

## MOBILE APP TERMS AND CONDITIONS OF USE

### 1. About the Application

- (a) Welcome to the “Localsearch for Business” (**Application**). The Application provides access to the Mobile App Services (**Services**).
- (b) The Application is operated by Localsearch Operations Pty Ltd (ACN 130 550 971) (**Localsearch**). Access to and use of the Application, or any of its associated Products or Services, is provided by Localsearch. Please read these terms and conditions (**Terms**) carefully. By using, browsing and/or reading the Application, this acknowledges that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Application, or any of Services, immediately.
- (c) Localsearch reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Localsearch updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

### 2. Definitions

- (a) **Acceptable Use Policy** means the Localsearch Acceptable Use Policy available from time to time at <https://business.localsearch.com.au/legal/>;
- (b) **Content Integrity Policy** means the Localsearch Content Integrity Policy available from time to time at <https://business.localsearch.com.au/legal/>;
- (c) **Fees** means the setup fees and the recurring fees payable for a Subscription as set out in an Order Form;
- (d) **Order Form** means an order form agreed between Localsearch and you for any Subscription;
- (e) **Privacy Policy** means the Localsearch Privacy Policy available from time to time at <https://business.localsearch.com.au/legal/>;
- (f) **Services** means the Mobile App Services which may include:
  - a. Business Profile Syndication
  - b. Business Profile Optimisation
  - c. Maps Optimisation
  - d. Review Management
  - e. Reputation Management

- f. Content Optimisation
- g. Contact Management
- h. Customer Support
- i. Reporting and Analytics

The availability of Services will be dependent on the type of subscription you order from Localsearch;

- (g) **Subscription** means a paid subscription to access the Services you purchase from Localsearch on an Order Form, which may include:

- a. Digital Presence Services
- b. Website Hosting Services
- c. Website Design Services
- d. Social Media Marketing Services
- e. Google Ads Services
- f. Search Engine Optimisation Services
- g. GBP Optimisation Services.

### 3. Acceptance of the Terms

- (a) You accept the Terms by remaining on the Application. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by Localsearch in the user interface.

### 4. Subscription to use the Services

- (a) In order to access some or all of the Services, you must first purchase a Subscription from Localsearch via an Order Form, and pay the applicable fee for the selected Subscription (**Fees**).
- (b) In purchasing the Subscription, you acknowledge and agree that it is your responsibility to ensure that the Subscription you elect to purchase is suitable for your use.
- (c) Once you have purchased the Subscription, you will then be required to register for an account through the Application before you can access the Services (**Account**).
- (d) As part of the registration process, or as part of your continued use of the Services, you may be required to provide personal information about yourself (such as identification or contact details), including:
- a. Email address
  - b. Preferred username
  - c. Mailing address
  - d. Telephone number
  - e. Password

- (e) You warrant that any information you give to Localsearch in the course of completing the registration process will always be accurate, correct and up to date.
- (f) Once you have completed the registration process, you will be a registered member of the Application (**Member**) and agree to be bound by the Terms of this agreement. As a Member, you will be granted access to the Services for the period in which you have a Subscription with Localsearch.
- (g) You may not use the Services and may not accept the Terms if:
  - a. you are not of legal age to form a binding contract with Localsearch; or
  - b. you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.
  - c. you do not have a subscription with Localsearch.

## **5. Your obligations as a Member**

- (a) As a Member, you agree to comply with the following:
  - (i) you will use the Services only for purposes that are permitted by:
    - a) these Terms; and
    - b) any other applicable Terms and Conditions you agree to when you purchase a subscription from Localsearch, which can be found at <https://business.localsearch.com.au/legal/>; and
    - c) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions; and
    - d) in accordance with the Localsearch Acceptable Use Policy available from time to time at <https://business.localsearch.com.au/legal/>; and
    - e) in accordance with the Localsearch Content Integrity Policy available from time to time at <https://business.localsearch.com.au/legal/>; and
  - (ii) you have the sole responsibility for protecting the confidentiality of your password and/or email address. Use of your password by any other person may result in the immediate cancellation of the Services.
  - (iii) any use of your registration information by any other person, or third parties, is strictly prohibited. You agree to immediately notify Localsearch of any unauthorised use of

your password or email address or any breach of security of which you have become aware.

- (iv) access and use of the Application is limited, non-transferable and allows for the sole use of the Application by you for the purposes of Localsearch providing the Service.
- (v) you will not use the Services or the Application in connection with any commercial endeavours except those that are specifically endorsed or approved by Localsearch.
- (vi) you will not use the Services or Application for any illegal and/or unauthorised use which includes collecting email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Application.
- (vii) you agree that commercial advertisements, affiliate links, and other forms of solicitation may be removed from the Application without notice and may result in termination of the Services. Appropriate legal action will be taken by Localsearch for any illegal or unauthorised use of the Application.
- (viii) you acknowledge and agree that any automated use of the Application or its Services is prohibited.

## **6. Copyright and Intellectual Property**

- (a) The Application, the Services and all of the related products of Localsearch are subject to copyright. The material on the Application is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Services and compilation of the Application (including but not limited to text, graphics, logos, button icons, video images, audio clips, Application code, scripts, design elements and interactive features) or the Services are owned or controlled for these purposes, and are reserved by Localsearch or its contributors.
- (b) All trademarks, service marks and trade names are owned, registered and/or licensed by Localsearch, who grants to you a worldwide, non-exclusive, royalty-free, revocable license whilst you are a Member to:
  - (i) use the Application pursuant to the Terms;
  - (ii) copy and store the Application and the material contained in the Application in your device's cache memory; and
  - (iii) print pages from the Application for your own personal and non-commercial use.

Localsearch does not grant you any other rights whatsoever in relation to the Application or the Services. All other rights are expressly reserved by Localsearch.

- (c) Localsearch retains all rights, title and interest in and to the Application and all related Services. Nothing you do on or in relation to the Application will transfer any:
  - (i) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or
  - (ii) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or
  - (iii) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process),  
  
to you.
- (d) You may not, without the prior written permission of Localsearch and the permission of any other relevant rights owners, broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Services or third-party Services for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to materials on the Application, which are freely available for re-use or are in the public domain.

## **7. Push Notifications**

- (a) You consent to Localsearch sending you push notifications or other types of messages sent directly to you through the Application (collectively, "**Push Notifications**").
- (b) Localsearch may deliver Push Notifications to you whether or not you are currently logged-into or using the Application and whether or not your device is in locked or in sleep mode.
- (c) Push Notifications are a way for the Application to provide you information, including alerts concerning your account and/or subscriptions, and Localsearch may use any information about your account and/or subscriptions to send you such Push Notifications.
- (d) You may discontinue Push Notifications through the Application's settings, or your device's settings, or by deleting the Application.

## **8. Privacy**

- (a) Localsearch takes your privacy seriously and any information provided through your use of the Application and/or Services are subject to the Localsearch Privacy Policy, which is available from time to time at <https://business.localsearch.com.au/legal/>.

## **9. General Warranties and Disclaimer**

- (a) Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.
- (b) Subject to this clause, and to the extent permitted by law:
  - (i) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and
  - (ii) Localsearch will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from Localsearch's failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Services or these Terms (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.
- (c) Use of the Application and the Services is at your own risk. Everything on the Application and the Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of Localsearch make any express or implied representation or warranty about the Services or any products or Services (including the products or Services of Localsearch) referred to on the Application. This includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:
  - (i) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third-party conduct, or theft, destruction, alteration or unauthorised access to records;
  - (ii) the accuracy, suitability or currency of any information on the Application, the Services, or any of its Services related products (including third party material and advertisements on the Application);
  - (iii) costs incurred as a result of you using the Application, the Services or any of the products of Localsearch; and
  - (iv) the Services or operation in respect to links which are provided for your convenience.

## **10. Limitation of liability**

- (a) Localsearch aggregate liability (including the indemnity in clause 9 and 13), whether arising from breach of contract or tort (including negligence), in equity or any other form of action and whether or not you were advised of the possibility of the loss or damage, for claims arising out of or in relation to this Agreement is limited to:
  - (i) One (1) months fees payable in respect of the relevant Services;
  - (ii) in all other respects, \$100.
- (b) You agree that Localsearch is not liable to you under this Agreement (including the indemnity in clause 9 and 13) or otherwise for any loss or liability however arising from loss of profits, delay, loss or corruption of data, loss or reputation, loss of business, loss of use, loss of business opportunities, loss of anticipated savings, loss of goodwill or for any type of indirect, incidental, consequential or special loss or damage which may be suffered or incurred or which may arise directly or indirectly in relation to this Agreement.
- (c) Each party must promptly notify the other as soon as it becomes aware of any act or possible claim, demand or suit which may be brought against either party in relation to the Services in this Agreement.
- (d) Where legislation implies in this Agreement any condition, guarantee or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or exercise of or liability under such condition, guarantee or warranty, the condition, guarantee or warranty must be treated as included in this Agreement. However, Localsearch's liability for any breach of the condition, guarantee or warranty is limited, at Localsearch's option, to one or more of the following:
  - (i) the supplying of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

## **11. Competitors**

- (a) If you are in the business of providing similar Services for the purpose of providing them to users for a commercial gain, whether business users or domestic users, then you are a competitor of Localsearch. Competitors are not permitted to use or access any information or content on the Application. If you breach this provision, Localsearch will hold you fully responsible for any loss that we may sustain and hold you accountable for all profits that you might make from such a breach.

## **12. Termination of Agreement**

- (a) The Terms will continue to apply until terminated by either you or by Localsearch as set out below.
- (b) If you want to terminate this agreement, you may do so by not renewing your Subscription in accordance with the applicable Terms and Conditions agreed to on the order form between you and Localsearch, which can be found at <https://business.localsearch.com.au/legal/>.
- (c) Localsearch may at any time, terminate this Agreement with you if:
  - (i) you do not renew the Subscription;
  - (ii) you have breached any provision of the Terms of this agreement or intend to breach any provision;
  - (iii) you have breached the Terms of any other agreement you have with Localsearch;
  - (iii) Localsearch is required to do so by law;
  - (iv) the provision of the Services to you by Localsearch in the sole opinion of Localsearch is no longer commercially viable.
- (d) Subject to local applicable laws, Localsearch reserves the right to discontinue or cancel your membership at any time and may suspend or deny, at its sole discretion, your access to all or any portion of the Application or the Services without notice if you breach any provision of the Terms or any applicable law or if your conduct impacts Localsearch's name or reputation or violates the rights of those of another party.

## **13. Indemnity**

You agree to indemnify Localsearch, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:

- (a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with your content;
- (b) any direct or indirect consequences of you accessing, using or transacting on the Application or attempts to do so; and/or
- (c) any breach of the Terms.

#### **14. Venue and Jurisdiction**

The services offered by Localsearch is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Application, you agree that the exclusive venue for resolving any dispute shall be in the courts of Queensland, Australia.

#### **15. Governing Law**

The Terms are governed by the laws of Queensland, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of Queensland, Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

#### **16. Severance**

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.