents and landlords, marketed under the name '*InventoryGenius*' or such other name as we may decide from time to time, and provided as a remote application service from the Website, with the App as a locally installed client, as such system is unilaterally varied by us from time to time in our sole and absolute discretion;
- 3.29 "**Taxes**" means any tax, surcharge, fee, duty, levy, VAT (or other sales tax), excise or similar charges or liabilities;
- 3.30 "**Term**" means the period of this Agreement as stated in Condition 4;
- 3.31 "**User**" means any individual set up by the Customer within the Account to use *InventoryGenius*, using the functionality provided within the Account Administration Pages for this purpose;
- 3.32 "**User Log-In**" means a right to access and the App, including for the purposes of creating or deleting Properties or Inventories, together with its associated Access Credentials;
- 3.33 "**Website**" means the website accessible through <http://www.inventorygenius.co.uk>, or such other website as we may unilaterally decide from time to time; and
- 3.34 "**World Wide Web**" means the system of interlinked hypertext documents of that name accessed via the Internet.

4. COMMENCEMENT AND TERM

The Agreement shall commence on the Start Date and shall continue indefinitely until terminated in accordance with Condition 14(TERMINATION), Condition 18(FORCE MAJEURE), or any other express right in an Agreement Term, or in accordance with any common law right to terminate for breach, frustration, fraud, misrepresentation or illegality.

5. PROVISION OF SERVICES

5.1 Provision

We agrees to provide the Services and the Customer agrees to use and pay for the Services on and subject to the Agreement Terms.

5.2 Licence to Access and Use

We grant the Customer a non-exclusive, non-transferrable, licence the Customer to access and use *InventoryGenius* remotely in connection with the Account, through the Account Administration Pages and App, for the Term, on and subject to these Agreement Terms. Such licence includes permission for the Customer to visit and use the functionality in the Account Administration Pages to access the Account, using the Account Log-In, and permission for the Customer and its Users to download, install and run the App for the purposes of using *InventoryGenius* in connection with the Customer's Account, using the Account Log-In and each User Log-In. Such access and use shall be remotely by means of a web browser connecting to the Account Administration Pages and App. *InventoryGenius* may only be accessed and used in connection with the Account and not otherwise. *InventoryGenius* is only provided as a remote application service, and nothing in this Agreement shall give the Customer or any User a right to receive a copy of *InventoryGenius* or to install and run *InventoryGenius* on its own computer systems. No other licences are granted to the Customer in relation to *InventoryGenius*.

5.3 Permitted Property Types

The Customer may only use *InventoryGenius* for properties of the Permitted Property Types.

5.4 Purpose of Use

The Customer may only use *InventoryGenius* for the following Properties:

5.4.1 Customer Is Landlord

Properties in respect of which the Customer the freeholder or leaseholder, and the Customer is leasing, renting or sub-leasing the Properties out as landlord to an individual or individuals to occupy as tenant; or

5.4.2 Customer Is Letting Agent

Properties in respect of which the Customer is acting as letting agent in the course of a business for another person who in turn is the freeholder or leaseholder of the Property and who in turn is leasing, renting or sub-leasing out the Property as landlord to an individual or individuals to occupy as tenant.

5.4.3 Customer Is Professional Inventory Provider

Properties in respect of which the Customer is acting as a professional inventory provider (such as a member of the Association of Professional Inventory Providers), carrying out, as a business or profession, a service consisting of the provision of inventories to persons who would fall within Clauses 5.4.1 or 5.4.2 with respect to the Property were such persons the Customer instead.

5.5 Users

The Customer acknowledges and agrees that Users will have visibility of and access to all Properties and Property Data, and will be able to spend Credits using the App. The Customer confirms that it authorises each User it sets up to do so.

6. ADDITION AND REMOVAL OF PROPERTIES

6.1 Creation

A Property may be created in *InventoryGenius* at any time and there is no limit in this Agreement to the number of Properties which the Customer may create in *InventoryGenius*.

6.2 Deletion

The Customer may delete any Property from its Account permanently using any functionality provided for this purpose in the Account, or by request to us, and in each such case we will delete

that Property and its associated Property Data from the Customer's Account in *InventoryGenius*, subject to Condition 10.7. We shall also have the right to delete any Property and its associated Property Data from the Account, where such Property has been registered in the Account in breach of the Agreement Terms, or such Property does not meet any conditions set out in the Agreement Terms as to the Properties in respect of which *InventoryGenius* may be used, but we will give 7 days' notice to the Customer prior to carrying out such deletion.

7. CHARGEABLE ACTIONS

Each Chargeable Action on the Account shall consume a Credit. Chargeable Actions may be carried out by the Customer or any User through the App or the Account Administration Pages. The Customer and its Users may only carry out a Chargeable Action where it has an available unexpired Credit, and *InventoryGenius* may prevent a Chargeable Action from being carried out where there is no available unexpired Credit. The Customer agrees that whenever a Chargeable Action is carried out by the Customer, or by any User, or any third party, through the App or the Account Administration Pages, using any Account Log-In or User Log-In, whether with or without the authority of the Customer, this will consume a Credit, and will be deemed to be with the authority of the Customer.

8. CREDITS AND PAYMENT

8.1 Scope

A Credit is a time limited contractual right under this Agreement against us to carry out a Chargeable Action in relation to any Property set-up in the Customer's Account from time to time. We may at any time unilaterally determine a limit or vary any existing limit on the number of unused Credits which may be held at any time.

8.2 Non-Transferrable

A Credit is not a right independent of this Agreement, and cannot be transferred to any other account holder using *InventoryGenius* or to any third party. A Credit cannot be exchanged for cash.

8.3 Validity Period

A Credit shall be valid only for its applicable Credit Validity Period. If a Credit has not been used to carry out a Chargeable Action by the end of its Credit Validity Period, then the Credit will expire and ceased to be valid or usable, and the Customer will forfeit automatically the value of that Credit.

8.4 Generally Non-Refundable

Credits are non-refundable, except where specified in Condition 8.5. This means that if this Agreement is terminated by either party for any reason, including under any right set out in the Agreement Terms, other than as set out in Condition 8.5, the Customer will forfeit automatically the value of all unused Credits at the point of termination.

8.5 Circumstances where a Credit will be refunded

Notwithstanding Clause 8.4, we will refund the amount paid for any unused Credits if:-

- 8.5.1 we terminate this Agreement under its rights in Condition 14.1(Termination Without Cause);
- 8.5.2 the Customer validly terminates this Agreement under Condition 14.2(Mutual Rights of Termination For Cause) or 18(FORCE MAJEURE);
- 8.5.3 the Customer validly terminates this Agreement as a result of a repudiatory breach of this Agreement or wrongful termination of this Agreement by us; and
- 8.5.4 the Customer validly terminates this Agreement as a result of fraud or misrepresentation by us,

and in such any such case, we will refund to the Customer the amount paid by the Customer for any unused Credits at the point of termination, within 30 days after.

8.6 Charges

The Customer shall pay our Charges (and all applicable Taxes) for all Credits ordered by the Customer from time to time, including where ordered through any ordering pages in the Account Administration Pages, or through any telephone or e-mail arrangement made with us. Unless agreed in writing by us stated all Charges (and all applicable Taxes) are payable on order. Unless otherwise stated, all Charges are exclusive of Taxes, which shall be payable in addition.

8.7 Currency

The Customer must pay our Charges (and all applicable Taxes) in the currency in which they are stated.

8.8 Payment Method

The Customer shall pay our Charges (and all applicable Taxes) using such payment methods as we unilaterally determine to accept from time to time, as advised by us. Where the Customer sets up a DIRECT DEBIT then we shall be entitled to collect payment of any Charges and Taxes when payable, and if time for payment is allowed on (or at any time after) the last Business Day within the applicable payment period, and the Customer shall ensure that the DIRECT DEBIT enables us to specify the amounts to be collected.

8.9 Activation and Non-Payment

We will not be obliged to activate a Credit until we have received payment in full in cash or cleared funds of the Charges (and all applicable Taxes) for such Credit. If we activate a Credit before receiving payment for such Credit, and such payment becomes overdue, then we may immediately de-activate the Credit, or another Credit of our choosing, if that Credit has been used, until such payment is received.

8.10 Businesses Only: Interest and Legal Costs For Overdue Payments

If the Customer is not an individual or is not contracting as a consumer, and any Charges, Taxes or other amounts payable to us becomes overdue, then:

8.10.1 the Customer shall within 5 Business Days¹ of demand from time to time pay interest and compensation on such amounts which became overdue in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, with any interest commencing on the period beginning on the date on which the amount was first due and payable and ending on the date the amount is actually paid (whether before or after judgment); and

8.10.2 the Customer shall pay all costs and expenses (including legal costs) incurred by us in enforcing payment of such amounts.

8.11 Charge Backs

If any payment made is subject to a charge-back or otherwise becomes repayable by us (other than due to any fault of ours), then the payment shall be deemed to be overdue, and the Customer shall pay any fees or charges levied against us with respect to such charge-back or repayment, together with a reasonable administration charge.

8.12 Variation to Charges

We may unilaterally determine and vary our Charges for Credits at any time and from time to time, and the Charges for Credits will be as stated by us at the time of order, including within the Credit ordering pages in the Account, except for mistakes and manifest errors. If we agree to any form of standing order or other regular payment for a fixed amount of Credits, then we will give the Customer notice of any variation of the Charges, and give the Customer an opportunity to cancel or amend such standing order or other regular payment (but not this Agreement as a whole).

9. DELIVERY OF SERVICE

9.1 Availability

Subject to Condition 9.2, we warrants that it will provide *InventoryGenius* and the other Services using reasonable care and skill, that it will maintain reasonable and proportionate technical and organisational measures to protect against unauthorised access to the Account and Property Data other than through the Account Log-In and User Log-Ins, and that it will use reasonable endeavours to make *InventoryGenius* and the other Services available 24 hours per day on every day falling within the Term. However, we does not promise and it shall not be a term of this Agreement that *InventoryGenius* or the other Services will be error free or uninterrupted or that unauthorised access will never occur.

9.2 General Suspension Right

we may unilaterally suspend, interrupt or degrade the provision of *InventoryGenius* and/or the other Services in the following circumstances, or where the Hosting Services are suspended, interrupted or degraded by the Hosting Provider in the following circumstances, for as long as is reasonable:

9.2.1 to comply with any law or order of a court or lawful government requirement;

9.2.2 to carry out any maintenance, repair, replacement, upgrade or change;

- 9.2.3 to investigate any actual or suspected fault, or to prevent any damage;
- 9.2.4 to investigate, deal with, prevent any loss or damage from, and resolve any actual or suspected security breach, virus, emergency, or attack;
- 9.2.5 in investigate any actual suspect misuse in violation of these Agreement Terms, until misuse has been rectified and will not continue to occur;
- 9.2.6 in order to take any action which a reasonable and prudent service provider would take;
- 9.2.7 if any Hosting Provider exercises any right of suspension, interruption, or degradation, it may have against we at law or under any agreement with us with respect to any Hosting Services;
- 9.2.8 if any Force Majeure Event occurs; or
- 9.2.9 if any Hosting Services cease to be available for any reason (other than due to any fault of we) or to enable we to move to replacement Hosting Services.

9.3 Legal Compliance

we shall not be obliged to do anything under this Agreement which would be a unlawful, and shall not be prevented by this Agreement from doing anything which it is required to do by law. we and its Hosting Provider shall be entitled to do anything they are required to by law, including under the Communications Act 2003 and the Digital Economy Act 2010.

10. DATA MANAGEMENT

10.1 Security Arrangements

With respect to all Property Data and Personal Data held we, we warrants that it will take appropriate technical and organisational measures, having regard to the state of technological development, the cost of implementing any measures, and the nature of the data to be protected, to protect such data from unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, such data, but we does not promise and it shall not be a term of this Agreement that such processing, loss or destruction will never occur, and we shall not be responsible for anything done using any Account Log-In or User Log-In.

10.2 Occupant Data

Where we is to store or otherwise process any Occupant Data, the parties agree that we does so as data processor and not data controller (for the purposes of the DPA). The Customer shall ensure that it has all consents and permissions from the subjects of such Occupant Data to all processing of it by us in accordance with this Agreement and the Services and as part of the operation of *InventoryGenius*. we will process such data according to the reasonable instructions of the Customer (which do not conflict with the terms of this Agreement).

10.3 Contact Data

Where we hold any Contact Data the parties agree that we are the data controller for the purposes of the DPA and that we may process the same for the purposes all communications under and other purposes reasonably connected with the performance of this Agreement, and for the purposes of informing the Customer of any new features of *InventoryGenius* or new systems or services offered by us from time to time. The Customer warrants that all individuals who are the subject of any Contact Data have given their consent to such use where such consent is required by the DPA.

10.4 Processing outside the EU

The Customer agrees that we may store and otherwise process any Property Data or Personal Data outside the European Economic Area subject to complying with any requirements of the DPA concerning processing data outside the European Economic Area.

10.5 Customer Records

The Customer acknowledges and agrees that it is responsible for maintaining its own back-up and archive of Property Data to protect against loss or deletion of the Property Data in *InventoryGenius*.

10.6 Data Dump From Account

We will on request from the Customer provide to the Customer a dump of all Property Data stored by us at that time in relation to the Customer's Account, and in such case, we shall have a reasonable time to do so, and we may make an additional Charge for doing so. Such dump will in such form and format as we may decide, and we will not be obliged to disclose any details of *InventoryGenius*,

including the structure, design and relationship of any databases and database tables.

10.7 Archiving

We shall be entitled at our sole discretion to retain for such period of time as it may unilaterally determine, an archive copy of any Property Data, including in relation to any deleted Property, which will not be accessible through the Account. We shall have no obligation to actually keep any archive of Property Data, outside the Account, and shall be entitled to unilaterally and permanently erase our archive at any time. If we retain an archive copy of any Property Data which has been deleted from the Account, we will inform the Customer on reasonable request, and the Customer may request a data-dump of such Property Data, or reinstatement of such Property Data in the Account, subject to payment first of such reasonable administration charge as we may unilaterally determine. Such dump will in such form and format as we may decide, and we will not be obliged to disclose any details of *InventoryGenius*, including the structure, design and relationship of any databases and database tables.

11. THE CUSTOMER'S OBLIGATIONS

11.1 World Wide Web Access

The Customer is responsible for accessing *InventoryGenius* through the World Wide Web, and is responsible for procuring and using devices and web browsers compatible with the Website, Account Administration Pages and App *InventoryGenius* and Website (including as detailed on the Website), and for procuring its own access to the Internet. Our responsibility is limited to making *InventoryGenius* available to be accessed through a web-server connected to the Internet serving World Wide Web documents, in accordance with the other Agreement Terms. We shall not be responsible for any non-availability of or disruptions to *InventoryGenius* or the other Services caused by non-availability of or disruption to the World Wide Web or Internet.

11.2 Use of *InventoryGenius* and Service

The Customer shall use *InventoryGenius* and Service in good faith, in accordance with all instructions of ours from time to time, and in a reasonable manner that does not interrupt, impair or interfere with the operation of *InventoryGenius* or its use by any other customer of ours. The Customer shall only allow *InventoryGenius* and Service to be accessed, used and viewed by its own representatives and Users, and shall not re-publish or provide access to *InventoryGenius* or any webpages of *InventoryGenius* to any other person.

11.3 Co-operation

The Customer agrees to cooperate with us in relation to this Agreement, including to provide we with any assistance and information which we may reasonably require from the Customer to enable us to perform this Agreement, provide and operate *InventoryGenius* and the other Services, to investigate and resolve any actual or suspected faults or security breaches, and to verify that the Customer and its Users are performing and observing the terms of this Agreement.

11.4 Prohibited Content

The Customer shall not (and shall procure that each User shall not) use *InventoryGenius* or the other Service (including any Account Administration Pages or App) in any manner which, or to transmit, store or receive any Property Data or other content which:

- 11.4.1 violates any applicable law, rule or regulation;
- 11.4.2 violates any industry standards or codes of conduct applicable to the Customer or its Users;
- 11.4.3 is defamatory, constitutes a slander or malicious falsehood;
- 11.4.4 constitutes an offence;
- 11.4.5 infringes or contains any content that infringes the rights of others, including without limitation, any Intellectual Property Right; or
- 11.4.6 does or may result in any fine or liability being incurred by us, any Hosting Provider or their officers and employees, or any offence being committed by us, any Hosting Provider or their officers and employees.

The Customer acknowledges and agrees that we do not monitor and will have no liability or responsibility for the content of any Property Data or any other data or communications transmitted, stored or received by Users through *InventoryGenius*.

11.5 Access Credentials

The Customer and its Users may only access the Account Administration Pages and App using the Access Credentials. The Customer shall keep safe and secure all Access Credentials and shall be answerable for any use or misuse of them, including by itself or any User. The Customer shall change any Access Credentials when requested by us and shall use secure passwords as part of the Access Credentials. All Properties created through, Chargeable Actions carried out through, and all other actions carried through any Account, Account Administration Page or App, shall be deemed to be authorised by the Customer, unless such creation or other action was fraudulently carried out by us or our officers or employees.

11.6 Users

All acts and omissions of each User through each App and otherwise in connection with use of or in the course of using *InventoryGenius*, shall be deemed to be the acts and omissions of the Customer. The Customer shall ensure that each User complies with all obligations of and restrictions on the Customer set out in this Agreement, as if they referenced the User as well.

11.7 App Storage

The Customer consents and shall procure that each User consents to the Account Administration Pages and App using cookies and storing information on and reading information from the client device for the purposes of the operation of *InventoryGenius*.

11.8 Assignment By Customer

The Customer shall not assign or otherwise transfer, declare a trust over, charge or otherwise dispose of this Agreement or any of its licences, rights or interests under or in connection with this Agreement without our prior written consent.

11.9 Compliance with Law

The Customer shall comply with all relevant legislation and regulatory obligations as may be applicable to it in relation to the activities being carried out through and supported by *InventoryGenius* and the other Services.

12. INTELLECTUAL PROPERTY RIGHTS

12.1 Customer Acknowledgement

The Customer acknowledges and agrees that with respect to all Intellectual Property Rights in *InventoryGenius* and the Services, including in the App and in any documents, software or other materials provided by us to the Customer and/or Users, and in the name '*InventoryGenius*' and any other trademarks or logos of ours: such Intellectual Property Rights are the sole and absolute property of ours, and vest in and shall remain vested in us; and no interest in such Intellectual Property Rights is intended to or shall vest in the Customer. The Customer shall have no licence in relation to such Intellectual Property Rights other than as provided in Condition 5.2. We warrant that we have the right to grant the licences in Condition 5.2 and that anything done by the Customer which is purported to be authorised by such licence will not infringe the Intellectual Property Rights of any third party.

12.2 Customer Licence of Property Data

The Customer hereby grants to us a perpetual, irrevocable, transferrable, non-exclusive licence (with the right to grant sub-licences) to copy, edit, modify, and do anything else with the Contact Data and Property Data, for all purposes reasonably connected with providing *InventoryGenius* and the other Services, and maintaining any databases and archives of Property Data, and for any purposes specified in Condition 13.3. The Customer warrants that it has the right to grant the licence in this Condition 12.2, that such licence will cover all Intellectual Property Rights (whether belonging to the Customer or a third party), and that anything done by us which is purported to be authorised by such licence will not infringe the Intellectual Property Rights of any third party.

13. CONFIDENTIALITY

13.1 Confidential Information

For the purposes of the Agreement the following is the "**Confidential Information**" of a party:

13.1.1 The following information is confidential to both parties (referred to as "**Joint Confidential Information**"): any non-standard terms of the Agreement or non-standard Charges, in each case which have been individually negotiated with the Customer.

13.1.2 The following information is confidential to us: (a) the contents and functionality of *InventoryGenius*, including the App and Account Administration Pages; and (b) all information about the business, finances, technology, customers and affairs of ours.

13.1.3 The following information is confidential to the Customer: the Property Data.

13.2 Confidentiality Undertaking

Each party agrees and undertakes to the other to keep all Confidential Information of the other party acquired by it (however acquired), and all Joint Confidential Information, strictly confidential, on and subject to the terms of this Condition 13. This obligation shall cover all Confidential Information, in whatever form, however acquired, and whether acquired before or after the making of this Agreement.

13.3 Purpose of Use

Each party shall only use any Confidential Information of the other party and any Joint Confidential Information for the purposes of: (a) performing, administering, managing, enforcing and exercising the terms of this Agreement and each party's licences and rights under this Agreement; (b) the management and administration of the business of each party; and (c) complying with any legal obligations applicable to a party.

13.4 Care

Each party shall treat all Confidential Information of the other party and Joint Confidential Information in the same manner as it treats its own, but in no case with less than reasonable care, and without prejudice to any standard expressed for Personal Data in this Agreement.

13.5 Disclosure

A party may disclose Confidential Information of the other party and Joint Confidential Information to in confidence to : (a) their officers and employees (and in the case of the Customer, its Users and their officers and employees) who need to know the information for the purpose of the Agreement (and using *InventoryGenius*) and who are under an equivalent duty of confidentiality; (b) In the case of us to any Hosting Provider or other third party providing any services to us in relation to *InventoryGenius* or to whom we may have sub-contracted any Services; (c) any group company of a party, and the party's lenders, accountants, insurers and professional advisors, who need to know the Confidential Information in connection with the management and administration of this Agreement and that party's business and that of its group; (d) to any assignee or proposed assignee of this Agreement where such assignment is not prohibited by this Agreement, and to any person proposing to purchase any shares in any party or its group, for the purposes reasonably connected with such transaction; (e) where required in connection with any legal proceedings concerning this Agreement; and (f) to any government authority or industry regulator.

13.6 Exceptions

The provisions of this Condition 13 will not apply to: (a) information that has come into the public domain other than by breach of this Condition 13 or any other duty of confidence; (b) information already in the possession of the receiving party without an obligation of confidence before it was made known by the other party; (c) information the receiving party obtained from a third party without breach of this Condition 13 or any other duty of confidence; (d) information required to be disclosed by law or some regulation of equivalent effect; or (e) information that is trivial or obvious.

14. TERMINATION

14.1 Termination Without Cause

Either party shall be entitled to terminate this Agreement at any time without cause by 60 days' prior notice in writing to the other. If we terminate under this Condition 14.1, a refund of unused Credits will be given under Condition 8.5. If the Customer terminates under this Condition 14.1, it shall not be entitled to a refund of any unused Credits, and all such Credits shall be considered to be forfeited and may be retained by us.

14.2 Mutual Rights of Termination For Cause

Either party may terminate this Agreement immediately by notice to the other:

14.2.1 Material Breach

if the other party commits a material breach of this Agreement and, in the case of a breach capable of remedy, does not remedy such breach within 30 days after receipt of notice

setting out the details of the breach and requiring its remedy; or

14.2.2 Event of Insolvency

if the other party: (a) passes a resolution to wind itself up or dissolve itself; (b) is the subject of a court order for its winding-up or dissolution; (c) has a liquidator, receiver, administrative receiver, administrator, or trustee in bankruptcy appointed over any of its assets or business, or any court order is made for any of those things; (d) where an individual, partnership, LLP or sole trader, has a bankruptcy order made against it (or any partner or member of it); or (e) is subject to any similar or analogous event to those in (a) to (f) above under the national, state or local laws of any other country than England and Wales.

14.3 Our Additional Rights

We may terminate this Agreement immediately by notice to the Customer if:-

14.3.1 Non-Payment

any Charges, Taxes or other amounts payable by the Customer become overdue and are not paid in full within 5 Business Days' of notice from our demanding payment; or

14.3.2 Specific Breaches

the Customer uses *InventoryGenius* in any manner which is not permitted by the terms of this Agreement, and does not cease and correct such misuse within 5 Business Days' notice from us.

14.4 Suspension

If we have a right to terminate this Agreement, we may elect instead to suspend the Services (including access to *InventoryGenius* and the Account) for such period as we unilaterally determine in our sole discretion, by notice to the Customer. If we do suspend then: (a) we will lift the suspension if the circumstances giving rise to the right to terminate have ceased to apply; (b) we will not be prejudiced by such suspension or be deemed to have affirmed the Agreement or waived any breach thereby, and may proceed to terminate if the breach or other circumstances justifying termination remain at the end of the period of suspension; and (c) we shall be entitled to continue to invoice and the Customer shall continue to pay all Charges and Taxes during such period of suspension.

14.5 Survival of terms.

All terms and conditions of this Agreement which by their nature are intended to survive termination of this Agreement (together with those other Conditions, the survival of which is necessary for the interpretation of enforcement of this Agreement) shall so survive. The following terms of this Agreement shall survive termination of this Agreement for any reason and however arising and shall continue in full force and effect indefinitely: 8(CREDITS AND PAYMENT), 10(DATA MANAGEMENT), 12(INTELLECTUAL PROPERTY RIGHTS), 11(THE CUSTOMER'S OBLIGATIONS), 13(CONFIDENTIALITY), 14(TERMINATION), 15(CONSEQUENCES OF TERMINATION), 16(CONSUMERS: EXCLUSIONS AND LIMITATIONS OF LIABILITY), 17(BUSINESSES: EXCLUSIONS AND LIMITATIONS OF LIABILITY, AND INDEMNITY),and 20(MISCELLANEOUS).

15. CONSEQUENCES OF TERMINATION

The following terms shall apply on termination of the Agreement however arising:

15.1 Cessation of Use

The Customer shall cease to be entitled to use *InventoryGenius* and shall cease to be entitled to add any further Properties or update any future Property Data. The licence in Condition 5.2 shall cease. We shall be entitled to close the Account and block further access.

15.2 Properties and Property Data

We shall be entitled to permanently erase and delete all Properties and Property Data.

15.3 Uninstall App

The Customer shall and shall ensure that each User shall uninstall and erase the App from all devices on which it has been used.

16. CONSUMERS: EXCLUSIONS AND LIMITATIONS OF LIABILITY

If the Customer is contracting as a consumer, then the following provisions of this Condition 16 shall apply:-

16.1 Statutory Rights

Nothing in this Agreement shall limit or exclude any rights or remedies of the Customer under statute (including under the Supply of Goods and Services Act 1982 and the Unfair Terms in Consumer Contracts Regulations 1999) or under common law, to the extent that such limitation or exclusion is prohibited by statute or common law.

16.2 Liability NOT Excluded Or Limited

We do not limit or exclude our liability for fraud or deceit, for personal injury or death arising from our negligence, or to refund any Credits as provided in Condition 8.5.

16.3 Loss Relating to a Business

Subject to Condition 16.2, we exclude any liability (including for non-performance, breach of contract, negligence, misrepresentation, or otherwise howsoever) for any loss, damage or liability suffered by the Customer in relation to any business carried on by Customer.

16.4 Cap on Liability

Subject to Condition 16.2, our total liability (including for non-performance, breach of contract, negligence, misrepresentation, or otherwise howsoever) for any event (or series of connected events) giving rise to liability shall be limited to £500.

17. BUSINESSES: EXCLUSIONS AND LIMITATIONS OF LIABILITY, AND INDEMNITY

If the Customer is not an individual or is not contracting as a consumer, then the following provisions of this Condition 17 shall apply:-

17.1 Meaning of 'Relevant Liability'

References in this Agreement to "**Relevant Liability**" means any liability (including vicarious liability, and contractual and non-contractual liability) of us to the Customer or any User whatsoever and however arising, including under or in connection with or in the course of performance of this Agreement, and including liability for: (a) non-performance of or breach of our obligations under this Agreement (including willful default and contractual negligence); (b) degradation, interruption or unavailability of *InventoryGenius* or any other Service however arising; (c) breach of any duty of care arising as a result of the provision of *InventoryGenius* and/or any other Services and torts (including negligence and willful acts) committed in the course of performance of this Agreement; (d) misrepresentations made in relation to this Agreement; and (e) breach of statutory duty owed to the Customer or a User which applies as a consequence of this Agreement or in relation to the performance of this Agreement.

17.2 Liability Not Excluded or Limited

We does not limit or exclude our Relevant Liability:

- 17.2.1 for fraud or deceit;
- 17.2.2 for personal injury or death arising from our negligence;
- 17.2.3 to refund any unused Credits as provided in Condition 8.5; or
- 17.2.4 to the extent that such Relevant Liability cannot validly be excluded or limited by law.

17.3 Excluded Loss

Subject to Condition 17.2, we shall not have any Relevant Liability for any of the following whether direct, indirect or consequential:-

- 17.3.1 any loss of revenue, profit, contract, customer, goodwill, business, anticipated savings, data, use, or wasted expenditure;
- 17.3.2 any loss of or corruption to data (including the Property Data) or transmission;
- 17.3.3 any losses, costs, expenses, liability, commitment, contract or expenditure suffered or incurred in reliance on the Agreement or the Services;
- 17.3.4 any additional cost incurred by the Customer or any User in engaging and transferring to a replacement provider for any of the Services;
- 17.3.5 any work around costs and extra costs of working, wasted or additional visit costs to Properties, staff time spent on resolving the problems, and any additional or wasted cost, charges or expenses incurred in order to carry out the business processes supported by *InventoryGenius*; or

17.3.6 any liability to a User or other third party,
or for any indirect, special, or consequential loss or damage or liability of any nature whatsoever.

17.4 Cap on Other Liability

Subject to Condition 17.2, the Relevant Liability of ours for any event (or series of connected events) giving rise to Relevant Liability shall be limited to £1000 in aggregate. Subject to Condition 17.2, the Relevant Liability of ours for all events giving rise to Relevant Liability in any Year of this Agreement, is limited to the greater of: (a) £4,000; and (b) if not the first Year, 20% of Charges actually paid by the Customer to us under this Agreement in the preceding Year. For the purposes of this Condition a "Year" shall mean a period of 12 months commencing on the Start Date or any anniversary thereof.

17.5 General Time Limit for Claims

If the Customer does not notify us of any claim in respect of any Relevant Liability either within 3 months of any event occurring that gives rise to Relevant Liability, or if later, within 3 months of discovery of such event if it was not immediately apparent to the Customer at the time it occurred, then we shall cease to have Relevant Liability with respect to such event.

17.6 Customer Indemnity

The Customer agrees to defend, indemnify and hold us harmless from the following liability which we incur to any third party:-

17.6.1 any liability of ours to any User, or to any person who is an owner of any interest in any Property or a tenant of any Property, as a result of any event which would also give rise to Relevant Liability; or

17.6.2 any liability of ours to any third party as a result of a breach by the Customer or a User of the Agreement Terms,

in each case, together with any costs and expenses (including legal costs) which we may incur in the defence and settlement of any claims from such a third party for or alleging such liability.

18. FORCE MAJEURE

We shall not have any Relevant Liability for any delay or failure to perform our obligations under this Agreement, or any degradation, interruption or unavailability of *InventoryGenius* or the other Services, and shall not be considered to be in breach, due to any of the following (each "**Force Majeure Event**"): (a) acts of God or nature; (b) insurrection, civil disorder, or war; (c) laws or restrictions imposed by any governmental or judicial authority; (d) acts or omissions of third parties, including terrorism; (e) power outages or interruptions of other utility service; (f) shortages of parts or materials; (g) magnetic interference; (h) degradation, interruption, termination or unavailability of any Hosting Services or telecommunications service or facilities; (i) any cause beyond our reasonable control; and (j) any delay or failure by any Hosting Provider to provide any Hosting Services or any other sub-contractor or supplier to perform their obligations, as a result of any of the events in this Condition affecting them; (a "**Force Majeure Event**"). If *InventoryGenius* is not available for use for more than 30 days due to a Force Majeure Event, then the Customer may terminate this Agreement immediately by notice to us.

19. NOTICES

19.1 Order

This Condition 19 shall apply to any communications between the parties which are expressed to require a "notice". This Condition 19 shall not apply to any other envisaged communications between the parties, and there shall be no required formality for such other communications, except for Condition 19.5(Deemed Delivery).

19.2 Form

All notices under this Agreement shall be in writing.

19.3 Method of Delivery.

All notices under this Agreement to be sent by either party to the other may be sent by first class post (except for notice of termination), recorded delivery post or courier, fax, or e-mail.

19.4 Address

All notices to us shall be sent to us using our contact details set out in Condition 1, or to any changed or alternative address or number which we may give notice of to the Customer from time to time. All

notices to the Customer shall be sent to any postal address, fax number or e-mail address of the Customer or any representative of the Customer stated in the Account, or alternatively may be sent to the Customer's registered office or last known address or place of business.

19.5 Deemed Delivery

Notices and other communications shall be deemed to have been delivered and received on the following date (unless such date is not a Business Day, in which case it will be deemed to have been delivered and received on the next Business Day): (a) if sent by first class post, on the second Business Day from the day of posting; (b) if sent by recorded delivery post or courier, on the delivery date recorded by that postal or courier service; (c) if sent by facsimile, on the date of completion of uninterrupted transmission, evidenced by a transmission report confirming transmission in full from the sending machine; or (d) if sent by e-mail, on the date of receipt by the mail server of the intended recipient, whether or not it is subsequently placed in the inbox of the intended recipient or read by the intended recipient, unless the sender receives any automated notification of any failure or error in delivery from its own or the receiving mail server.

20. MISCELLANEOUS

20.1 Entire Understanding

The Agreement Terms set forth the entire understanding and agreement of the parties and supersede any and all prior agreements, arrangements or understandings relating to the subject matter of this Agreement.

20.2 Businesses: Implied Terms

Where the Customer is not an individual or is not contracting as a consumer, then to the maximum extent permitted by law we exclude all implied warranties terms remedies and conditions which are for the benefit of or in favour of the Customer, including without limitation, as to standard, care, quality, non-infringement or fitness for a particular purpose.

20.3 Customer Terms

No terms and conditions proffered by the Customer shall apply to this Agreement.

20.4 Variations

20.4.1 General Requirement for Mutual Agreement

Except as provided in this Condition or any other applicable Agreement Term, and except for any unilateral power of variation set out in any Agreement Term, this Agreement may only be amended or modified by a written document signed by both parties.

20.4.2 Exercise of unilateral rights

Where we have a right or power of unilateral variation or determination in relation to this Agreement, then unless otherwise stated, such variation or determination may be made at any time and from time to time, and may be made with or without notice to or otherwise informing the Customer.

20.4.3 General Right to Vary Terms

Without prejudice to any other right or power in this Agreement, we shall be entitled to unilaterally vary this Agreement and the Agreement Terms at any time, and from time to time, in any way in our sole and absolute discretion, on notice to the Customer. If a variation by us under this Condition 20.4.3 is likely to be of material detriment to the Customer, then we will give the Customer 30 days' notice of such variation, and in such notice will give the Customer the right to object to such variation. If the Customer sends a notice of objection within 30 days' of receiving our variation notice, the variation will not take effect. If the Customer does not send a notice of objection within 30 days' of receiving our variation notice, the variation will be deemed to have been accepted by and will become binding on the Customer.

20.5 Severability

All the Agreement Terms are separate and severable. If any term, condition, or other provision of this Agreement is held to be void, illegal or unenforceable for any reason, it shall be severed, and the validity or enforceability of the remainder of this Agreement shall not be affected thereby.

20.6 Waiver

No failure or delay in exercising any term, right or remedy under this Agreement, or in invoicing,

demanding or enforcing any Charges or other payment under this Agreement, will constitute a waiver of the term, right, remedy, or Charge, or a waiver of any other terms, rights, remedies or Charges

20.7 No Third party Beneficiaries

No provision of this Agreement shall confer a benefit on or be enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise. In particular no User, other than the Customer itself, shall have any benefit under or be entitled to enforce any provision of this Agreement.

20.8 Interpretation

In this Agreement: (a) a reference to a "**Condition**" is to a provision of these Conditions; (b) a reference to any gender shall include every gender; (c) headings are for convenience only and shall not affect the interpretation of this Agreement; (d) the words "**including**" and "**includes**" and "**in particular**" shall be deemed to be followed by the words "**(without limitation)**"; (e) a reference to a "**person**" or "**persons**" includes individuals, partnerships, companies, LLPs, corporations, unincorporated associations, governments, departments, and local authorities, and any other entity having separate legal personality; (f) the **singular** includes the plural and vice versa; (g) a reference to a **statute**, regulation, order, or other legislation, or any provision thereof, shall be to the same as amended or modified from time to time, and to any replacement or re-enactment of the same from time to time, and includes any secondary legislation thereunder; (h) a reference to "**termination**" of this Agreement shall include termination or cancellation under a contractual right, expiry, discharge arising from a repudiatory breach or frustration of contract, rescission, and this Agreement being found by a court to be void or unenforceable; (i) a reference to "**writing**" includes any recorded form (including physical and digital form, facsimile and electronic mail); and (j) a reference to "**vary**" includes addition, change, deletion, modification, amendment, removal, cancellation, withdrawal, upgrade, increase or reduction.

20.9 Law and Jurisdiction

This Agreement shall be governed by the laws of England and Wales. The parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

END OF TERMS AND CONDITIONS