

## Terms for Local Customer on Tap

### 1. Introduction

This Agreement governs the use of Services and Products made available to the Client at the website (<https://www.localcustomersontap.co.uk/>) as set out below. Local Customers On Tap is a registered company in England and Wales under company number ("14781930") whose registered address is at 165 Birchfield Road East, Northampton, United Kingdom, NN3 2BZ ("**Local Customers On Tap**"), By using the website or any associated mobile application (Apps) the Client agrees and accept the terms of this Agreement. For the avoidance of doubt certain components of the Services and Products are provided by third party terms (e.g. DP Marketing Communications (see terms and conditions at <https://www.dpmarketingcommunications.com/>), Google (see terms and conditions at <https://support.google.com/adspolicy/answer/54818?hl=en-GB>), third party payment provider etc) which are subject to separate terms and conditions before accessing or using these services and the Client hereby agrees to comply by the third party terms. If the Client does not accept these terms in this Agreement and/or third party terms then the Client should not use the website or place orders for any Services and Product.

### 2. Definitions and Interpretation

2.1 The definitions and rules of interpretation in this clause apply in this agreement.

<b>Business Day:</b>	any day which is not a Saturday, Sunday or public holiday in the UK between the hours of 10am and 6pm UK time;
<b>Change Control:</b>	additional orders, changes and extension to and Products as may be made periodically by the Client and agreed subject to a separate Change Control outside this Agreement.
<b>Client:</b>	Means the local business, registered company or sole trader that places an order on the website with Local Customers On Tap.
<b>Client Data:</b>	the data inputted by the Client, users, or Local Customers On Tap on the Client's behalf, for the purpose of using or facilitating the Services and Products for the Client;
<b>Confidential Information:</b>	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information.
<b>Documentation:</b>	the documentation made available to the Client by Local Customers On Tap electronically or physically by any means agreed herein.
<b>Effective Date:</b>	the following the successful onboarding of the Client when payment is set up by the Client at the start of the Initial Term which will be confirmed by Local Customer on Tap to the Client as per section 5.3 below.
<b>Initial Period:</b>	means the minimum commitment in section 4 from the Effective Date and beyond unless terminated at end of this period or as extended past this period by the Renewal Period.
<b>Services and Products:</b>	means the subscribed services and products provided by Local Customers On Tap or third parties (e.g. Google ADS (local service ads), DP Marketing Communications, third party payment provider etc) under this Agreement.

<b>Software:</b>	the online software applications that may be provided by Local Customers On Tap as part of the Services and Products. Google advertising software is a third party and provided by Google;
<b>Fees:</b>	the fees payable by the Client to Local Customers On Tap for the Services and Products. This shall mean all charges made by Local Customers On Tap for services rendered to the Client, including charges made by third parties (e.g. Google Ads, DP Marketing Communications etc) contracted by Local Customers On Tap to undertake tasks necessary to the performance of this Agreement.
<b>Google Ads</b>	means a advertising platform from Google which uses Software to format Google Ads and target certain ads to particular destinations. Google Ads may contain lead form in the Google Ads.
<b>Trade Mark:</b>	trade marks and other intellectual property in section 8 below.
<b>Support Services Policy:</b>	DP Marketing Communications policy for providing support in relation to the Services and Products as made available to the Client from time to time;

- 2.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 2.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors or permitted assigns.
- 2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.5 Words in the singular shall include the plural and vice versa.
- 2.6 A reference to one gender shall include a reference to the other genders.
- 2.7 A reference to writing or written does not include by fax or e-mail unless specifically stated otherwise.
- 2.8 References to clauses and schedules are to the clauses, section and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

### 3. Appointment

The Client appoints Local Customers On Tap on a non-exclusive basis to market the Client’s business services by subscribing to the Services and Products.

### 4. Contract Term

This Agreement shall remain in force for the **Initial Period** for a six (6) month minimum commitment. This shall be auto renewed for further six (6) months intervals (“the **Renewal Period**”) at a time unless terminated in accordance with section 12 below. Any changes to Services and Products subscription as mutually agreed in writing between the parties subject to a separate Change Control.

### 5. Services and Products Obligations

#### Client Obligations

- 5.1 The Client will place an order on the Local Customers On Tap website by signing up with accurate details and correct attachments as requested.
- 5.2 The Client will provide all reasonably requested information including literature, marketing materials, photos etc in a timely manner to enable the Services and Products to be produced by Local Customers On Tap to agreed timescales. Except where there are delays subject to section 5.7 below.
- 5.3 The Client shall be responsible for paying separately third parties Fees used in provision of Services and Products subject to invoicing provisions below for the Initial Period and where applicable any subsequent Renewal Period. The Client will set up cardless payment with a third party after being send a link by Local Customers On Tap (“the **Effective Date**”).
- 5.4 The Client will be responsible for increasing or decreasing the Google Ads spend commitments budget for campaigns.

### **Local Customers On Tap Obligations**

- 5.5 Local Customers On Tap in conjunction with its third party (e.g. Google, DP Marketing Communications) will carry out the marketing activities (including marketing, advertising, design, branding, research and campaign management) and Google Ads following the successful onboarding of the Client within thirty (30) Business Days. As part of the on boarding Local Customers On Tap’s third parties (e.g. Google Ads) shall verify the Clients business or trading name and its associated details. If the Clients details are not verified by the third party then this will lead to an unsuccessful onboarding where Local Customers On Tap may not be able to provision certain Services and Products.
- 5.6 Local Customers On Tap will present the new marketing campaign to the Client for approval, including any of the completed marketing material.
- 5.7 Local Customers On Tap will:
  - a) provided recommendations given to the Client prior to commencement of a new marketing campaign after the Client has reviewed the information and any resulting data analysed submitted to the Client.
  - b) make subsequent report back to Client on the execution of the advertising campaigns.
  - c) use Software to create and manage Documentation related to Services and Products and Google Ads Software for the advertising provided by the third party.
  - d) provide support in line with the Support Services Policy.
  - e) not make any public or private comments relating to the Client or the work undertaken for the Client, without the prior written permission of the Client.
  - f) Comply with Client brand guidelines.
  - g) ensure there is no conflict of interest with any of the existing customers of Local Customers On Tap.
  - h) not undertake work for or accept instructions under this Agreement for any third party organisation in direct competition with the Client.
- 5.8 In the event of delays by the Client the timelines these shall be revised at the sole discretion by Local Customers On Tap and the Client will be informed of such changes.

## **6. Fees**

- 6.1 Local Customer On Tap will invoice monthly in advance to the Client (i) subscription Fee of £99 per month plus any applicable VAT each month for the Initial Period and any subsequent Renewal Period. In addition to this any separate invoice related to all advertising budget will

be paid direct to the third party (e.g. Google Ads and the associated management Fees to DP Marketing Communications) by the Client.

6.2 Invoices shall be payable by the Client within fourteen (14) calendar days of issue of invoice to Local Customer On Tap by set up online on by credit or debit card payments The Client agrees that it is the named user or the authorised user, of the credit or debit card to make payment for the Services and Products.

In the event of a dispute regarding an invoice, the Client will raise this within seven (7) calendar days of receipt of the invoice. Local Customer On Tap may suspend Services and Products at its sole discretion if any invoices which remains unpaid for sixty (60) Business Days. If the Client is late on payment of invoice late payment charges will apply.

## **7. Warranties**

Each party undertakes and warrants that:

- 7.1 it has the power and authority to enter into this Agreement and fully perform its duties under this Agreement.
- 7.2 it is the lawful owner of the Trade Mark and other intellectual property in the materials provided in relation to Services and Products and these will not infringe rights of a third party.
- 7.3 Comply with applicable laws.

## **8. Intellectual Property and licensing**

- 8.1 All Client Data and information supplied by (including logo, Client Data, Trade Mark, website, data base, photos), by the Client prior to this Agreement shall remain exclusive property of the Client.
- 8.2 All content and material created during the Service and Products provided under this Agreement to the Client shall be deemed to be the property of Local Customer On Tap and rights vested shall be transferred to the Client accordingly in the event of termination and subject to full settlement of all termination liabilities. At all times intellectual property (including logo, Trade Mark, website, data base, photos) of Local Customer On Tap shall remain exclusive property of the Local Customer On Tap.
- 8.3 Neither party shall acquire any intellectual property rights, title, interest, licenses, Services and Products in the other party's intellectual property.
- 8.4 The Trade Mark shall not be used in any manner liable to invalidate their registration and Local Customer On Tap shall not permit them to be used by third parties.
- 8.5 On expiry of this Agreement all licences referred to in this section 8 shall expire and Local Customer On Tap agrees to immediately cease use of all of the Client's Trade Mark and intellectual property unless authorised to do so in writing for marketing purposes.
- 8.6 The Client hereby grants to Local Customer On Tap a non-exclusive, non-transferable, royalty free rights to use and market licence and to utilise its Trade Mark and other intellectual property for the term subject to the restrictions in Clause 8 in the performance of this Agreement.

## **9. Confidentiality**

- 9.1 Local Customer On Tap shall keep confidential the specific terms of this Agreement and all confidential information relating to the Client's Products.
- 9.2 Confidential information shall consist of, but not necessarily be limited to technical, commercial, financial, operational, marketing or promotional information or Customer Data. A party's Confidential Information shall not be deemed to include information that:
- a) is or becomes publicly known (e.g. in public domain) other than through any act or omission of the receiving party; or
  - b) was in the other party's lawful possession before the disclosure; or
  - c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
  - d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
  - e) is required to be disclosed by law, by any court order or by any regulatory or administrative body.
- 9.3 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the Services and Products provisioned to the Client under this Agreement.
- 9.4 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access on a "need to know" basis is not disclosed or distributed during the term and afterwards by its employees, contractors, subcontractors, consultants or agents in violation of the terms of this Agreement.
- 9.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party. This section 9 shall survive termination of this Agreement, however arising.

## **10. Data Protection and Marketing**

- 10.1. The definition of the Data Controller, Data Processor, Data, Personal Data, Processing, Data Subject, Personal Data Breach is in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation, Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998, The Privacy and Electronic Communications (EC Directive) Regulations 2003 related to applicable marketing activities and any subsequent amendments from time to time.
- 10.2. Local Customer On Tap will be acting as the Data Controller whilst collecting information about the Client on the website including:
- a) retaining Personal Data for the retention periods as per the retention policy.
  - b) On termination of this Agreement the Personal Data will be deleted within thirty (30) Business Days unless required by law.
  - c) Responding to a Personal Data Breach or a Data Subject request.
- 10.3. Local Customer On Tap shall only process Personal Data for the purpose stated for the processing pursuant to the Local Customer On Tap's privacy policy.

## **11. Limitation of Liability and Indemnity**

- 11.1 Nothing in this Agreement limits or excludes either party's liability for fraud, personal injury or death caused by the party's negligence whilst performing their duties under the terms of this Agreement or any other liability that cannot lawfully be excluded or limited.
- 11.2 Neither party will be liable to the other for any consequential, special or indirect damages, lost profits, lost business or anticipated savings, whether actual or reasonably foreseen, in an action in contract, tort, or otherwise, arising out of or in connection with this Agreement.
- 11.3 Each party's total liability for damages of any kind arising out of this Agreement shall be limited to the aggregate amount of the total Fees payable by the Client in the 12 (twelve) months immediately preceding any claim.
- 11.4 Local Customer On Tap will defend, indemnify and hold Client harmless against any claim, suit or proceeding (including Client's reasonable costs and legal' fees) brought against Client if it is based on a claim that the Services and Products infringe any intellectual property right, provided however that Client: (i) gives Local Customer On Tap prompt written notice of any such claim; (ii) allows Local Customer On Tap to control the defence and settlement of such claim; and (iii) provides Local Customer On Tap with all information and assistance for defence and settlement of such claim. Local Customer On Tap will pay any settlement costs and damages awarded after final and enforceable court decision, but will not be responsible for any settlement or compromise made without its consent.

## **12. Termination**

- 12.1 This Agreement may be terminated for convenience upon expiry of the Initial Period and where applicable by any subsequent Renewal Period with a written notice thirty (30) Business Days prior to the expiry of the either the Initial Period or the Renewal Period.
- 12.2 This Agreement will be terminated immediately at any time on immediate notice by either party if the other party:
- a) enters into a compromise for the benefit of their creditors.
  - b) becomes subject to an administration order or goes into liquidation or a receiver has been appointed or threatens to cease to carry on business or becomes bankrupt or insolvent.
  - c) fails to make payment in full within 60 (sixty) Business Days from invoice date.
  - d) commits a serious or grave breach of this Agreement or persistent breaches of this Agreement including, but not limited to, non-performance, default or neglect of that party's duties under this Agreement and such breach remains un-remedied for thirty (30) Business Days after notice of such breach has been given by the non-defaulting party.
- 12.3 Upon termination of this Agreement for whatever reasons, Local Customers On Tap shall at the request of the Client promptly return all Documentation in the possession or control of Local Customers On Tap relating to the Services and Products affairs of the Client.
- 12.4 All clauses intended to survive the termination of this Agreement shall survive, including, but not limited to Confidentiality and intellectual property.

### **13. Notices**

Any notice given by in writing shall be served on the other party by personal delivery, pre-paid post (excludes email or fax) to the receiving party's address set out in this Agreement or order or such subsequent addresses as may be notified by the parties to each other. In the case of service by post two (2) Business Days or in person upon delivery. With a copy of notice sent via email to [info@localcustomerontap.co.uk](mailto:info@localcustomerontap.co.uk).

### **14. Force Majeure**

Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstances beyond its reasonable control, including but not limited to Acts of God, war, civil disorder, epidemics or pandemic or industrial disputes any other similar cause beyond the reasonable control of the party and such non-performance, or delay could not have been prevented by reasonable precautions, work arounds then the non-performing, hindered or delayed party shall be excused for such non-performance, hindrance or delay, as applicable, of those obligations affected by the event. The party who is affected by the event shall notify the other party in writing of the occurrence in detail. If such delay or failure continues for a period of at least Sixty (60) days the party not subject to the force majeure shall be entitled to terminate this Agreement by written notice to the other.

### **15. Joint Venture**

Nothing in this Agreement shall be construed to create a joint venture, agency or partnership between the parties.

### **16. Assignment**

Neither party may assign their rights under this Agreement without the prior consent in writing of the other party.

### **17. Dispute Resolution**

Any dispute shall be referred to the representatives of each party to negotiate in good faith to resolve such dispute. Such representatives shall be given authority to settle the dispute and will, within thirty (30) Business Days of a written request from one party to the other, meet in a good faith effort to resolve the dispute. If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation with the Centre for Effective Dispute Resolution (“CEDR”) in accordance with the CEDR Model Mediation Procedure.

### **18. General**

18.1 In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

18.2 Failure by either party to enforce any accrued rights under this Agreement is not to be taken as or deemed to be a waiver of those rights unless the waiving party acknowledges the waiver in writing.

18.3 Each party shall comply with all applicable laws relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

18.4 No addition to or modification and amendment to this Agreement shall be binding on the parties unless made in writing and signed by the signatories to this Agreement or their duly authorised representatives.

18.5 This Agreement sets out the entire agreement and understanding of the parties and is in substitution of any previous written or oral agreement between the parties.

18.6 Reference to any statutory provisions in this Agreement shall include any statutory provisions, which amends or replaces it.

18.7 A person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

## **19. Using Suppliers**

The Client shall not use any third parties, freelancers and suppliers introduced to them by Local Customers On Tap and its third parties and/or its representatives for future marketing or website work without the orders being processed by Local Customers On Tap. All current and future work should be managed and arranged via Local Customers On Tap.

## **20. Jurisdiction**

This Agreement shall be construed in accordance with the Laws of England and Wales, which shall be subject to the exclusive jurisdiction of the English Courts to settle any disputes or claim (including contract or tort) arising out of or in connection with this Agreement.