

## Merchant Agreement Terms and Conditions

**EZlocal, Inc., their successors and assigns (hereinafter “EZlocal”), located at 377 E Butterfield Rd, Suite 300, Lombard, IL 60148 and the Applicant approved by EZlocal (“Merchant”), enter into this Merchant Agreement (“Agreement”) and agree to be bound by the contractual provisions contained herein. In this Agreement, “you,” “your” “registrant” “subscriber” or “customer” refer to “Merchant.” In consideration of the mutual promises contained in this Agreement, EZlocal and Merchant agree as follows:**

**1. Acceptance:** Merchant has read and understands this Agreement. All terms and conditions proposed by Merchant which are different from or in addition to this Agreement are unacceptable to EZlocal, are expressly rejected by EZlocal and waived by Merchant, shall be of no force or effect, and shall not become a part of this Agreement absent an express written statement by EZlocal to the contrary. In the event of any conflict between these Terms and Conditions and the face of this form, the terms set forth on the Agreement shall govern. EZlocal reserves the right to update and change these Terms and Conditions from time to time upon written notice to Merchant, including, without limitation, the ability to raise monthly fees and renewal rates. If Merchant signs up for service(s) under a promotion, after the promotional period ends, standard charges for the service(s) may apply.

**2. Term:** If approved, this Agreement shall be effective from the date hereof and shall remain in full force and effect for a period of TWELVE (12) months as the initial term (“Initial Term”), unless sooner terminated as set forth herein. Upon the completion of the Initial Term, unless Merchant furnishes written notice of non-renewal at least THIRTY (30) days prior to completion of the then existing term, this Agreement shall renew automatically for successive additional TWELVE (12) month terms (“Renewal Terms”) unless and until terminated in accordance with the provisions contained in this Agreement.

**3. Termination:** Merchant may terminate this Agreement at any time upon not less than THIRTY (30) days’ prior written notice to EZlocal after the completion of the Initial Term of this Agreement. EZlocal may, at its option, terminate all or any part of this Agreement, at any time and for any reason or for no reason at all, effective immediately, by giving written notice to Merchant. Upon termination, EZlocal shall not be liable for and shall not be required to make payments to Merchant, directly or on account of claims by Merchant, Merchant’s employees or affiliates, for loss of anticipated profit, interest on claims, product development and engineering costs, startup costs or other unrecouped investments, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges. Upon termination of this Agreement, the parties shall cooperate to wind down and/or transition Merchant’s activities hereunder. If you terminate the Services, and you have selected Website Design Services through EZlocal, your domain will be pointed to a suspension page which may contain advertising. We shall retain all revenue associated with this advertising. In any event of early termination upon written notice by Merchant, all fees for the balance of the initial TWELVE (12) month term of the Agreement are immediately due and payable, and Merchant hereby authorizes EZlocal or its agent to collect said fees from any account owned by Merchant.

**4. Local Network Membership:** Once an Application is accepted by EZlocal, Merchant becomes part of EZlocal’s network (“Network”), which includes business listing placement in EZlocal’s online directory (“Services”) on ezlocal.com in the search results for relevant keywords related to city and zip code. EZlocal and its affiliates, successors and assigns may use Merchant’s contact information including, but not limited to, email and mailing address, to send important news, information about services, discount offers, announcements and changes to our Site or to our policies. Other than as expressly provided for hereunder, EZlocal will never sell, rent, exchange or barter your personal information to or with any third party for financial gain or marketing purposes. By signing up for Online Local Business Listings Management Services (“Local”), EZlocal will use its best efforts to provide monthly Local listings management and optimization efforts on Merchant’s behalf, including managing Google and Bing listings, syndication of Merchant’s business information to major location data aggregators, and distribution to leading third-party internet directories and search engines. Due to the competitiveness of some keywords or phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, EZlocal cannot guarantee location or positions for any particular keyword, phrase, or search term for any search engine. EZlocal sends Merchant location data to third-party location listing providers who may use this data in any way, and EZlocal cannot control their use once the data is sent to them. Location data aggregators and business listing directories are not obligated to accept Merchant’s listing.

**5. Reputation:** By signing up for Reputation Management Services, Merchant authorizes EZlocal to be Merchant’s reputation advocate. In this role, Merchant authorizes EZlocal to use Merchant’s information to search the Internet and to take actions based on the results of these searches that the EZlocal deems reasonably necessary in order to provide the Services. EZlocal agrees to respond to both positive and negative reviews on the Merchant’s behalf, up to 40 review responses per month, so long as Merchant has provided necessary passwords and login information to access Merchant’s profiles on common review sites. Merchant recognizes that such techniques may have unpredictable side-effects, including but not

limited to negative responses from others. We are not Merchant's lawyer and do not offer legal advice, nor does this Agreement or the Services create any attorney-Merchant relationship or legal representation. To perform the necessary services, EZlocal requires information from the Merchant and the active participation of the Merchant to review and approve content, among other things. Merchant agrees to provide the information required by EZlocal in order to perform the Services, and Merchant understands that the quality and quantity of the information that Merchant provides to EZlocal may impact the effectiveness of the Services. Merchant also agrees to timely and promptly respond to requests for information and content approvals. Merchant authorizes EZlocal to act on Merchant's behalf in creating accounts and responding to any and all reviews on other websites in Merchant's name, as EZlocal reasonably determines is beneficial to providing the Services. If content creation and publishing is included in the Services, Merchant authorizes EZlocal to use the information Merchant provides, as well as any publicly available information that EZlocal reasonably deems to be useful in providing the Services.

**6. Social:** By signing up for Social Media Management Services, Merchant authorizes EZlocal to be Merchant's Social Media advocate. In this role, Merchant authorizes EZlocal to create, monitor and post content on behalf of Merchant on any and all Social Media sites including, but not limited to Facebook, Twitter, and Google. If content creation and publishing are included in the Services, Merchant authorizes EZlocal to use the information Merchant provides, create original content where necessary, and use any publicly available information that EZlocal reasonably deems to be useful in providing the Services. As part of the Agreement, EZlocal will post on Social Media outlets such as Facebook a minimum of 8 times per month. Merchant recognizes that posting on Social Media may have unpredictable side-effects, including but not limited to negative responses from others. Merchant Agrees to hold EZlocal harmless against such negative side-effects as set forth below in this Agreement. Merchant understands that content created on Third-party sites such as Facebook are non-transferable. Merchant acknowledges that there may be interruptions in service or events that are beyond our control on these third-party sites that will affect Merchant's use of the Service and may affect EZlocal's ability to monitor and post on these sites, and that these are beyond our control to prevent or correct. Interruptions in the Service that are beyond our control shall not serve as a basis to terminate Agreement or demand a full or partial refund of any prepaid fees. The Service may contain features that enable various Third-party Services (such as social media services like Facebook and Twitter) to be directly integrated into Merchant's EZlocal account ("Dashboard"). To take advantage of these features, Merchant will be required to register for or log into such Third-party Services on their respective websites and grant EZlocal access to these sites. By enabling third party access within the Dashboard or these sites, Merchant is granting EZlocal a license to create, monitor, post, and respond on Social Media on the Merchant's behalf.

**7. Website Design Services:** EZlocal will use WordPress, an open source solution, and in some cases "in house" custom design solutions, to provide website design services. As part of standard website design package, EZlocal will build you a website (also referred to as "Design" or "Web Design") consisting of up to TEN (10) pages made with a customized CSS, PHP, and HTML theme to suit modern web browsers. The Web Design will be "mobile-friendly" and allow for up to ONE THOUSAND (1,000) words on any given page with up to TWENTY FOUR (24) photos or graphics per page. EZlocal and the Merchant must work together to complete the Web Design in a timely manner. EZlocal agrees to work expeditiously to complete the Web Design as quickly as possible upon receipt of your text and graphic materials. Typically, it requires up to FOUR (4) weeks to publish the Design. EZlocal is not liable for delay in the completion of your Design caused by your failure to: (i) Respond promptly to requests, queries, and questions; (ii) Provide images including your logo; (iii) Provide your website goals and objectives and review them with EZlocal; or (iv) Provide any additional information, materials, and documents requested by EZlocal. Within ten (10) days of receiving notice that your website is ready for review, you must either (i) provide EZlocal with your revisions, or (ii) notify EZlocal that you have no revisions. If you fail to take either such action within ten (10) days, your website will be published on your behalf without further review. Publication of your Design is acknowledgement of your satisfaction with the Design provided to date and releases EZlocal from any obligation for further revisions or alterations at that time or until the next month of maintenance. You also acknowledge and agree that once the Design is published, you will not be entitled to any credits or refunds for any reason including, but not limited to, dissatisfaction with your Design. This Agreement allows for minor website maintenance to pages of your website, at the rate of one hour of maintenance per month per successful billing cycle, including: updating links, digital photos, graphics, making changes to text, or you can request that EZlocal add additional pages to your website at the rate of not more than one page per month. This service is available from the date the Merchant's website is available to be published to EZlocal's hosting service. The Agreement does not include major page reconstruction, guestbooks, navigation structure changes, or repairs of attempted updates by Merchant. EZlocal does not guarantee that the website will display properly on all platforms, operating systems, browsers, or other applicable software or hardware. Major page code and/or graphics changes and additions that are not included will be charged at the hourly rate of SEVENTY-FIVE dollars (\$75.00) per hour with no minimum billing for any billing cycle, whereas Merchant pays only for work done. The content of the website will be provided by the Merchant and edited and modified where necessary by EZlocal. Any "stock" images are provided through a service license from EZlocal's licensors. The licenses for these images are valid on EZlocal hosting plans only. The use of these images outside of EZlocal's hosting plans is strictly prohibited. Merchant unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to EZlocal for inclusion in the Web Design are owned by the Merchant, or that the Merchant has permission from the rightful owner to use each of these elements, and will hold harmless,

protect, indemnify and defend EZlocal and its officers, employees and subcontractors from any liability (including attorney's fees and court costs), including any claim or suit, threatened or actual, arising from the use of such elements furnished by the Merchant. EZlocal will occasionally perform maintenance services which Merchant acknowledges may require Services downtime, and in the event of scheduled maintenance outside of established maintenance windows, EZlocal will attempt to provide prior notice of such downtime. Buyout option for WordPress Web Design is available at any time: TWO THOUSAND FIVE HUNDRED dollars (\$2,500) minus total of successful monthly payments towards Website Design Services. EZlocal shall have no liability for any interruption or deficiency in the Services resulting from (a) tampering or alteration by persons not authorized, or in a manner not explicitly required, by EZlocal or (b) the function or malfunction of hardware or software not supplied by EZlocal.

**8. DNR Services:** Once an Application is accepted by EZlocal, only if Website is selected, shall the following apply: EZlocal has selected the following third party accredited registrars to provide domain name registration services ("DNR Services") to Merchants: GoDaddy.com ("GoDaddy") and Register.com ("Register.com") and, collectively, these are "Third-Party Registrars". EZlocal will select, at its sole discretion, which Third-Party Registrar to use at the time of purchase. In addition, EZlocal will select, at its sole discretion, which Third-Party Registrar to use at the time of any renewal. This means that your Third-Party Registrar may change from renewal period to renewal period. Merchant agrees that the following terms relating to domain name registration services constitute an agreement not only between Merchant and EZlocal, but also directly between Merchant and GoDaddy or Register.com as applicable. The term "register" or "registration," as used in this Agreement shall be read to include any initial registration, renewal or transfer of a domain name. Merchant agrees to be bound by the Third-Party Registrars' Terms and Conditions as selected by EZlocal. Links to the Third-Party Registrar Terms and Conditions are available online at GoDaddy.com and Register.com. Merchant can ascertain which Third-Party Registrar's Terms apply to them by searching for their domain on <http://www.whois.net> after purchase. EZlocal and the Third-Party Registrars reserve the right to reject any domain name registration application for any reason. Merchant agrees that neither EZlocal nor the Third-Party Registrars shall be liable for any loss or damage that may result from such rejection. Merchant represents and warrants that (i) neither the registration of the domain name nor the manner in which it is directly or indirectly used shall not infringe the legal rights of any third party; (ii) all information provided in connection with any domain name registration is and shall remain accurate; and (iii) that Merchant's registration and use of domain names will at all times be consistent with all applicable laws. Merchant agrees and acknowledges that the Third-Party Registrars and EZlocal will share Required Information with each other, with the Internet Corporation for Assigned Names and Numbers ("ICANN"), with registry administrator(s), and with other third parties as ICANN and applicable laws and/or policies may require or permit. Merchant further agrees and acknowledges that EZlocal and/or the Third-Party Registrars shall be permitted (and in some cases may be required) to make the Required Information publicly available, or directly available to third party vendors, for purposes of inspection (such as through WHOIS service), targeted marketing or other purposes as required or permitted by ICANN and applicable laws and/or policies. EZlocal endeavors to make the domain name availability search process reliable; however, EZlocal does not guarantee availability of domain names or the accuracy or security of the WHOIS system. The registration process is not complete until the domain name requested by Merchant has been registered with the appropriate registry. Because there are delays in the actual registration of a domain name with the appropriate registry, EZlocal is not responsible if domain names requested by Merchant are actually registered to third parties. Merchant acknowledges and agrees that registration of the domain name is not complete until Merchant receives the final confirmation from EZlocal. EZlocal uses a shared web hosting service, which means a number of Merchants' websites are hosted from the same server. EZlocal hosting service is offered as a platform to host and serve web pages and websites and may rely on third party licensors. You may be bound by additional terms and conditions imposed by our licensors. These terms and conditions are also incorporated by reference. EZlocal is happy to provide you with these additional terms and conditions upon request.

**9. Email Service:** Once an Application is accepted by EZlocal, only if Website Design is selected, shall the following apply: EZlocal will provide to Merchant up to THREE (3) business email addresses connected to the business website URL. Merchant agrees to use Email Services in a responsible manner. We do not tolerate the transmission of spam. We monitor all traffic to and from our web servers for indications of spamming and maintain a spam abuse complaint center to register allegations of spam abuse. Merchants suspected to be using our products and services for the purpose of sending spam are fully investigated. If we determine there is a problem with spam, we will take the appropriate action to resolve the situation. Our spam abuse complaint center can be reached by email at [cs@ezlocal.com](mailto:cs@ezlocal.com). We define spam as the sending of Unsolicited Commercial Email (UCE), Unsolicited Bulk Email (UBE) or Unsolicited Facsimiles (Fax), which is email or facsimile sent to recipients as an advertisement or otherwise, without first obtaining prior confirmed consent to receive these communications from the sender. This can include, but is not limited to email messages, newsgroup postings, Windows system messages, pop-up messages (aka "adware" or "spyware" messages), instant messages (using AOL, MSN, Yahoo or other instant messenger programs), online chat room advertisements or guestbook or website forum postings. We will not allow our servers and services to be used for the purposes described above. In order to use our products and services, you must not only abide by all applicable laws and regulations, which include the Can-Spam Act of 2003 and the Telephone Consumer Protection Act, but you must also abide by this no spam policy. Commercial advertising and/or bulk emails or faxes may only be sent to recipients who have "opted-in" to receive messages from the sender specifically. They must include a legitimate return address and reply-to address, the sender's physical address, and an opt-out method in the footer

of the email or fax. Upon request by us, conclusive proof of opt-in may be required for an email address or fax number. If we determine the services in question are being used in association with spam, we will re-direct, suspend, or cancel any website hosting, domain registration, email boxes or other applicable services for a period of no less than TWO (2) days. The registrant or customer will be required to respond by email to EZlocal stating that they will cease to send spam and/or have spam sent on their behalf. We will require a non-refundable reactivation fee of TWO HUNDRED FIFTY dollars (\$250.00) to be paid before the site, email boxes and/or services are reactivated. In the event we determine the abuse has not stopped after services have been restored the first time, we may terminate the hosting and email boxes associated with the domain name in question.

**10. Ads Management:** Collectively, the "Agreement, Selected Plan or Plans, and Network," when applicable, shall be referred to as your "Campaign." Your Campaign will include EZlocal's, Google's, Facebook's, Bing's and/or other paid advertising provider as selected by EZlocal. By signing up for Campaign Management or Sponsored Ads Management, you are agreeing to be billed directly by Google and other Search Engine Marketing Providers and/or Facebook (if applicable). Payments to EZlocal are billed separately from those made to Google or any other paid advertising providers. Google, Bing, and/or Facebook (if applicable) charges will be made automatically from your account.

With respect to the Ad Campaign Package selected, EZlocal may reject or edit at any time any of Merchant's advertising. EZlocal shall have discretion to select the individual words, phrases, or keywords to be used in connection with the Campaign. To the extent that Merchant elects to use keywords that include the names of its competitors or trademarked terms, Merchant does so at its own risk and acknowledges and agrees that it bears all liability associated with such action. Merchant understands that Google or any other paid advertising providers may reject or remove a specific ad at any time for any or no reason, and may modify or cancel programs at any time.

Merchant agrees to abide by all applicable paid advertising provider terms and policies, including, but not limited to Google policies that can be reviewed at [www.google.com/ads/policies](http://www.google.com/ads/policies). Some frequently asked Policy questions are answered by the following Policies available at <https://policies.google.com/>; and the Trademark Guidelines available at [www.google.com/permissions/](http://www.google.com/permissions/).

Google Local Services Ads Management: To participate in Google Local Services Ads, Merchant must pass Google's screening and qualification process which may include background checks, insurance, and license checks. Local Services ads are available only for certain service categories and areas. EZlocal cannot guarantee approval or placement of Local Services ads. To use the Local Services Ads platform, Merchant must agree to the contractual terms with Google -- for example, the Google Ads Terms and Conditions, the Local Services Additional Terms for Providers, or the Local Services on Assistant Terms for Providers -- Merchant also must comply with Google's Minimum Provider Requirements.

**11. SEO:** Once an Application is accepted by EZlocal, only if SEO is selected, shall the following apply: Merchant authorizes EZlocal to initiate a monthly website optimization program including but not limited to creating, monitoring, and publishing monthly website optimization content on Merchant's website. With respect to the SEO Campaign Package selected, EZlocal shall have discretion to select the individual Keywords to be used in connection with the SEO Campaign. Merchant may also request the use of certain Keywords. Merchant warrants that any search terms provided to EZlocal will not infringe on any third parties' rights and/or intellectual property, including (but not limited to) trademarks or logos. In addition, Merchant agrees to allow EZlocal to create links to and from Merchant's website as part of EZlocal's SEO Network. Merchant understands that EZlocal may not be held responsible for any major search engine algorithm changes to Google, Yahoo, or Bing.

**12. Dashboard:** Merchants will be granted access to the EZlocal Dashboard. The "Dashboard" includes (a) the Site at [login.ezlocal.com](http://login.ezlocal.com), (b) the Owner's Box Software, and (c) the other services provided to Merchant through the Site based on the plan purchased, including all software, data, text, images, sounds, videos, and other content made available through the Site (collectively, "Content"). Any new features added to or augmenting the Service are also subject to these Terms. The Service may also include basic or expanded services based on the Service plan purchased. EZlocal does its very best to make the Service available as detailed in the applicable Service plan, except for: (a) planned downtime, or (b) any unavailability caused by circumstances beyond Our reasonable control, such as, but not limited to, acts of God, acts of government, acts of terror or civil unrest, or technical failures beyond Our control. EZlocal may offer Free Trial accounts where Merchant may use the Service free of charge for a specified time period. Upon expiration of this time period, Merchant access to the Service will be terminated unless Merchant chooses to pay the applicable subscription fee and become a subscriber. Merchant understand that only a single Free Trial account will be granted for a given email address. The provision, maintenance and termination of Free Trial accounts are within the sole discretion of EZlocal. EZlocal has no obligation or liability related to the provision, maintenance and termination of Free Trial accounts. The Service may contain links to, or otherwise may allow Merchant to connect to and use certain third party products, services or software under separate terms and conditions (collectively, "Third-party Services") in conjunction with Our Service. If Merchant decides to

access and use such Third-party Services, be advised that Merchants use is governed solely by the terms and conditions of such Third-party Services, and We do not endorse, are not responsible for, and make no representations as to such Third-party Services, their content or the manner in which they handle Merchant data. EZlocal is not liable for any damage or loss caused or alleged to be caused by or in connection with Merchant access or use of any such Third-party Services, or Merchant's reliance on the privacy practices or other policies of such Third-party Services. Access to the Dashboard will be revoked upon termination of this Agreement.

**13. Video:** By signing up for Video, EZlocal will deliver a professional High Definition Web Video ("HD Video") customized to Merchant's business. Unless custom quoted, EZlocal's Entry Level Video Package includes a professionally shot (on site) and edited video up to two-minutes in length. An experienced videographer will spend up to two hours on location shooting at a time and date mutually agreed upon by both parties. Shoot date must be scheduled no less than one week in advance. Prior to scheduling HD Video shoot, Merchant agrees to sign Video Release Form located at ezlocal.com/legal. If videographer cannot perform this Agreement in whole or in part due to casualty, acts of God or nature or terror, or other cause beyond the control of the parties or due to videographer's illness or injury, EZlocal will reschedule with the Merchant, but shall have no further liability with respect to this Agreement. This limitation on liability shall also apply in the event that photographic or video materials are lost or stolen. Unless otherwise specified, it is understood that any and all rights to HD Video shall remain the property of EZlocal and EZlocal Subcontractors and may be used for advertising, display, websites or any other purpose thought proper by EZlocal. It is understood by the parties that videographer performs as an independent contractor with respect to EZlocal and not an employee. Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information developed in whole or in part by EZlocal or EZlocal Subcontractors in connection with the services shall be the exclusive property of EZlocal. EZlocal reserves the right to use reproductions for advertising, display, publication, or other purposes. All photos, samples, digital recordings, and proofs remain the exclusive property of EZlocal unless waived by amendment to this Agreement. Copying or reproducing EZlocal video productions is prohibited by Federal Law and violators will be subject to its civil and criminal penalties. EZlocal video services are outlined in this Agreement and any verbal agreement is null and void. Any changes to this Agreement must be presented in writing by either party and approved by EZlocal and Merchant.

**14. Customer Information:** Merchant hereby grants to EZlocal for use and distribution through EZlocal's website and Network during the Campaign Period specified, the non-exclusive and non-transferable, worldwide, fully paid limited license to use any information provided by Merchant for the purpose of promoting the business of the Merchant and the Network through the relationship with EZlocal created by this Agreement. As part of the registration process, you will be required to provide certain information, including without limitation contact information, such as your full name, postal address, email address, telephone number and fax number, if available ("Personal Information"). You agree to update your Personal Information promptly as needed to keep it current, complete and accurate, and to add such additional information as EZlocal may reasonably require from time to time.

**15. Reports:** EZlocal shall make available to Merchant a regular report detailing Campaign performance metrics.

**16. Invoicing:** The monthly fee specified shall be debited from the Merchant's account on or about the TENTH (10th) day or TWENTIETH (20th) day of each month for activity in the current calendar month. The EZlocal account maintenance fee is ONE HUNDRED dollars (\$100.00) and only billed after 180 days of enrollment, twice per year. Merchant agrees that EZlocal is authorized through ACH, to debit the Merchant's checking account or to charge the credit card on file along with their ongoing monthly billing in March and September, every six months. Any dispute in billing must be sent in writing within TEN (10) days of the disputed payment.

**17. Creative License:** Merchant hereby grants to EZlocal a world-wide non-exclusive, royalty-free license to use, reproduce, copy, display, distribute, syndicate, reformat and update (for example, to improve accuracy and/or standardize formats) any and all listing content, and all materials Merchant provides to EZlocal for disseminating the advertisement and delivering the Services including, but not limited to, all content in the Agreement, brochures, special offer content, website content, logos, videos, including those created by third party vendors, trademarks and brand features contained therein ("Creative"). EZlocal shall position the Creative within the Network at EZlocal's sole discretion within the Services and Campaign parameters specified. EZlocal may reject any information submitted by Merchant if, in EZlocal's reasonable belief, such information is inappropriate or misleading. EZlocal shall not be liable for any delays resulting from Merchant's failure to provide conforming Creative. EZlocal may sublicense this right to any Directory Listings and other online partners. This license will survive any termination or expiration of this Agreement.

**18. Merchant's Intellectual Property:** Merchant grants permission to EZlocal to use, post, display and transform for marketing purposes during the term of this Agreement all trademark, copyrights and other intellectual property rights owned by Merchant.

**19. Indemnification:** Merchant agrees to indemnify and hold harmless EZlocal and EZlocal's directors, officers, employees,

agents, managers, members, representatives, affiliates, successors and assigns (collectively, the “EZlocal Indemnified Parties”) from and against any and all actions claims, demands, suits, liabilities, losses, damages, obligations, judgments, settlements, costs, and other expenses (including attorneys’ fees, paralegals’ fees and court costs) incurred or suffered by any of the EZlocal Indemnified Parties which relate to or arise out of any actual or alleged: (a) breach by Merchant of any of the representations, warranties or covenants of Merchant set forth herein; (b) violation by Merchant of any applicable law, ordinance, rule or regulation; (c) direct or contributory infringements of, or inducement to infringe, any state, federal or foreign patent, trademark, copyright or other proprietary right by reason of the manufacture, use or sale of the Materials, goods or services provided hereunder (other than infringement of proprietary marks arising from intellectual property supplied by EZlocal or a third party at EZlocal’s direction), or for actual or alleged misuse or misappropriation of a trade secret resulting from Merchant’s actions; (d) the failure of Merchant to comply with and observe any federal, state or local laws, agreements, codes, regulations and ordinances which may be applicable to Merchant, Merchant’s business; or (e) any product liability or tort claims relating to the Materials or services provided hereunder to the extent caused by Merchant. EZlocal agrees to indemnify and hold harmless Merchant and Merchant’s directors, officers, employees, agents, managers, members, representatives, affiliates, successors and assigns (collectively, the “Merchant Indemnified Parties”) from and against any and all actions, claims, demands, suits, liabilities, losses, damages, obligations, judgments, settlements, costs, and other expenses (including attorneys’ fees, paralegals’ fees and court costs) incurred or suffered by any of the Merchant Indemnified Parties which relate to or arise out of any: (a) breach by EZlocal of any of the representations, warranties or covenants of EZlocal set forth herein; or (b) direct or contributory infringement of, or inducement to infringe, any state, federal or foreign patent, trademark, copyright or other proprietary right by reason of membership in the Network hereunder to the extent that such infringement of propriety marks arises from intellectual property supplied by EZlocal to Merchant or a third party to Merchant at EZlocal’s direction or for actual or alleged misuse or misappropriation of a trade secret resulting from EZlocal’s actions.

**20. Limitation of Liability:** A. EZlocal shall not be liable to Merchant or any Merchant Indemnified Party for (i) any incidental or consequential damages of any kind (including, without limitation, lost profits); (ii) any punitive damages arising by virtue of any dealing between the parties; or (iii) any claims or demands against EZlocal by a third party arising out of, or connected with the Materials, goods or services provided hereunder. EZlocal’s entire liability to Merchant for damages in connection with this Agreement shall not exceed in the aggregate the total contract price paid to EZlocal under this Agreement. EZlocal shall not be liable for messages posted on the EZlocal website by any third party. B. Force Majeure: Neither party shall have any liability for any failure or delay (other than with respect to payment obligations) resulting from any governmental action, fire, flood, insurrection, earthquake, power failure, riot, explosion, embargo, strikes whether legal or illegal, labor or material shortage, transportation interruption of any kind, work slowdown or any other condition affecting production or delivery in any manner beyond the reasonable control of such party.

**21. No Implied Waiver:** The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect the right of that party to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision. Any waiver of the terms or conditions of this Agreement must be in writing.

**22. Non-Assignment:** Merchant may not assign or delegate its obligations under this Agreement without EZlocal’s prior written consent. EZlocal may assign this Agreement to any party.

**23. Relationship of Parties:** Merchant and EZlocal are independent contracting parties and nothing in this Agreement shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

**24. Governing Law and Dispute Resolution:** This Agreement shall be governed, construed and interpreted under the laws of the State of Illinois, without giving effect to its conflict of law rules. EZlocal and Merchant irrevocably agree that all actions or proceedings in any way, manner or respect arising out of or from or related to this Agreement shall be resolved by final and binding arbitration conducted under the Commercial Arbitration Rules of the American Arbitration Association by one arbitrator, with such arbitration being conducted in Cook County, Illinois. Notwithstanding the foregoing, EZlocal reserves the right to seek temporary or permanent injunctive or other relief to protect its intellectual property in any court of competent jurisdiction. Each party hereby consents and submits to the jurisdiction of any local, state or federal court located within Cook County, Illinois for the sole purpose of executing any final determination of such arbitration and waives any right it may have to transfer the venue of any such execution action. The prevailing party in any dispute concerning this Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, attorneys’ and paralegals’ fees and costs incurred by such party in connection with any such dispute resolution.

**25. Severability:** If any term or condition of this Agreement is held invalid or unenforceable to any extent or in any application, then such term or condition shall automatically, and without any further action, be reformed so as to retain the fullest extent of any restriction therein permitted by law and the remainder of the Agreement, except to such extent or in such

application, shall not be affected thereby, and each and every remaining term and condition of this Agreement shall be valid and enforced to the fullest extent and in the broadest application permitted by law.

**26. Entire Agreement/Amendment:** This Agreement (including these Terms and Conditions), together with any specifications, instructions, drawings, samples, descriptions and designs delivered to Merchant by EZlocal, constitute the entire agreement between Merchant and EZlocal with respect to the subject matter contained herein and supersede all prior oral or written representations and agreements. Except as otherwise expressly set forth herein, this Agreement may only be amended or modified by a writing signed by both parties. This Agreement may not be amended by custom, usage of trade, or course of performance or dealing. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors and permitted assigns.

**27. Notices:** Notices may be personally delivered, or sent by certified mail, overnight courier or facsimile to the parties' addresses on the face side of this form, or to such other address as a party may direct in writing.

*Updated: January 28, 2020*

EZlocal, Inc. 377 East Butterfield Rd, Suite 300, Lombard, IL 60148