



# Terms & Conditions MPPC

Please download a copy of our Add People terms and conditions for our Managed Pay Per Click product

**THIS AGREEMENT is made the day of acceptance to the service contract and its terms and conditions.**

**BETWEEN:**

(1) Add Media (Group) Ltd.

(2) The client.

**WHEREAS:**

(1) At all material times the Company is engaged in the business of providing managed pay per click ("MPPC") services.

(2) The Client wishes to market their website through the designated search engines paid for advertising services.

(3) The Company hereby agrees to provide its services to the Client subject to the terms and conditions of this Agreement.

**IT IS AGREED as follows:**

**1. Definitions and Interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Client" The person, firm or company who purchases Services from Add Media (Group) Ltd.

"Company" "Add Media (Group) Ltd

"Confidential Information" means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to, or in connection with, this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);

"Designated Search Engines" means the search engines on which the Company shall apply the MPPC Services with a view to advertising the client's Website

["Charges"] means the consideration payable to the Company for the MPPC Services as defined in clause 5.

["Initial Fee"] means the first sum payable to the Company.

"Intellectual Property Rights" means (a) any and all rights in any patents, trade marks, service marks, registered designs, applications (and rights to apply for any of those rights) trade, business and company names, internet domain names and e-mail addresses, unregistered trade marks and service marks, copyrights, database rights, know-how, rights

in designs and inventions;

(b) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraph (a);

(c) rights of the same or similar effect or nature as or to those in paragraphs (a) and (b) which now or in the future may subsist; and (d) the right to sue for past infringements of any of the foregoing rights;

“MPPC Services” 1.2 means the MPPC services to be provided by the Company to the Client in accordance with the terms and conditions of this Agreement as defined in the agreement, it includes and is not limited to pay per click management, and promotional services, all these services may be amended by Add Media (Group) Ltd.

1.2.1 Unless the context otherwise requires, each reference in this Agreement to: “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time; “this Agreement” is a reference to this Agreement a “Party” or the “Parties” refer to the parties to this Agreement.

The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement. Words imparting the singular number shall include the plural and vice versa. References to any gender shall include the other gender.

1.3 In the event that any action required by the Company hereto does not occur on a business day, the action shall be taken on the next succeeding business days thereafter.

## **2. Engagement of the Company**

2.1 The Client hereby engages the Company to provide the MPPC Services.

2.2 The Client shall provide the Required Information to the Company within 7 days of acceptance of this agreement.

## **3. Nature of Engagement**

3.1 The Company shall at all times be responsible for organising how and in what order the MPPC Services are performed. The engagement under this Agreement is mutually non-exclusive and the Company shall be entitled, at its own expense, to subcontract the performance of the MPPC Services.

## **4. The MPPC Services**

4.1 The Company shall provide the MPPC Services specified in this agreement in accordance with the Agreement.

4.2 The Client shall provide the required access credentials including, but not limited to FTP details, Google Logins and Website access details, no later than 7 days from agreement to this service supplied by the company.

The Client understands and acknowledges the following:

4.2.1 The times for websites to appear on search engine listings vary and the Company can thus not guarantee that the Website will appear immediately on the Designated Search Engines or that its position will change immediately from that which it held prior to the MPPC Services being performed.

4.2.2 The Company cannot control search engines and cannot provide any guarantee that any of the Designated Search Engines will not change their policies or functionality in such a way that will have a detrimental effect on the ranking of the Website following the completion of the MPPC Services.

4.2.3 The Company accepts no responsibility for any detrimental effect on the Website's search engine rankings which results from any activity of the Client or any third party including, but not limited to, alterations to the Website.

4.3 For customers with performance guarantees only;

4.3.1 [Subject to the provisions of sub-Clauses 4.2.1, 4.2.2,4.2.3 Within three months from commencing Add People's pay per click marketing service, we guarantee to fulfil at least one of the following performance indicators. 1. Increase your click through rate, or 2. Reduce your cost per click, or 3. Reduce your cost per cost per conversion.

4.3.2 Measurement: Qualification for the refund will be measured objectively from Google statistics, comparing month prior to commencement of Add People service to the month after.

4.3.3 Exceptions: If you (the customer) make any unauthorized changes to the Add People PPC Campaign the above guarantee is null and void. Any changes must be agreed with Add People prior to commencement of the PPC campaign.

4.3.4 If at any point throughout the contract term you change, amend or deny Add People access to your campaign(s) the above guarantee will be null and void and the remaining contract length will be payable to Add People.

## **5. Charges**

5.1.1 In consideration of the MPPC Services the Client shall pay to the Company the Initial Fee of as set out in the Company's services agreement and agrees to the monthly payment structure as confirmed.

5.1.2 The initial payment shall be made on date of agreement to the services provided by the company.

5.1.3 The first monthly service payment shall be made on or after 28 days from initial payment.

5.1.4 The Company maintains a tiered pricing policy. Should the Client's spend go over a spend threshold the Company reserves the right to increase the Clients payment in accordance with this policy.

| <b>Maximum designated Search Engine Spend Per Month</b> | <b>Payment to the Company</b>                            |
|---|--|
| £250  | £100 (£90 if higher initial payment made to the Company) |
| £350  | £125   |
| £500  | £150   |
| £750  | £175   |
| £1,000  | £200   |
| £1,500  | £225   |
| £2,000  | £275   |
| £3,000  | 15% of Designated Search Engine Spend                    |

5.1.5 Payments will be collected by Direct Debit or by recurring card payment.

5.1.6 All payments made under this Agreement shall be expressly exclusive of any value added tax chargeable thereon.

5.1.7 Without prejudice to any other right or remedy that Add Media (Group) Ltd may have, if the Customer fails to pay Add Media (Group) Ltd on the due date Add Media (Group) Ltd may:

(a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of national Westminster Bank, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after

any judgment. Add Media (Group) Ltd may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and

(b) suspend all Services until payment has been made in full.

5.1.8 All payments payable to Add Media (Group) Ltd under the Contract shall become due immediately on termination of the Contract, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract. 5.1.9 Add Media (Group) Ltd may, without prejudice to any other rights it may have, set off any liability of the Customer to Add Media (Group) Ltd against any liability of Add Media (Group) Ltd to the Customer.

5.2 The Direct Debit Guarantee: This Guarantee is offered by all Banks and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own Bank or Building Society. If the amounts to be paid or the payment dates change Add Media (Group) LTD will notify you 10 working days in advance of your account being debited or as otherwise agreed. If an error is made by Add Media (Group) LTD or your Bank or Building Society, you are guaranteed a full and immediate refund. You can cancel a Direct Debit at any time by writing to your Bank or Building Society. Please also send a copy of your letter to us.

## **6. Intellectual Property**

6.1 Upon receipt in full by the Company of all sums due under Clause 5, the copyright and any and all other Intellectual Property Rights subsisting in any and all materials created by the Company in the course of providing the MPPC Services shall be deemed to be assigned to the Client and the Company shall be deemed to have waived all moral rights in respect of such work arising out of Chapter IV of the Copyright Designs and Patents Act 1988.

6.2 The Company further warrants that any and all Intellectual Property Rights subsisting in any and all materials created for or on behalf of the Company by third party consultants, contractors, sub-contractors or similar, shall be assigned to the Company by such third parties and will, where relevant, be subject to the requirements of sub-Clause 6.1.

6.3 Nothing in this Agreement shall vest any rights in the Website in the Company and sub-Clause 6.1 shall effect the assignment of any Intellectual Property Rights which may arise to the benefit of the Company in the Website to the Client.

## **7. Client's Warranties and Indemnity**

7.1 The Client represents, warrants, undertakes, and agrees with the Company as follows:

7.1.1 the Website shall be original to or otherwise owned by the Client and shall not infringe any copyright, other Intellectual Property Rights, moral rights, rights of privacy, rights of publicity, or any other rights whatsoever of any person;

7.1.2 the Website shall not, under the laws England and Wales be obscene, blasphemous, offensive to religion, or defamatory of any person and shall not contain any material which has been obtained in violation of the Data Protection Act 1998, the Freedom of Information Act 2000, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Official Secrets Act 1989, or any analogous domestic or foreign legislation and nothing contained in the Website will constitute a contempt of court;

7.1.3 the Client shall not enter into any agreement or arrangement which might conflict with the Company's rights under this Agreement or might interfere with the Company's performance of its obligations under this Agreement;

7.1.4 [subject to sub-Clause 8] the Client hereby undertakes to indemnify the Company and keep the Company at all times fully indemnified from and against all actions, proceedings, claims, demands, costs (including without prejudice to the generality of this provision the legal costs of the Company on a solicitor and own-client basis), awards, or damages howsoever arising – directly or indirectly – as a result of any breach or non-performance by the Client of any of the Client's undertakings, warranties, or obligations under this Agreement.

7.1.5 The client ensures that the website is visible at all times by the search engines.

## **8. Liability**

8.1 Except as expressly provided in this Agreement the Company shall not be liable to the Client or any third party, whether in contract, tort (including negligence) or otherwise for:

8.1.1 any amount in excess of the amount paid by the Client to the Contractor for any services during the (4) months prior to the event giving rise to the alleged claim; or

8.1.2 any loss of revenue, business contracts, anticipated savings or profits, or any loss of use of facilities; or

8.1.3 any special indirect or consequential loss howsoever arising.

8.2 in clause 8.1.2 "anticipated savings" means any expense which either party expects to avoid incurring or to incur in a lesser amount than would otherwise have been the case by reason of the use of the services and facilities provided by the Contractor under this Agreement.

## **9. Confidentiality**

9.1 Both Parties undertake that, except as provided by sub-Clause 9.2 or as authorised in writing by the other Party, they shall at all times during the continuance of this Agreement and after its termination:

9.1.1 keep confidential all Confidential Information;

9.1.2 not disclose any Confidential Information to any other party;

9.1.3 not use any Confidential Information for any purpose other than as contemplated by this Agreement;

9.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and

9.1.5 ensure that (as applicable) none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of this Clause 9.

9.2 Subject to sub-Clause 9.3, either Party may disclose any Confidential Information to:

9.2.1 any of their sub-contractors, substitutes, or suppliers;

9.2.2 any governmental or other authority or regulatory body; or

9.2.3 any of their employees or officers or those of any party described in sub-Clauses 9.2.1 or 9.2.2;

9.3 Disclosure under sub-Clause 9.2 may be made only to the extent that is necessary for the purposes contemplated by this Agreement, or as required by law. In each case the disclosing Party must first inform the recipient that the Confidential Information is confidential. Unless the recipient is a body described in sub-Clause 9.2.2 or is an authorised employee or officer of such a body, the disclosing Party must obtain and submit to the other Party a written undertaking from the recipient to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made.

9.4 Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of that Party.

9.5 When using or disclosing Confidential Information under sub-Clause 9.4, the disclosing Party must ensure that it does not disclose any part of that Confidential Information which is not public knowledge.

9.6 The provisions of this Clause 9 shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.

## **10. Termination**

10.1 Either Party may terminate this Agreement by giving to the other not less than 30 days written notice, subject to the completion of the minimum contract term as set out within your service order or contract agreement.



10.2 Without prejudice to the generality of sub-Clause 10.1, this Agreement shall terminate, notwithstanding any other rights and remedies the Parties may have, in the following circumstances:

10.2.1 either Party fails to comply with the terms and obligations of this Agreement and such failure, if capable of remedy, is not remedied within 30 day of written notice of such failure from the other Party;

10.2.2 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;

10.2.3 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

10.2.4 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the other Party under this Agreement);

10.2.5 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;

10.2.6 the other Party ceases, or threatens to cease, to carry on business; or

10.2.7 control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of this Agreement. For the purposes of this Clause 10, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.

10.2.8 The termination of this Agreement shall be without prejudice to any rights which have already accrued to either of the Parties under this Agreement.

## **11. Nature of the Agreement**

11.1 This Agreement is personal to the Parties and neither Party may assign, mortgage, or charge (otherwise than by floating charge) [or sub-license] any of its rights hereunder, [or sub-contract] or otherwise delegate any of its obligations hereunder, except with the written consent of the other Party, such consent not to be unreasonably withheld.

11.2 This Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

11.3 Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

11.4 No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

## **12. Force Majeure**

The company shall not be liable for any failure or delay in performing their obligations under the Agreement where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

## **13. Severance**

The Parties agree that, in the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

## **14. Alternative Dispute Resolution**

14.1 Any dispute or difference arising between the Parties relating to this Agreement or its subject matter shall be referred to a single arbitrator to be agreed upon by the Parties or, failing such agreement, to be appointed by the then President of the Law Society, such arbitrator to have all of the powers conferred upon arbitrators by the laws of England and Wales.

14.2 The Parties hereby agree that the decision of the Arbitrator shall not be final and binding on both Parties.

## **15. Law and Jurisdiction**

15.1 This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

15.2 Subject to the provisions of Clause 14, any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and

obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

## **SCHEDULE 1**

Designated Search Engines

Google, Bing and Yahoo