



Linking
Education with
Enterprise



The LocalBiz Project - Terms and Conditions

These Terms and Conditions govern the licensing and use of The LocalBiz Project, provided by LocalBiz Ltd, hereinafter referred to as the "**Company**".

Definitions

"**System**" the integrated learning package incorporating a set of educational materials, a hosting service containing a community/business-focused website which has an inbuilt suite of management tools, along with supporting documentation, and marketed as "The LocalBiz Project".

"**Web Site**" a collection of related Web Pages, created using Company software and templates.

"**Web Page**" a collection of information displayed by a Web Browser at a single interaction;

"**Entry**" an item of information displayed on a Web Page

"**Web Browser**" Software used to access and view a Web Site

"**Hack**" A successful attempt by an unauthorised person to gain entry to a Web Site

"**Username**" A unique identifier used in conjunction with a password to gain access to the Web Site to enable changes to be made

"**Domain Name**", "**Subdomain Name**" a unique internet address which identifies a Web Site

"**School**" Any educational establishment, including but not limited to play schools, nurseries, primary schools, secondary schools, and colleges of further education.

"**Business Group**" – a formal group of students within the School authorised by the School to manage the Web Site, or a teacher within the School supervising students in their management of the Web Site.

"**Licensee**": The School on whose behalf the licence to use the software and Subdomain name has been granted.

"**Licensor**": The Company in its role of providing a licence to operate the System

1 Licence

- 1.1 The Licensee is granted non-exclusive and non-transferable use of the integrated learning package, the hosting service, software and supporting material, supplied by the Company
- 1.2 The Licensee is permitted to delegate management of the Web Site to a Business Group operating within the School, but in so doing does not release itself from its responsibilities set out in these Terms and Conditions.
- 1.3 The software will be hosted on a web service supplied by the Company.
- 1.4 The Licensee shall not allow copies of the software to be made, whether in printed or other form.
- 1.5 Copies of the supporting material may be made for use by the school or Business Group in the management or promotion of the System.
- 1.6 The Licensee shall not permit the System to be used for the benefit of any other person, body (corporate or otherwise) or School, other than in accordance with clause 5.1.
- 1.7 The Licensee is granted use of the Subdomain name supplied by the Company for as long as the software is licensed and all fees due are paid. For the avoidance of doubt, the subdomain name remains at all times the property of the Licensor.

2 Usage Period and Transfer of Licence

- 2.1 The Licence granted under this Agreement starts on the commencement date indicated in the Licence Agreement and continues for the term specified in 2.3, unless sooner terminated in accordance with the provisions of this Agreement.
- 2.2 The Licensee will be entitled to renew the Licence provided that it does not violate these Terms and Conditions, and that the Company continues to operate, and that the System continues to be marketed by the Company.
- 2.3 Unless otherwise agreed, the Licence term will expire at the end of 12 months from the date of the order or its renewal, or immediately if the Licensee ceases to exist as defined in clause 11.4.
- 2.4 The Licensee will be permitted to continue managing the Web Site for a period of three months following the date on which the licence expired, provided
 - 2.4.1 it is actively seeking a new Business Group from within the school to operate it; or
 - 2.4.2 states in writing to the Licensor that it no longer wishes to licence the software AND makes it known to neighbouring schools that it may be available to them. Any transfer may only take place with the express permission of the Licensor, who will make all necessary arrangements with the proposed new licensee.
- 2.5 At all times, the responsibility to honour any and all commitments made to those who advertise on the Web Site remains with the Licensor, including commitments made by members of a Business Group, notwithstanding the fact that the licence may have expired and/or the Licensee has stated in writing that it does not wish to renew the licence.
- 2.6 The Licensor reserves the right to take over the management of, or delete, a Web Site should the Licensee fail to renew its licence. Upon this event, ownership of the Web Site contents, and use of all subdomain and/or domain names associated with it, shall revert to the Company, who will retain any income which may ensue. The terms of 2.5 will remain in force, unless otherwise agreed.
- 2.7 The Licensee may not implement a similar System during the life of, and for a period of two years from the termination of, this agreement, if such system is created by the School, or by a third party on behalf of the School.
- 2.8 The cost of a licence is as described in the pricing schedule which is published on the Company website (www.LocalBiz.co.uk). Payments must be made within two calendar months of the date of the invoice, which will be sent to the address supplied by the Licensee, and stored in the Licensee's registration details at the Company website.
- 2.9 The Company reserves the right to amend its pricing schedule from time to time. For existing Licensees, such changes will not be applied until the time of renewal.

3 Terms of Use

- 3.1 Use of the System is available to any school, or similar approved organisation, that registers and is accepted by the Company. Each Licensee will be allocated one Username and Password for administrative use. Additional usernames and passwords may be created by the User at their discretion for use on their Web Site.
- 3.2 The services provided are delivered in the English language, and are principally aimed at establishments and organisations in the United Kingdom offering direct education to the 14-19 age group. Within those limitations, the Company does not discriminate on the basis of age, gender, or ethnicity.
- 3.3 As a Licensee, you agree to use the Web Site in accordance with these Terms & Conditions, and consistent with all applicable laws and regulations.

- 3.4 The Company will make available to the Licensee (a) a set of educational support materials in electronic form; (b) a hosting service containing the software; (c) a Web Site Address, which will be of the form www.<xxx>.localbiz.co.uk, where <xxx> is replaced by a series of valid characters which uniquely identifies the geographical area of the School.
- 3.5 The Company reserves the right to impose additional terms in respect of any Licensee's order, such additional terms shall be mailed to the Licensee as they are introduced, using their last known email address.
- 3.6 The Licensee, and users authorised by the Licensee, are encouraged to change their passwords frequently. The Company accepts no responsibility for any loss incurred through any successful attempt to Hack into a Licensee's Web Site, or the Company's website.

4 Privacy

- 4.1 Information about any individual which is of a confidential nature and not supplied for inclusion on any Company or Licensee Web Site, will be kept confidential by the Company.
- 4.2 The Company will not release the name or other personal information about an individual unless the individual gives his or her permission or it is required to do so by law or other competent authorities or this is required in the course of its administration of the Web Site.
- 4.3 The exchange by email between the Company and the Licensee of information such as passwords will be unencrypted, and therefore may be insecure.

5 Content

- 5.1 The Company allows the Licensee to maintain a community Web Site which incorporates a business services directory. The Licensee is permitted to accept payment from organisations whose information is placed in the directory.
- 5.2 Where payment is requested by the Licensee, the Licensee must agree Terms and Conditions with each advertiser. Such Terms and Conditions must not contain clauses which commit the Licensee to undertake actions which it may not be able to fulfil, and may not go beyond the end of a period of three months following the date upon which the Licence expires, except where permitted to do so as defined in clause 5.3. Specifically, the Terms and Conditions must state how requests for changes to entries in the system will be managed, and in particular how they will be managed during the period between the end of the academic year (or closure of the Business Group if earlier) and the end of the School's commitment to each advertiser.
- 5.3 If the school wishes to commit itself to actions beyond the period defined in 5.2, then it may do so by confirming to the Company its intention to renew the licence. However, its obligations under clause 2.5 will remain.
- 5.4 The Company reserves the right to obtain sponsorship for the System, and to place sponsors' logos and links to the respective sponsor's internet sites on one or more of the Licensee's Web Pages. Any income generated from such sponsorship shall remain with the Company.
- 5.5 The Internet is a powerful information and entertainment tool, and we would expect our Licensees to use the Internet with respect, courtesy, and responsibility, giving due regard to the rights of other Internet users. The Licensee represents, undertakes and warrants to the Licensor that they will use the System only for lawful purposes and to inform the Licensor promptly if this clause or any sub-clause of this clause has been breached or they become aware that these may have been breached. In particular, the Licensee represents, warrants and undertakes to the Licensor that:

- 5.5.1 they will not use the System in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will they authorise or permit any other person to do so;
- 5.5.2 they will not upload, post, link to or transmit:
 - 5.5.2.1 any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, pornographic, blasphemous, profane or otherwise objectionable in any way;
 - 5.5.2.2 any material containing a virus or other hostile computer program;
 - 5.5.2.3 any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction.
- 5.6 The Licensor reserves the right to access and update the Licensee's Website without notice, including in particular the right to remove any material which it deems inappropriate from the Licensee's Web Site without notice to the Licensee.
- 5.7 The Licensor is not responsible for the content of any Licensee Web Pages.
- 5.8 The Licensor is not responsible for any damage caused by loss of access to, or deletion or alteration of Web Pages.

6 Non Disclosure

- 6.1 The Licensee will take reasonable steps to assure that the System shall not be reproduced or disclosed to others in whole or in part, without the prior written permission of the Company. Such prohibition on disclosure shall not apply to disclosures by Licensee to its agents, contractors or employees, provided such disclosures are reasonably necessary to Licensee's authorized use of the System, and provided further that the Licensee shall take reasonable steps to ensure that the System is not disclosed by its agents, contractors or employees in contravention of this Agreement.
- 6.2 The contents of the System are highly proprietary and the Licensee agrees not to allow any machine readable (or other) version of the system to be printed, listed, decompiled, disassembled or reverse engineered. The Licensee will so advise all parties having access to the administrative tools of the System.
- 6.3 The Company may not have an adequate remedy at law, and injunctive or other equitable relief may be appropriate to restrain unauthorized use, reproduction, disclosure, printing, listing, decompilation, disassembly or reverse engineering.

7 Limitation of Liability

- 7.1 The following provisions set out the Company's entire liability (including any liability for the acts and omissions of its employees agents and contractors) to the Licensee in respect of:
 - 7.1.1 any breach of its contractual obligations arising under this agreement;
 - 7.1.2 any representation statement or tortuous act or omission including negligence arising under or in connection with the Agreement.
- 7.2 Any act or omission on the part of the Company or its employers agents or contractor falling within clause 7.1 shall for the purposes of this clause 7 be known as an 'Event of Default'.
- 7.3 The Licensor's liability to the Licensee for death or injury resulting from its own or that of its employees' agents' or contractors negligence shall not be limited.
- 7.4 Subject to the limits set out in clause 7.5.1 the Company shall accept liability to the Licensee in respect of damage to the tangible property of the Licensee resulting from the negligence of the Company or its employees agents or contractors.
- 7.5 Subject to the provisions of clause 7.3 the Company's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to:

- 7.5.1 £250,000 in the case of an Event of Default falling within clause 7.4;
- 7.5.2 in the case of any other Event of Default the price paid by the Licensee under the terms of the Agreement for the current year of the licence.
- 7.6 Subject to clause 7.3 the Company shall not be liable to the Licensee in respect of any Event of Default for loss of profits goodwill or any type of special indirect or consequential loss (including without limitation data loss and loss or damage suffered by the Licensee as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Company had been advised of the possibility of the Licensee incurring the same.
- 7.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under the Agreement.
- 7.8 The Licensee hereby agrees to afford the Company not less than thirty days (following notification thereof by the Licensee) in which (if remediable) to remedy any Event of Default hereunder.
- 7.9 Except in the case of an Event of Default arising under clause 7.3 the Company shall have no liability to the Licensee in respect of any Event of Default unless the Licensee shall have served notice of the same upon the Company within twelve months of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought to have reasonably become so aware.
- 7.10 Nothing in this clause shall confer any right or remedy upon the Licensee to which it would not otherwise be legally entitled.

8 Warranty

- 8.1 Use of the Web Site is entirely at the User's own risk. The Web Site is provided on an "as is" basis without warranties of any kind, either express or implied. The Company makes no warranty with respect to any content, information, services, or products provided through or in conjunction with the Web Site, and are not responsible for:
 - 8.1.1 any consequences arising from the use of such information;
 - 8.1.2 any failures, delays, or interruptions in the delivery of any content or services contained within the Web Site;
 - 8.1.3 any losses or damages arising from the use of the content or services provided by the Web Site.
- 8.2 The Licensee specifically agrees that the Company or third-party content providers are not liable for any conduct by Licensees or their authorised users associated with the Web Site.
- 8.3 The operating hours of the Web Site provided to the Licensee by the Company are 24 hours per day, with a minimum target availability of 99%, excluding such time as is necessary for maintenance and development.

9 Indemnity

- 9.1 The Licensee agrees to indemnify the Company and any third-party information provider against any and all claims and expenses, including legal fees, arising from the Licensee's use of the System. This expressly includes:
 - 9.1.1 the Licensee's responsibility for any and all liability arising from the violation or infringement of proprietary rights or copyrights;
 - 9.1.2 any libellous or unlawful material contained in the content of and Web Pages.

10 Termination of Service

- 10.1 The Company may terminate the Licence and remove the Web Site at any time, without notice, for conduct that violates these Terms & Conditions or other policies or guidelines set out by the Company from time to time.

10.2 The Company may terminate the License and delete any and all content for online conduct that the Company believes is harmful to others, the business of the Company, or other third-party information providers.

11 General

- 11.1 The waiver, amendment or modification of any provision of this Agreement or any right hereunder shall not be effective unless made in writing and signed by the party against whom enforcement is sought.
- 11.2 Neither party will be liable for delays in performance or failure to meet its obligations under the terms of this Agreement due to circumstances beyond its reasonable control.
- 11.3 All notices under this Agreement shall be in writing, sent by email such address as has been most recently notified to the other party.
- 11.4 In the event that the Licensee ceases to exist, or ceases to trade for whatever reason, the License shall revert to the Licensor, in accordance with Clause 2.6, unless an alternative Licensee is found as per clause 2.4.2.
- 11.5 Where appropriate, the obligations set out in these Terms and Conditions shall survive the expiration or termination of the Agreement.

12 Law

- 12.1 The Agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the non-exclusive jurisdiction of the English courts.

13 Entire Agreement

- 13.1 This Agreement constitutes the entire agreement between the parties pertaining to their subject matter hereof, and there are no agreements in connection with such subject matter except as specifically set forth or referred to in this Agreement.
- 13.2 The Company may amend or supplement these Terms & Conditions at any time on notice to the Licensee using the most recent email address registered by the Licensee at the Company's website www.localbiz.co.uk.