

RM Finance Online User Terms & Conditions

(Effective 1st December 2016)

BY USING OR ACCESSING RM FINANCE ONLINE YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE "AGREEMENT") GOVERNING YOUR USE OF RM FINANCE ONLINE (THE "SERVICE").

THIS AGREEMENT SHALL APPLY TO YOUR USE OF THE SERVICE, REGARDLESS OF ANY OTHER TERMS AND CONDITIONS THAT YOU MAY HAVE PROPOSED AND/OR ANY OTHER TERMS THAT MAY HAVE BEEN AGREED BETWEEN YOU AND RM.

IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER TERMS, THE TERMS OF THIS AGREEMENT SHALL PREVAIL. BY ACCESSING AND USING THE SERVICE, YOU CONFIRM YOUR AGREEMENT TO THESE TERMS.

1. DEFINITIONS

‘Customer Data’ any data, information or material provided or submitted by you to the Service in the course of using the Service;

‘Effective Date’ the earlier of the date this Agreement is accepted or the date you begin using the Service;

‘Initial Term’ the initial period during which you are obliged to pay for the Service;

‘IPR’ unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and

forms of protection of a similar nature anywhere in the world;

‘Licence Term(s)’ the period(s) during which authorised Users are licensed to use the Service;

‘RM’ RM Education Ltd of 140 Eastern Avenue, Milton Park, Abingdon, Oxon, OX14 4SB;

‘Service’ the specific edition of RM Finance Online developed, operated, and maintained by RM, accessible via a designated web site or IP address, to which you are being granted access under this Agreement, together with the support services we provide in accordance with clause 9;

“Unacceptable Content” any material of any nature whatsoever which is or contains any material that: (i) is or may be defamatory, libellous, obscene, in contempt of court or in contravention of any law or regulation or infringes the rights of any third party; and/or (ii) promotes violence or discrimination based on race, sex, sexual orientation, religion, national origin, physical disability, mental disability, age or which promotes any illegal activities; and/or (iii) is a Virus;

‘User’ your employees, representatives, consultants, contractors or agents who are authorised to use the Service and have been supplied user identifications and passwords by you (or by RM at your request);

‘User Software’ shall have the meaning given in clause 5.2 (below);

“Virus” any virus, worm, Trojan horse, logic bomb, time bomb, back door, trap door or any other similar form of code intended, or having that effect, to cause harm,

damage or to prevent or restrict the use of any computer system or data; and

‘You’ or ‘Your’ any person, School, Local Authority or other organisation accessing the Service.

2. DURATION

2.1 This Agreement shall commence on the Effective Date and continue until the end of the Initial Term. At the end of the Initial Term, unless otherwise agreed, this Agreement shall automatically renew for either one year or a period equal to the Initial Term, whichever is the less, at the current rate then payable for the Service. RM will provide you with a quotation for the new charges prior to the renewal date.

2.2 Either party may terminate this Agreement by giving not less than ninety (90) days notice prior to the end of the then current Licence Term.

3. LICENCE GRANT AND RESTRICTIONS

3.1 In consideration of your payment of the relevant fees, RM agrees to provide you with access to the Service. Such access shall be solely to support your own internal business purposes of a non-commercial nature and be in respect of that number of concurrent Users agreed between you and RM.

3.2 You may produce copies of any instructions provided by RM and distribute such copies to Users to enable them to use the Service. This shall be without prejudice to the provisions of clause 5.

4. YOUR RESPONSIBILITIES

4.1 RM may alter user names or passwords upon reasonable notice. Your user name(s) and any password(s) are non-transferable and you are not permitted to disclose or share the same with anyone else. No third party may share your account.

4.2 No part of the Service may be cached in proxy servers or accessed by individuals who have not registered with RM as users of the Service. If you do disclose or share your account with any third party or allow any third party to use the Service on your behalf, you agree to indemnify RM for any losses or damages incurred by RM as a result of your actions. If RM reasonably believes that an account is being used in any way which is not permitted by RM, RM reserves the right to cancel access rights immediately without notice and to block access to all users from that account.

4.3 You are solely responsible for acquiring and maintaining all computer hardware and software, telephone and communications equipment needed for access to and use of the Service.

4.4 You own and have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and IPR ownership or right to use of all Customer Data and RM shall not be responsible or liable for the deletion, correction, destruction, damage, loss of or failure to store any Customer Data.

4.5 You agree to ensure that no User will introduce any Virus into any computer equipment or system or software of RM. You further agree to use virus-checking software before downloading any material from the Internet and, unless otherwise agreed, shall be responsible for applying anti-virus software to protect your machines and networks.

4.6 You agree to ensure that no User will use the Service for the purposes of storing, transmitting or receiving any Unacceptable Content.

5. INTELLECTUAL PROPERTY

5.1 Title to any software supplied by RM shall at all times remain vested in RM or its licensors. At no time shall you or any User gain any title to any such software.

- 5.2 Subject always to the provisions of Clause 5.1, RM hereby grants to you a limited, non-exclusive, non-transferable licence to use the software provided to you (if any) by RM for use with the Service (the “User Software”). You shall and ensure that Users shall treat the Service and any User Software like any other copyrighted material (e.g. a book or musical recording).
- 5.3 You undertake not to perform (nor allow any User to perform) any of the acts referred to in this Clause 5.3 except to the extent and only to the extent permitted by law as a lawful user of the Service and/or User Software and only then for the specific limited purpose permitted by law or in this Agreement. You undertake (including on behalf of all Users):
- 5.3.1 not to copy the Service and/or User Software (other than for normal system operation and as expressly specified in this Agreement) nor otherwise reproduce the same;
 - 5.3.2 not to translate, adapt, vary, or modify the Service and/or User Software;
 - 5.3.3 not to disassemble, decompile or reverse engineer the Service and/or User Software;
 - 5.3.4 not to remove, obscure or alter any notice of patent, copyright, trademark or other proprietary notice on the Service and/or User Software;
 - 5.3.5 not to sub-license, distribute, rent, lease, or otherwise transfer the Service and/or User Software or any unique access code or copy the Service and/or User Software other than as expressly provided in this Agreement;
 - 5.3.6 not to make the Service and/or User Software accessible by any type of broadcast or transmission, including but not limited to broadcast or transmission by cable, Internet, television, satellite, or telephone;
 - 5.3.7 not to use the Service and/or User Software to attract customers away from RM or to procure commercial advantage over RM or to use it in any other way which is likely to be directly or indirectly detrimental to RM or its business;
 - 5.3.8 not to reproduce or transmit to or store in any Website any part of the Service or User Software, nor disseminate in any electronic or non-electronic form any of the pages or parts thereof, nor include any of the foregoing in any public or private electronic retrieval system or service; and
 - 5.3.9 not to enable a third party to do any of the acts set out in this clause 5.3.
- 5.4 If notified promptly in writing of any action (and all prior claims relating to such action) brought against you, based on a claim that any User’s use of the Service infringes a United Kingdom patent or copyright, RM will defend such action at its expense and pay the costs and damages awarded, provided that RM shall have sole control of the defence of any such action and all negotiations for its settlement or compromise. At any time during the course of any litigation arising out of a claim of infringement for a United Kingdom patent or copyright, or if in RM’s opinion, the Service is likely to become the subject of a claim of infringement of a United Kingdom patent or copyright, RM will at its option and expense either procure for you and any Users the right to continue using the Service, replace or modify the same so that it becomes non-infringing, or grant you a credit for the Service as depreciated and accept its return. Depreciation will be an equal amount over the lifetime of the Service as established by RM. RM will not have any liability to you under any provision of this clause if the infringement or claim thereof is based upon:
- 5.4.1 use of the Service in combination with other equipment or software not supplied by RM; or

5.4.2 the use of the Service in carrying out any patented process; or

5.4.3 infringement as described in clause 5.6 (below).

5.5 Clause 5.4 (above) states the entire liability of RM with respect to infringement of patents or copyrights by the Service or any part thereof or by its operation. No costs or expenses will be incurred for the account of RM without the prior written consent of RM.

5.6 You will hold RM harmless against any expense, judgment, liability or loss, or infringement of any IPRs which results from RM's compliance with your or any User's instructions or use by RM of any Customer Data or other materials or information provided by you or any User.

6. TERMINATION

6.1 Either party may terminate this Agreement:

6.1.1 in accordance with clause 2.2 (above);

6.1.2 if the other party commits any material breach of this Agreement;

6.1.3 if the other party commits any other breach of this Agreement which is not remedied within thirty (30) days of a notice requiring such breach to be remedied; or

6.1.4 if the other party ceases to carry on business or substantial part thereof, commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation whether compulsory or voluntary other than for the purposes of amalgamation or reconstruction or compounds with its creditors generally or has a receiver or manager appointed over all or any part of its assets or suffers execution or distress or takes or suffers any similar action in consequence of debt or becomes unable to pay its debts as they fall due.

6.2 RM may terminate this Agreement forthwith (which would automatically terminate any related licence(s)) if you fail to pay any sums to RM in respect of the Service on the due date of payment.

6.3 Subject to clause 6.4 (below), prior to termination, you are able to access RM Finance Online to download the Customer Data. At the date of termination, your access to RM Finance Online will be revoked (unless you have purchased the archive service, which will provide you with read only rights) and you will no longer be able to access the Customer Data. RM will archive all live data from the RM Finance Online system thirty (30) days following the date of termination. At this point, the Customer Data will not be available.

6.4 Where this Agreement has been terminated by RM pursuant to clauses 6.1.2 to 6.1.4 or clause 6.2 (above), your right to access or use Customer Data shall immediately cease and RM may withhold, remove and/or discard Customer Data without notice. Additionally, RM shall have no obligation to maintain or forward any Customer Data in such circumstances.

7. LIMITATION OF LIABILITY

7.1 The Service has been manufactured or developed by RM or third parties to standard specifications. You accept that RM is acting only as a supplier and that it is your responsibility to verify that the Service will be suitable for your own requirements. There are no warranties, conditions, guarantees or representations as to description, merchantability or fitness for a particular purpose or other warranties, conditions, guarantees or representations relating to the Service, whether express implied by statute or otherwise oral or in writing except as provided in this Agreement and except as to statute implied terms as to title.

7.2 You agree that RM will not be liable for any loss arising out of the provision of goods or services by any company, organisation or

person other than RM or for any loss caused by your failure to perform your obligations under this Agreement. In particular but without limitation to the generality of the foregoing, RM shall not be responsible nor liable for your inability to access the Service or any impairment in using the Service where such inability or impairment results from any incompatibility between any hardware or software used by you, unless such items have been supplied by RM specifically for use with the Service.

7.3 RM's liability shall be unlimited in respect of (a) any death or personal injury caused by its negligence or that of its employees, agents or contractors; (b) fraud; or (c) for any other matter in respect of which law prescribes that liability may not be excluded or limited.

7.4 Subject to clause 7.3 (above), RM shall not in any event be liable whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for: any loss of profits; loss or corruption of data; loss of use; loss of goodwill; anticipated savings; loss of amenity; or any indirect, special, consequential or pure economic loss, costs, damages, charges or expenses, in each case howsoever arising, in connection with or arising out of the supply, functioning or use of the Service even if RM shall have been advised of the possibility of such potential loss and shall not be liable for any loss except as provided for in this Agreement.

7.5 Subject to clauses 5.4 and 7.3 (above), the maximum aggregate liability of RM whether in contract, tort, negligence, statutory duty or otherwise, for any loss or damage whatever arising from or in any way connected with the Service shall be limited to the fees paid or payable in respect of the Service. This limit shall also apply in the event that any exclusion or other provision contained in this Agreement is held to be invalid for any reason and RM becomes liable for loss or damage that could otherwise have been limited.

7.6 Where digital content supplied by RM is proven to have caused damage to the Your device or other digital content, RM may choose to either repair the device or digital content, or offer You compensation. Any compensation shall: (a) be reasonable in all the circumstances; and (b) only be payable where the damage would not have occurred if RM had exercised reasonable care and skill.

8. DATA PROTECTION

8.1 In this Agreement, the terms data controller, data processor, personal data, sensitive personal data and processing shall be as defined in the European Data Protection Directive 95/46/EC and "Data" shall mean the personal data and sensitive personal data provided to RM in connection with the Service. "Data Protection Law" means applicable data protection legislation implementing the European Data Protection Directive 95/46/EC and any amendments, revisions, re-enactments or consolidations thereof.

8.2 You acknowledge that you are a data controller and that RM is a data processor.

8.3 RM shall:

8.3.1 use the Data only on your instructions as set out or referred to in this Agreement to provide the Service;

8.3.2 provide appropriate technical and organisational measures to protect the security of the Data, in particular against unauthorised or unlawful access or processing, alteration, accidental loss or destruction of or damage to the Data; and

8.3.3 take all reasonable steps to ensure the reliability of any of its staff who have access to Data processed in connection with the Service.

8.4 The parties acknowledge that RM's provision of the Service may require the transfer of Data to RM's sub-contractors (including RM

group entities) (“Recipients”) outside the European Economic Area in countries which have not been approved by the European Commission as having adequate protections in place for the purpose of the transfer of personal data. RM will be permitted to transfer Data to such Recipients provided that RM shall have entered into an agreement with the relevant Recipient based upon standard contractual clauses approved by the European Commission for transfers of personal data to processors outside of the European Economic Area and which agreement shall include security obligations on the Recipient which are no less onerous than those contained in this Agreement.

8.5 The parties also acknowledge that RM may also use services and/or products from other third parties in order to provide the Service and that, in doing so, RM may transfer Data to such third parties. This may include (by way of example only) third parties that provide online storage and other facilities. If RM becomes aware of any such third party wishing to transfer Data outside the European Economic Area, RM shall request that the third party enters into an agreement of the sort noted in clause 8.4 above.

8.6 You agree to comply with your obligations under Data Protection Law in relation to its collection, processing and provision of Data to RM in connection with the Service.

8.7 You shall indemnify and keep RM indemnified against all costs, claims, losses, damages and expenses (including legal expenses) arising out of, or in connection with, any breach of this Clause 8 by you and/or your employees, agents and/or sub-contractors.

8.8 You acknowledge that RM is reliant on you for direction as to the extent to which RM is entitled to use and process the Data. Consequently, RM will not be liable for any claim brought by you or any data subject arising from any action or omission by RM to the extent that such action or omission resulted from your instructions.

8.9 RM may also use Your personal data in accordance with its Privacy Policy which can be found at www.rm.com.

9. SUPPORT SERVICES

RM agrees to provide support services in the form of notification of changes within the Product, to explain the following (which is a non-exhaustive list): functionality enhancement; user guides; training manuals; Service update explanations; and general support information.

10. ANTI-BRIBERY

You shall ensure that You and all of Your staff, agents, contractors and any other party performing Your obligations or exercising Your rights under or in connection with this Agreement and/or any other agreement that You may have with RM, complies at all times with all applicable anti-bribery and/or corruption laws, regulations and codes of conduct in all jurisdictions. You shall, whenever requested by RM, provide evidence of the measures, steps and processes that it takes to ensure compliance with the provisions of this clause and the relevant laws, regulations and codes of conduct.

11. NOTICE

11.1 Any notices you may wish to serve on RM must be sent by first class registered post to RM’s registered office. Any such notice will be deemed delivered on receipt.

11.2 RM may give notice to you by means of a general notice on the Service, electronic mail to your e-mail address on record in RM’s account information, or by first class mail to the address on your record held by RM. Any such correctly addressed notices shall be deemed to have been given upon the expiration of 48 hours after posting (if sent by first class mail) or 12 hours after sending (if sent by email).

12. MODIFICATIONS TO TERMS

RM may add to or change the terms of this Agreement. It is your responsibility as a user to refer to the terms of this Agreement on accessing the Service. Changes will be effective immediately after posting to the Service and you will be deemed to have accepted any change if you continue to access the Service after that time.

13. FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure to perform its obligations under this Agreement (other than a payment of money) provided that such a failure is due to causes beyond its reasonable control. Such causes shall include but are not limited to terrorism, fire, flooding, lightning, storm, power surges and failures, failure of suppliers, industrial disputes and other similar action, earthquakes and acts of God.

14. NON-WAIVER

Failure by either party to exercise or delay exercising any of the terms of this Agreement shall not constitute or be deemed to be a waiver of its rights under this Agreement nor prejudice its rights to take subsequent action.

15. NON-ENFORCEABILITY

The invalidity or unenforceability for any reason of any part of this Agreement shall not prejudice the continuation in force of any other part of this Agreement.

16. ASSIGNMENT

This Agreement may not be assigned by you without the prior written consent of RM (which RM shall be entitled to refuse at its absolute discretion). RM shall be entitled to assign the benefit and/or burden

of this Agreement to any other subsidiary (of any level) of RM plc (Regd No 01749877) upon giving notice to you to that effect. RM shall also be entitled to subcontract the performance of its obligations under this Agreement entirely at its discretion.

17. CUSTOMER MORE THAN ONE PERSON

Where any order for the Service has been made by two or more legal persons jointly, the liability of such persons and their obligations to RM under this Agreement shall be joint and several.

18. THIRD PARTY RIGHTS

Nothing in this Agreement shall confer on any third party any right or benefit under the provisions of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

19. GOVERNING LAW

This Agreement shall be governed by English law. The parties hereby submit to the exclusive jurisdiction of the English courts.