
FIND TOUCH TERMS AND CONDITIONS FOR PROFESSIONALS

LAST UPDATE: JUNE 4, 2010

AGREEMENT

This Agreement (hereinafter referred to as the “Agreement”) is by and between FIND TOUCH CORPORATION, a Washington corporation having its principal place of business in Seattle, Washington (hereafter “Find Touch,” “we,” “us”) and you (“you,” “your”), who agree to the terms of this Agreement by clicking the “I AGREE” checkbox on the Professional Registration form on the Find Touch Web Site. This Agreement governs your use of the Find Touch Web Site (“Web Site”, “Service”) and the transactions and services conducted through this Web Site including, but not limited to, the billing and payment services described herein. NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be bound, hereby agree as follows:

1. DEFINITIONS

As used herein and throughout this Agreement:

- 1.01.** “Employer” means an entity that has registered with Find Touch through the Web Site and has entered into this Agreement with Find Touch. Employers are entities looking for professionals to deliver massage services to their clients.
- 1.02.** “Professional” means a properly licensed massage therapist.
- 1.03.** “Registered Professionals” means any Professional who has registered through the Web Site and has entered into this Agreement with Find Touch.
- 1.04.** The term “Registered Users” includes all individuals or entities who have registered through the Find Touch Web Site, including, but not limited to, you and every Company.

2. TERM OF CONTRACT

- 2.01.** This Agreement is made to be effective as of the date accepted by Find Touch following your execution and submission of this Agreement by clicking the “I AGREE” checkbox on the Professional Registration form. Notice of acceptance by Find Touch will be given to you via email.
- 2.02.** This Agreement will continue in effect until terminated as provided in Article 8 of this Agreement.
- 2.03.** Find Touch grants you a non-exclusive, non-transferable, worldwide right to access and use the Web Site, solely with supported browsers through the Internet for your own internal purposes, subject to these Terms of Service. You may not permit the Web Site to be used by or for the benefit of unauthorized third parties. Nothing in the Terms of Service shall be construed to grant you any right to transfer or assign rights to access or use the Web Site. All rights not expressly granted to you are reserved by Find Touch and its licensors. You shall not:
- (a)** license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Web Site in any way;
 - (b)** modify or make derivative works based upon the Web Site;
 - (c)** reverse-engineer or access the Web Site in order to
 - build a competitive product or service, or
 - build a product using similar features, functions or graphics of the Web Site, or
 - copy any features, functions or graphics of the Web Site

You further acknowledge and agree that, as between the parties, Find Touch owns all right, title, and interest in and to the Web Site, including all intellectual property rights therein.

RELATIONSHIP OF THE PARTIES

- 2.04.** Find Touch provides services to and is retained by you only for the purposes and to the extent set forth in this Agreement and Find Touch's relationship to you shall, during the term of this Agreement, be that of an Independent Contractor.
- 2.05.** Find Touch is not a party to the actual transactions between Registered Professionals and Companies; your contract or agreement to provide services and receive payments is a separate agreement between you and a Company. Find Touch will not in any way be involved in the terms and conditions of your employment. You agree that Find Touch is not responsible for and can not control either the manner in which you operate or your hiring, firing, discipline or working conditions. Find Touch will not provide you with any materials or tools with which to provide any services for any jobs you accept. You agree not to involve Find Touch in the resolution of any problems, complaints or questions regarding the work environment, performance or other terms and conditions of employment and/or contracting between you and any Company. You also agree that Find Touch cannot and does not control whether any Company will complete the payment they offer.
- 2.06.** If it is determined by a court of competent jurisdiction that a contract exists between you and Find Touch to provide such services under which you are entitled to any Payment from Find Touch, you hereby expressly agree and acknowledge that
- (a)** you are an independent contractor of Find Touch and
 - (b)** your right to receive Payment, or any portion thereof, from Find Touch is expressly conditioned upon receipt of the applicable Payment by Find Touch from the Company to which the underlying services were provided.

No Registered User shall be considered the employee, agent, partner or joint venturer of Find Touch and Find Touch shall not be considered the employer, agent, partner or joint venturer of any Registered User.

- 2.07.** You are responsible for payment and reporting of any taxes. Other than in connection with 1099 Services, Find Touch is not obligated to determine the applicability of any taxes or to remit, collect or report any such applicable taxes, unless otherwise agreed to by both parties pursuant to the terms of any provision of tax services provided to you by Find Touch.

3. SERVICES TO BE PERFORMED BY FIND TOUCH

ONLINE PLATFORM

- 3.01.** Find Touch agrees to provide an online platform for Registered Professional to indicate their availability for employment opportunities and to receive job invitations from Companies. This service will be provided in a form deemed appropriate by Find Touch and may change from time to time.
- 3.02.** Find Touch reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, at its sole discretion, the Web Site (or any part thereof) with or without notice.
- 3.03.** Find Touch shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Web Site.
- 3.04.** Find Touch reserves the right to update and change the Terms of Service from time to time without notice. Any new features that augment or enhance the current Web Site, including the release of new tools and resources, shall be subject to the Terms of Service. Continued use of the Web Site after any such changes shall constitute your consent to such changes.
- 3.05.** Find Touch reserves the right at any time, for the protection and benefit of all users, to remove from its site any user-generated content that it deems either harmful or inappropriate without notification to nor consent from the party originating the content.

OTHER SERVICES

- 3.06.** From time to time, we will provide additional features and services, which shall be set forth on the Web Site, are subject to the terms of this Agreement, but are also subject to the additional terms and pricing specified on the Web Site. With respect to these features and services provided on our Web Site, you will be charged, and agree to pay us any fees, as set forth on the Web Site detailing such features and services.

4. FEES AND CHARGES

- 4.01.** All Find Touch services are free of charge for Professionals.

5. OBLIGATIONS OF FIND TOUCH

PRIVACY AND CONFIDENTIALITY

- 5.01.** Find Touch agrees to abide by its Privacy Policy, which is incorporated by reference into this Agreement in its entirety. The Privacy Policy is posted on the Web Site and may be updated from time to time.

6. OBLIGATIONS OF PROFESSIONALS.

MAINTAINING APPLICABLE LICENSES

- 6.01.** You agree that you shall maintain all necessary licenses and insurance coverage to practice massage therapy in the state in which you are seeking temporary job assignments through Find Touch.

ASSIGNMENT

- 6.02.** Neither this Agreement nor any duties or obligations under this Agreement may be assigned by you without the prior written consent of Find Touch.

INFORMATION POSTED ON THE WEB SITE

- 6.03.** You are solely responsible for information that you post on our Web Site, including but not limited to any posting or listing in any public message area or through any email feature. You grant us a non-exclusive, worldwide, perpetual, royalty free, irrevocable right to exercise all copyright and publicity rights with respect to this information.

PRIVACY AND CONFIDENTIALITY

- 6.04.** You agree to abide by the Find Touch Privacy Policy, which is incorporated by reference into this Agreement in its entirety. The Privacy Policy is posted on the Web Site and may be updated from time to time.

SYSTEM INTEGRITY

- 6.05.** You agree not to use any device, software, or routine intended to damage or interfere with the proper working of the Web Site or any transaction being conducted on our site, or to surreptitiously intercept or expropriate any system, data or personal information from the Web Site. You may not take any action that imposes an unreasonable or disproportionately large load on our infrastructure, including but not limited to “spam” (unsolicited mass emailing), “bots” (using the Find Touch web site through any means other than an industry-standard Web browser, without automation).

IMPERMISSIBLE ACTS

6.06. You agree not to:

- (a)** upload, post, email, transmit or otherwise make available any information, materials or other content that is illegal, harmful, threatening, abusive, harassing, defamatory, obscene, pornographic, offensive, invades another's privacy, or promotes bigotry, racism, hatred or harm against any individual or group;
- (b)** impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- (c)** forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Web Site;
- (d)** upload, post, email, transmit or otherwise make available any information, materials or other content that infringes another's rights, including any intellectual property rights;
- (e)** upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- (f)** upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (g)** use any manual or automated software, devices, or other processes to "crawl," "spider" or "screen scrape" any web pages contained in the Web Site;
- (h)** reverse engineer, decompile or disassemble any of the software used to provide the Web Site;
- (i)** reproduce, duplicate or copy or exploit any other portion of the Web Site, without the express written permission of Find Touch;
- (j)** interfere with or disrupt the Web Site, or any servers or networks connected to the Web Site, or disobey any requirements, procedures, policies or regulations of networks connected to the Web Site;
- (k)** obtain, collect, store or modify the personal information about other users;
- (l)** modify, adapt or hack the Web Site or falsely imply that some other site is associated with the Web Site or Find Touch; or
- (m)** use the Web Site for any illegal or unauthorized purpose. You must not, in the use of the Web Site, violate any laws in your jurisdiction (including but not limited to copyright laws).

7. TERMINATION OF AGREEMENT

TERMINATION ON NOTICE

7.01. Unless otherwise agreed to in writing between the parties, either party may terminate this Agreement at any time upon written notice to the other party. In such event,

- (a) Find Touch shall continue to perform the Services necessary to complete any invoicing and payment process for transactions already set in motion.
- (b) You shall be obligated to pay any outstanding fees for services provided by Find Touch in order to complete any open transaction.

For the purposes of this Section, written notice may be given as provided in Section 10.01 of this agreement, or through means provided and indicated on Find Touch's Web Site, which may be changed from time to time.

TERMINATION BY FIND TOUCH FOR DEFAULT OF PROFESSIONAL

7.02. If you default in the performance of this Agreement or materially breach any of its provisions, Find Touch, at its sole discretion, may terminate this Agreement with or without notice. For the purposes of this Section, material breach of this Agreement shall include, but not be limited to, the following:

- (a) repeated failure to perform required services to Companies after accepting Job contracts from those Companies through Find Touch;
- (b) direct contact with a Company after receiving an invitation for a Job for the purpose of accepting the Job without paying the Transaction Fee to Find Touch;
- (c) disciplinary action by the applicable government authority regulating massage therapists, or expiration of your license to practice massage therapy;
- (d) willful misrepresentation in any communication with or through Find Touch.

8. LIMITATION OF LIABILITY PROVISIONS

INDEMNIFICATION

8.01. You agree to defend, hold harmless and indemnify Find Touch from and against any and all losses, costs, expenses, damages or other liabilities incurred by Find Touch from and against any cause of action, claim, suit or proceeding brought by a third party against Find Touch in connection with your use of the Services including any payment obligations incurred through use of the Services. You further agree to indemnify, defend and hold Find Touch harmless from and against any and all claims, demands, actions, costs, liabilities, losses and damages of any kind (including attorneys' fees) resulting from:

- (a)** your use of the Web Site
- (b)** your decision to supply credit information via the Web Site, including personal financial information;
- (c)** your decision to submit postings and accept offers from other Registered Users;
- (d)** any breach of contract or other claims made by Registered Users with which you conducted business through the Web Site;
- (e)** your breach of any provision of this Agreement;
- (f)** any liability arising from the tax treatment of Payments or any portion thereof;
- (g)** any negligent or intentional wrongdoing by you;
- (h)** any act or omission of yours with respect to the execution of Assignments you accept

Any such indemnification shall be conditioned on our: (i) notifying you in writing of any such claim, demand, action, cost, liability, loss or threat of any thereof; (ii) cooperating with you in the defense or settlement thereof; and (iii) allowing you to control such defense or settlement. We shall be entitled to participate in such defense through our own counsel at our own cost and expense.

8.02. In connection with your indemnification obligations as provided for above, Find Touch agrees to (a) notify you in writing promptly after learning of any such claim; (b) turn over to you all responsibilities and control with respect to such claim; and (c) reasonably cooperate with you in the defense thereof.

DISPUTES WITH OTHER REGISTERED USERS OR THIRD PARTIES

8.03. In the event that you have a dispute with one or more Employers or any third party in relation to the Web Site or other Services provided by Find Touch, you agree to release us (and our agents and employees) from claims, demands and damages (actual, consequential and punitive) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with the Web Site, the Services, or such dispute. You waive the provisions of any state law limiting or prohibiting a general release.

LIMITATIONS ON TYPES OF DAMAGES

- 8.04.** In no event shall Find Touch be liable to you or any other registered user for any special, indirect, consequential, or punitive damages pursuant to this agreement, including but not limited to, loss of profits, loss of business opportunities, or loss of goodwill, even if advised of the possibility of such damages.
- 8.05.** Notwithstanding any other provision of this Agreement, in no event will Find Touch's liability to you for any action or claim related to the Services provided under this Agreement, whether based on contract, tort, negligence, or any other theory of liability, exceed the greater of: (A) \$1000 or (B) the aggregate amount of Transaction Fees actually collected by Find Touch from you for the Services to which the liability relates during the six (6) month period immediately preceding the determination of such liability.
- 8.06.** You also agree to release us from any liability for any loss of data or transactions resulting from delays, non-deliveries, mis-deliveries or service interruptions caused by any third party, including the acts of any web services provider or problems with the Internet infrastructure and networks external to the Web Site.

9. GENERAL PROVISIONS

NOTICE

9.01. Any notices to be given under this Agreement by either party to the other may be effected either by personal delivery in writing, by registered or certified mail with postage prepaid and with return receipt requested, or by electronic mail (“email”). Mailed notices to Find Touch shall be addressed to the corporate address as provided on the Find Touch Web Site and mailed notices to you will be sent to the address given by you in the Registration Form. Emailed notices to Find Touch shall be addressed to service@findtouch.com, and emailed notice to you will be sent to the address given by you in the Registration Form... However, each party may change the address for receipt of notice by giving written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated at the time of delivery. Mailed and emailed notices will be deemed communicated two (2) days after mailing.

ENTIRE AGREEMENT OF THE PARTIES

9.02. This Agreement supersedes any and all agreements, both oral and written, between the parties with respect to the rendering of services by Find Touch for you, and contains all of the covenants and agreements between the parties with respect to the rendering of these services in any manner whatsoever. Each party acknowledges that no representations, inducements, promises, or agreements, written or oral, have been made by either party, or by anyone acting on behalf of either party, that are not embodied in this Agreement. Any modification of this Agreement will be effective only if it is in a writing signed by both parties.

PARTIAL INVALIDITY

9.03. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

ALTERNATIVE DISPUTE RESOLUTION; FORUM SELECTION

9.04. Any controversy or claim arising out of or relating to this Agreement or the breach of this Agreement will be settled first by good faith negotiation between the principle agents of the you and Find Touch. If, after good faith negotiations, the parties are unable to reach a resolution, the parties hereby agree to mediation of the dispute through the King County Dispute Resolution Center. If the dispute can not be resolved through such negotiation and mediation, it is agreed that exclusive jurisdiction and venue for any legal action between the parties arising out of this Agreement shall be in the Superior Court for King County, Washington.

ATTORNEYS' FEES

9.05. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The attorneys' fees may be set by the court in the same action or in a separate action brought for that purpose.

GOVERNING LAW

9.06. This Agreement will be governed by and construed in accordance with the laws of the State of Washington, without regard for its conflict of law principles.

By clicking the “I AGREE” checkbox on the Professional Registration Form, you agree to the terms and conditions of this Agreement and, by reference herein, the terms of the Find Touch Privacy Policy. In so doing, you are also simultaneously

- (a)** registering as a “Registered User” (as defined herein),
- (b)** designating yourself as a “Professional” (as defined in Article 1 above),
- (c)** representing and warranting that you can legally enter into this Agreement, and
- (d)** agreeing to the terms and conditions of this Agreement.

IF YOU DO NOT ACCEPT THIS AGREEMENT, YOU ARE NOT AUTHORIZED TO USE THE WEB SITE.

If you have any questions about this Agreement, please contact service@findtouch.com