

## SALEFREAKS - HOSTED SERVICE AGREEMENT

By signing up for the Salefreaks service ("Service") or any of the services of Salefreaks LTD. ("Salefreaks") you are agreeing to be bound by the following terms and conditions ("Hosted service agreement"). The Services offered by Salefreaks under the Hosted service agreement include various products and services to help you create and manage your retail eBay store. Any new features or tools which are added to the current Service shall be also subject to the Hosted service agreement. You can review the current version of the Hosted service agreement at any time at

<http://sfwa-storage.salefreaks.com/sfstorage/resources/TermsAndConditions.pdf>. Salefreaks reserves the right to update and change the Hosted service agreement by posting updates and changes to the Salefreaks website. You are advised to check the Hosted service agreement from time to time for any updates or changes that may impact you.

You must read, agree with and accept all of the terms and conditions contained in this Hosted service agreement and Salefreaks's Privacy Policy before you may become a Salefreaks user.

**Everyday language summaries are provided for convenience only and are not legally binding. Please read the "Hosted service agreement" for the complete picture of your legal requirements. By using Salefreaks or any Salefreaks services, you are agreeing to these terms. Be sure to occasionally check back for updates.**

This Hosted Service Agreement is made and entered into as of today (the "Effective Date") by and between Sale Freaks LTD ("SaleFreaks"), an Israeli limited liability company, with offices located at 7 HALESHEM st, Petach Tikva, Israel, and the entity or individual ("Client"):

### **Schedules:**

Schedule A: Terms and Conditions

Schedule B: Definitions

This Hosted Service Agreement, the Terms and Conditions (Schedule A) and any additional Schedules attached hereto (collectively, this "Agreement") constitute the entire agreement between the parties concerning Client's use of the Hosted Service (defined in the Terms and Conditions). All Schedules attached hereto are incorporated herein by reference. This Agreement replaces and supersedes any prior verbal understandings, written communications and representations.

**IN WITNESS WHEREOF**, SaleFreaks and Client have caused this Agreement to be executed by their respective duly authorized officers or representatives, effective as of the Effective Date.

**SCHEDULE A**  
**TERMS AND CONDITIONS**

**1. LICENSE/SERVICES.**

**1.1. Hosted Service Description.** The Hosted Service performs arbitrage between Client's eBay Store (listed on registration page) and products sold on Amazon by identifying the prevailing prices for products on eBay that are sold for less on Amazon. The Hosted Service will locate products of interest on Amazon based on Client's definitions, dynamically post content for applicable products into the Client's eBay Store and the pricing agent automatically monitors competitor listings, Amazon inventory, and re-prices the items and may update the listing page accordingly based upon pre-configured rules. When Client's customers order a product from the Client's eBay Store, (optional) the Hosted Service transfer the customer's information and Client's payment to Amazon and then the product will be drop-shipped to the customer from Amazon. Client will select all relevant parameters applicable to the arbitrage such as, product selection, (optional) required price differential between applicable products on Amazon and eBay, and price competitiveness adjustments applicable to products offered through the Client's eBay Store. Client agrees the Hosted service software, as part of its requirement to stand out versus same listings on eBay creates SEO optimised listing pages, this may change the listing pages with the sale freaks default template and will also will add a Sale Freaks logo embedded in the page linked to the [salefreaks.com](http://salefreaks.com) to allow driving leads. The default template is optional and will be used to create new listed items that are listed through sale freaks and also on current items that are already listed before the client was using sale freaks software. Client agrees that all changes that are made through the system such as: pricing, images, template, shipping polices, handling time and any other listing parameter are subject to change by the system and Sale Freaks are not liable and not responsible to do any change back to the original parameters.

**1.2. Grant of Rights.** SaleFreaks hereby grants Client a nonexclusive, nontransferable, nonsublicensable right to access and use the Hosted Service within the scope of use set forth in this Agreement during the term of this Agreement. Client is responsible for all activities conducted under its User logins on the Hosted Service. Client shall receive access to the most current version of the Hosted Service made available to SaleFreaks's' customers generally.

**1.3. Restrictions.** Client shall use the Hosted Service solely for sales from its eBay Store(s) and in compliance with applicable law and shall not: (i) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Hosted Service or the data contained therein; (ii) modify, copy or create derivative works based on the Hosted Service; (iii) reverse engineer the Hosted Service; (iv) access the Hosted Service for the purpose of building a competitive product or service or copying its features or user interface; (v) use

the Hosted Service for purposes of product evaluation, benchmarking or other comparative analysis intended for publication without SaleFreaks's prior written consent; or (vi) permit access to the Hosted Service by a competitor of SaleFreaks.

- 1.4. **Feedback.** Client hereby grants SaleFreaks a royalty-free, fully paid-up, nonexclusive, perpetual, irrevocable, worldwide, transferable, sub licensable license to use, copy, modify or distribute, including by incorporating into the Hosted Service, any suggestions, enhancement requests, recommendations or other feedback provided by Client or its Users relating to the operation of the Hosted Service.
- 1.5. **Communications.** Client agrees that SaleFreaks may transfer Client contract and contact information. SaleFreaks may send Client information regarding new products and services and other marketing communications unless Client notifies SaleFreaks, as applicable, that it wishes to opt out of receiving such communications. Client understands that even if it so opts out, it nevertheless will continue receiving system messages and other communications relating to the operation of the Hosted Service.
- 1.6. **Training/Support.** SaleFreaks will support on use of the Hosted Service, in accordance with SaleFreaks standard terms.
- 1.7. **Taxes.** Amounts payable hereunder do not include any applicable Taxes, which, if applicable, will be charged to and paid by Client. Taxes arising from sales of products from Client's eBay Store are the sole responsibility of Client as seller of such products.
- 1.8. **Late Payments.** Late payments shall accrue interest at SaleFreaks's discretion at 1% per month. SaleFreaks reserves the right to suspend Client's access to and use of the Hosted Service entirely should any payment be delayed more than 10 days from the invoice date. Client shall reimburse SaleFreaks for all costs of collection, including attorneys' and court fees, relating to overdue payments. If Client fails to pay fees on time or SaleFreaks reasonably believes that Client is at risk not being able to pay fees on time, then SaleFreaks may require the prepayment of fees based upon reasonable estimates or other payment arrangements as determined by SaleFreaks.
- 1.9. **Audits.** SaleFreaks shall have the right to audit Client's records relating to compliance with the terms of this Agreement upon reasonable notice (not less than 10 business days) and under reasonable conditions. SaleFreaks may not conduct such an audit more often than once a year.

## 2. **PAYMENTS.**

- 2.1. **Pricing.** In consideration for access to and use of the Hosted Service, at the end of the free 14-day trial, client shall pay SaleFreaks a fixed monthly fee upfront for upcoming month based on a user selected plan of the number of items to list on Client's eBay Store the pricing is determined and displayed in the [Site Pricing](#) and also available during the upgrade process within the web app.  
All prices are subject to change without notice at any time and are based in part on the applicability of hosted service agreement set forth herein

- 2.2. If unlimited **free plan** is offered , it can be selected through the site account setup during the initial registration, there is no obligation by the company for how long this offer will be available for new users.
- 2.3. At a fixed day of each calendar month, based on the Date Of Month on which the Client first upgraded from a free to a paid subscription, SaleFreaks will charge the PayPal account of the Client via the PayPal Subscriptions and Recurring Payments method based on the subscription level selected by the client and described above.
- 2.4. **Payments.** Payments of fees by Client shall be made, as required by SaleFreaks, via an automatic withdrawal from Client's PayPal account.
  - (i) Client authorises that SaleFreaks to make such withdrawals monthly
  - (ii) Client will provide SaleFreaks with the PayPal credential information necessary to effect the withdrawals
  - (iii) Client will not take any action to block, terminate or obstruct such withdrawals during the term of this Agreement
  - (iv) Client will promptly notify SaleFreaks of any changes to PayPal's account necessary for SaleFreaks to know in order to continue withdrawing the required payments.

### 3. **CLIENT OBLIGATIONS.**

- 3.1. **Compliance.** Client represents that it fully understands the operation and functionality of the Hosted Service and Client shall be responsible to ensure that Client's access to and use of the Hosted Service, and the operation of Client's eBay Store in general, is in compliance with (1) all requirements of eBay, Amazon and PayPal, including without limitation, such websites' terms of use, hosted service agreement, privacy policies, and other similar documents, and (2) all applicable laws and regulations, including, without limitation, data security, privacy, marketing, intellectual property and advertising.
- 3.2. **PayPal Account.** Client will maintain an account with PayPal into which all customers shall pay for products sold through the Client's eBay Store via the Hosted Service. Client shall not accept payment through any other means.
- 3.3. **Gift Cards.** (if option selected) Client is responsible for the purchase of gift cards from Amazon or any other Amazon gift card cash-back program such as "[gyft.com](https://www.gyft.com)" which gift cards will be used to pay for the purchases of products from Amazon that are sold through the Client's eBay Store. Client shall be required to purchase the gift cards in quantities as indicated by SaleFreaks or as notified through the Hosted Service and Client shall enter all required information relating to such gift cards into the Hosted Service to be drawn upon as per SaleFreaks's instructions. Gift card balances will be held by Client and maintained by Amazon.
- 3.4. **Returns.** Client shall be responsible for managing all returns and maintaining records applicable to all product returns.

- 3.5. Customer Support.** Client is solely responsible for all support required by the customers of Client's eBay Store, including, without limitation, handling of all customer inquiries and managing customer feedback posted to eBay.
- 3.6. Equipment/Expenses.** Client is responsible, at its own expense, for acquiring, maintaining and operating all equipment, components and services necessary for accessing and using the Hosted Service. Additionally, Client will continue operate and manage its eBay Store(s) at its own expense, and shall be responsible for all sales and customer management and support, and clearing of payments made through PayPal.
- 3.7. Non-Competition.** Client agrees that during the term of this Agreement, and for 2 years thereafter, Client shall not, directly or indirectly: (1) perform development, training, consulting, marketing for entities engaged in a Competitive Business, (2) own shares in corporations engaged in a Competitive Business, other than shares traded on a securities exchange, (3) solicit or hire the employees of SaleFreaks, or (4) solicit or attempt to encourage or cause customers of the Hosted Service to use a comparable system offered by a Competitive Business.
- 3.8. Membership Downgrades.** SaleFreaks members can downgrade their plan level based on their needs by contacting support chat or by emailing [tech@salefreaks.com](mailto:tech@salefreaks.com) .
- 3.8.1.** Client needs to pay at least once for his existing membership level before downgrading to a lower priced membership.
- 3.8.2.** Client is responsible to notify SaleFreaks that he wishes to downgrade his plan at least 7 days prior to his next billing date.

#### **4. TERM AND TERMINATION.**

- 4.1. Term.** This Agreement shall become effective as of the Effective Date once checked and agreed and remain in full force on a month-by-month basis until terminated by either party upon not less than 10 days prior written notice. If either party wishes to terminate the agreement it MUST be communicated 10 days prior the next billing date.

**Termination by Sale Freaks.** Client acknowledges that the Hosted Service is exclusively managed and operated by Sale Freaks. If Sales Freaks at any time ceases to provide the Hosted Service for any reason, or decides to terminate Client's access to and use of the Hosted Service, then this Agreement will automatically terminate, without liability to SaleFreaks.

**Termination by Client,** You may cancel your Account at anytime at [www.paypal.com](http://www.paypal.com) by following the steps below to cancel your SaleFreaks PayPal subscription:

1. Log in to your PayPal account at [www.paypal.com](http://www.paypal.com).
2. Click the Settings icon next to "Log out."
3. Select Preapproved Payments under "Payment settings."
4. Select SaleFreaks as the merchant whose agreement you want to cancel...
5. ...and click the Cancel Subscription button.

<https://www.paypal.com/us/smarthelp/article/how-do-i-cancel-a-subscription-faq577>

Upon termination of the Services by either party for any reason:

Salefreaks will cease providing you with the Services and you will no longer be able to access your Account until the end of your current cycle month.

1. Unless otherwise provided in the Terms of Service, you will not be entitled to any refunds of any Fees, pro rata or otherwise; including but not limited your monthly subscription fees, Your membership will continue through the end of your current charge cycle.

2. any outstanding balance owed to salefreaks for your use of the Services through the effective date of such termination will immediately become due and payable in full; and your eBay store will be deactivated.

4.2. **Termination for Cause.** Either party may terminate this Agreement for cause (i) upon 10 days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period; or (ii) immediately upon written notice if the other party becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding.

4.3. **Effect of Termination.** Upon termination or expiration of this Agreement, Client's rights to use and access the Hosted Service shall immediately terminate. No termination or expiration of this Agreement shall relieve Client of its outstanding payment obligations at the time of such termination or expiration. Upon termination, all remaining gift card balances will be the sole property of Client. Any provisions of this Agreement that, in order to fulfil the purposes of such provisions, need to survive the termination or expiration of this Agreement, shall be deemed to survive for as long as necessary to fulfil such purposes.

## 5. **CONFIDENTIALITY.**

Neither party shall use or disclose any Confidential Information (defined below) of the other party for any purpose outside the scope of this Agreement, except with the other party's prior written consent. Each party shall protect the other party's Confidential Information in a manner similar to its own Confidential Information of like nature (but in no event using less than reasonable care). In the event of an actual or threatened breach of a party's confidentiality obligations, the non-breaching party shall have the right, in addition to any other remedies available to it, to seek injunctive relief, it being specifically acknowledged by the breaching party that other remedies may be inadequate. "Confidential Information" means all proprietary or confidential material or information disclosed orally, in writing or by other means by the disclosing party to the receiving party, including the terms and conditions of this Agreement, that is designated as proprietary or confidential or that reasonably should be understood to be proprietary or confidential given the nature of the information and the circumstances of the disclosure; provided, that Confidential Information shall not include any

information or material that: (i) was or becomes generally known to the public without the receiving party's breach of any obligation owed to the disclosing party; (ii) was or subsequently is independently developed by the receiving party without reference to Confidential Information of the disclosing party as evidenced by documentation; (iii) was or subsequently is received from a third party who obtained and disclosed such Confidential Information without breach of any obligation owed to the disclosing party; or (iv) is required by law to be disclosed (in which case the receiving party shall give the disclosing party reasonable prior notice of such compelled disclosure and reasonable assistance, at disclosing party's expense, should disclosing party wish to contest the disclosure or seek a protective order).

The terms of this Agreement and the functionality of the Hosted Service (including, without limitation, marketing strategies, data and content collection, and price comparisons and updating) are the Confidential Information of SaleFreaks and Sales Freaks. Client shall ensure that all Users are bound by non-disclosure and non-use restrictions comparable as provided for under this Agreement.

Client acknowledges and agrees that the Hosted Services are operated by Sale Freaks and that Sale Freaks will have access to Client Confidential Information as necessary to perform the Hosted Service for Client.

## **6. REPRESENTATIONS AND WARRANTIES.**

**6.1. Mutual Warranties.** Each party represents and warrants that (i) it has the legal power to enter into and perform under this Agreement; (ii) it has obtained and will maintain any and all consents, approvals, licenses or other authorizations necessary for the performance of its obligations hereunder; and (iii) it will comply with all applicable laws and regulations in its performance hereunder. Neither party shall make any representations or warranties on the other's behalf without the other's prior written consent.

**6.2. Warranty Disclaimer.** THE HOSTED SERVICE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND AND SALEFREAKS AND SALE FREAKS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SALEFREAKS DO NOT WARRANT THAT THE HOSTED SERVICE WILL OPERATE WITHOUT INTERRUPTION OR ERRORS OR THAT ERRORS WILL BE CORRECTED. ACCESS TO THE HOSTED SERVICE BY CLIENT IS AT CLIENT'S SOLE RISK.

## **7. INDEMNIFICATION.**

Client shall defend, indemnify and hold SaleFreaks and its agents, officers and employees harmless from and against any loss or damage (including reasonable attorneys' fees) incurred in connection with claims, demands, suits or proceedings ("Claims") made or brought by a third party against an indemnified party resulting from Client's gross negligence or wilful misconduct

related to this Agreement or from Client's breach of any of its representations, warranties or obligations under this Agreement; provided, SaleFreaks shall: (i) promptly give written notice of the Claim to Client (provided no failure to do so shall relieve Client of its indemnification obligations unless Client is materially prejudiced thereby); (ii) give Client sole control of the defense and settlement of the Claim (provided Client may not settle or defend any Claim unless it unconditionally releases the indemnified party of all liability); and (iii) provide to Client, at Client's cost, all reasonable assistance requested by Client.

## **8. LIMITATION OF LIABILITY**

**8.1. Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL SALE FREAKS HAVE ANY LIABILITY TO CLIENT FOR ANY LOST PROFITS, LOST REVENUE, LOST DATA, OR FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH LIABILITY.

**8.2. Limitation of Liability.** IN NO EVENT SHALL SALEFREAKS'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS PAID TO SALEFREAKS BY CLIENT HEREUNDER DURING THE PERIOD OF 1 MONTH PRIOR TO A CAUSE OF ACTION ARISING.

**8.3. Actions of Sale Freaks.** CLIENT UNDERSTANDS THAT IT IS MANAGED AND OPERATED EXCLUSIVELY BY SALE FREAKS. ACCORDINGLY, CLIENT AGREES THAT SALEFREAKS SHALL HAVE NO LIABILITY HEREUNDER WHATSOEVER FOR ANY ACT OR OMISSION THAT IN ANY MANNER ARISES FROM THE FAULT OF SALE FREAKS OR PERFORMANCE OF THE HOSTED SERVICE, AND CLIENT HEREBY WAIVES ANY RIGHT TO MAKE ANY CLAIM AGAINST SALEFREAKS ARISING FROM OR RELATED TO ANY ACT OR OMISSION OR FAULT OF SALE FREAKS OR THE PERFORMANCE OF THE HOSTED SERVICE.

## **9. GENERAL.**

**9.1. Compliance with Law.** Each party shall comply with all applicable laws and regulations relating to its performance hereunder.

**9.2. Publicity.** SaleFreaks will have the right to indicate orally or in writing to its customers and potential customers that Client is a party to this Agreement and SaleFreaks may use Client's name and logos in its marketing materials when referencing Client as a customer of SaleFreaks.

**9.3. Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship.



- 9.4. **Notices.** All notices under this Agreement shall be in writing and may be given by personal delivery, express delivery, courier, international mail, facsimile or email. Notice shall be effective upon receipt. Notices to the parties shall be addressed as set forth on the cover page, which contact information may be changed by the parties upon written notice.
- 9.5. **Dispute Resolution.** In the event of any dispute hereunder, the parties shall promptly and in good faith attempt to resolve such dispute, including escalating it as appropriate. Except for temporary injunctive relief as deemed reasonably necessary, neither party may initiate any court or other formal action relating to such dispute within the first 30 days following notice by one party to the other of such dispute.
- 9.6. **Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
- 9.7. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 9.8. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing SaleFreaks may assign this Agreement together with all rights and obligations hereunder, without consent of Client, in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of its assets. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 9.9. **Governing Law; Venue.** This Agreement shall be governed exclusively by, and construed exclusively in accordance with, the laws of the Israel, without regard to its conflicts of laws provisions. Israel Petach Tikva court shall have exclusive jurisdiction to adjudicate any dispute relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts.
- 9.10. **Entire Agreement.** This Agreement, including all attachments and exhibits hereto, constitutes the entire agreement between the parties as to its subject matter and supersedes all previous and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing signed by both parties. Except as otherwise expressly stated, the terms of the body of this Agreement shall

prevail in the event of any inconsistency with the terms of any attachment or exhibit hereto. Notwithstanding any language to the contrary therein, no terms or conditions stated in any Client purchase order or in any other Client documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

**9.11. Counterparts.** This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

9.12. You may use the Services only if you have reached the age of majority or legal age in your jurisdiction (generally 18 or older) and can form legally binding contracts under applicable law. If you are under 18 or the legal age of majority in your jurisdiction, your educational institution, parent, or guardian must agree to these Terms of Use on your behalf.

## SCHEDULE B DEFINITIONS

**“Amazon”** means the online retailer located at [www.amazon.com](http://www.amazon.com) and owned and operated by Amazon.com, Inc., and includes applicable websites operated by Amazon.

**“Competitive Business”** means an online system that compares pricing and performs arbitrage between multiple websites that sell products to consumers.

**“eBay”** means the online retailer located at [www.ebay.com](http://www.ebay.com) and owned and operated by eBay, Inc., and includes applicable websites operated by eBay.

**“Hosted Service”** means the web-based arbitrage software application service developed, hosted, managed and maintained by Sale Freaks composed of the specific Sale Freaks applications, as further described in Section 1.1 of the Agreement.

**“Net Profit”** means the sale price of a product sold on the Client’s eBay Store via the Hosted Service less: (1) the purchase price of the product purchased via the Hosted Services from Amazon, (2) applicable eBay and PayPal transaction fees, (3) shipping charges, and (4) returns.

**“PayPal”** means the online payment processor located at [www.paypal.com](http://www.paypal.com).

**“Taxes”** means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, sales, use or withholding taxes.

**“Users”** means a Client's employees, agents, contractors, consultants or other individuals who are authorised by Client to use the Hosted Service.