# Uberall General Terms and Conditions for Business Clients

## A. Scope

1. uberall Inc. is a Delaware Corporation with its principal place of business located at 600 California Street, San Francisco, California 94108, USA (**“UB”**). The client (**"Client"**) is the company listed on the attached offer and order form (**"Order Form"**).

2. These Uberall General Terms and Conditions for Business Clients (“**T&C**”) apply to the use of the products, as listed in the Order Form, and corporate location information. They apply to the entire contractual relationship between UB and Client, thus to all services of UB and all future contracts and orders through the Client.

3. The Order Form and the T&C together constitute the entire contract between UB and Client and are hereafter jointly referred to as **"Contract"**. All appendices thereunto form an inseparable and essential component of this Contract.

4. Provisions in the Order Form may differ from the T&C, and in such cases have precedence over the T&C.

## B. Subject Matter

1. UB develops and markets a “**Location Marketing Software Platform**” that allows companies by using various functions (“**Products**”) to evaluate, publish and update their “**Location Data**”, such as their company name, address, contact details, photos, logos, on a number of different platforms and to include additional related services.

2. A single “**Location**” is defined by the fact that the following attributes are attributable to one data entry of the Client. Attributes are: name of business, name of brand, provided facility/service, address, contact information, geographical coordinates, geographical area, opening hours. (Should therefore a Client e.g. submit data for one geographic coordinate with two different names or two different brands or two different opening hours (except for special opening hours during e.g. holidays) at exactly such coordinate, then the Client has submitted data for two locations).

3. The content of the Products, UB´s services, corresponding prices and sales terms are specified in detail and agreed as binding with the Client on the Order Form.

4. An up-to-date “**Product Description**” of each Product listed on the Order Form is available at https://uberall.com/en-gb/products.

5. Updates or adjustments of individual Product and performance components, e.g. due to a new legal situation, changed laws or the discontinuance of services rendered by publication partners, are permitted during the Term of the Contract and shall be published in due time.

## C. Service obligations of UB

1. The general obligations incumbent on UB result from the Order Form in conjunction with the product descriptions.

2. UB's performances include economically expedient measures aimed at making the Location Data received from the Client (Section D) available to third parties (“**Publication Partners**”) for publication purposes. UB ensures that Location Data will be processed as optimally as the Publication Partner makes possible.

3. The list of Publication Partners will be individually selected and agreed between Client and UB in the “**Product Plan**”. The list may be changed by UB at any time. UB will take into consideration Clients interests before effecting any changes to the list of Publication Partners. Client's claims against UB for damages or reduction are excluded in this regard.

4. UB will, at its own cost, warrant that the rights to use the Products are sustained for the term of the Contract in as far as it, at its sole discretion, deems such course of action economically feasible and reasonable. To this end, UB will

use such Location Data in separate files, tools and other related products as well, as long as this is necessary, advisable, or helpful, in fulfilling their service obligation.

**D. Transmission of Location Data: Platform and API**

1. UB provides a "**Platform**" and/or Application Programming Interface ("**API**") to the Client: The Client will use them to transmit all relevant Location Data (transmission in a format specified by UB) in accordance with the Scope and specifications provided for in the Contract.

2. The Platform is subject to continuous improvement and adjustment. All key functions offered by the Platform are accessible via the API.

3. UB ensures that Client can add, alter or delete Location Data via the API or Platform at any time during the Contract term.

4. If agreed in the Order Form, UB shall alter and add locations to the Platform and render additional administrative services for Client.

E. **Obligations of Client / Cooperation**

1. Client shall provide UB in advance with all Location Data, documents, information and materials they need to perform the agreed services. In doing so, Client shall ensure that the transmitted Location Data, documents, information and materials are applicable and free of errors. Any liability on the part of UB for processing any erroneous information, documents or materials is excluded.

2. The Client acknowledges and agrees that the publication and all Location Data are subject to the character restrictions, quality standards and other applicable content requirements of the Publication Partners, and that such contents may be fully or partially declined or modified at any time at the sole discretion of a Publication Partner in order to render them compliant with these requirements. Possible reasons may, without limitation, include: (i) insufficient space, (ii) non-applicability of the Location Data for the Publication Partner's application, (iii) the use of location sources other than from UB by the concerned Publication Partner, (iv) the publication and update cycle of a Publication Partner, (v) potential problems on the part of UB in geocoding the entirety of Location Data and (vi) modification of the design and/or positions of a placement of Client content. The Publication Partners may in some cases require the Client to verify the Location Data (e.g. by mail or over the telephone requiring entry of a PIN number) prior to publication.

**F. Assignments of rights**

1. UB grants the Client a non-exclusive and non-assignable right of use to the Products and associated functionalities it has developed and made available to the Client.

2. Prior to publishing the Location Data, the Publication Partners require UB to grant certain rights in relation to the location data processing as well as title in said data. UB therefore requires the Client to assign the following rights to UB:

a. The Client guarantees (i) it has the power and authority to enter into this Contract and to grant UB and its affiliates the rights granted herein; (ii) that it will only transmit Client's Location Data that are managed by it or belong to it, (iii) that it is authorized to use the Location Data for this purpose, (iv) that it is authorized to disclose the Location Data to UB and its Publication Partners, (v) that the Location Data will not contain any viruses, spyware or other harmful code or materials, (vi) that the Location Data constitutes a "primary" source of the Client's own business listings data, i.e., it originates or is derived directly from the Client, versus being derived from any secondary or aggregated sources; and/or be officially approved in writing by the Client as an official source of Client's business listings data, (vii) that the Client's Location Data will not contain any data, code or other materials that are subject to a GPL (GNU Public License) or LGPL (Lesser GNU Public License) license, ODbL (Open Database license), or any other license, that would impose obligations on UB or an Uberall affiliate to distribute or disclose any data or software with which the Location Data is combined or to permit third parties to reverse engineer or replace any portions of any data or software with which Location Data is combined, that would require UB or an Affiliate to license patent rights to any party, or that would impose any other obligation or limitation on UB or an Affiliate not expressly set forth in this Contract, (xi) that the Location Data are current and accurate and that they are not pornographic, unlawful, harassing, defaming, offensive or

in any other way inappropriate, that they do not glorify violence, are not harmful for underage persons and that they do not violate the rights of third parties. If a legal breach or violation of common decency is present or possible, UB is authorized to refuse to process this information or these materials. UB shall inform Client thereof.

b. The Client grants UB and its affiliated companies a global, non-exclusive, transferable and gratuitous right (i) to collect, combine or modify the Location Data sent to the UB database, or to augment them with other data received by UB or its affiliated companies; (ii) to use the Location Data anonymously for UB-internal purposes, (iii) to distribute, promote and advertise Products that contain anonymous Location Data, (iv) to disclose the Location Data and/or works derived from them to its Publication Partners (directly or via a sales chain) and (v) to indirectly grant use of the Location Data to the clients of the Publication Partners via arrangements with the latter. This assignment of rights does not extend to a disposal or other sales of client materials made available and UB is expressly prohibited from doing so.

c. A deletion, addition or modification of Location Data by the Client will not affect the (sub)license UB has granted to its Publication Partners or its clients, provided such deleted, added or modified Location Data was used by said Publication Partner and/or its clients. The Client hereby acknowledges and agrees that UB is under no obligation to ensure the deletion of the concerned Location Data from any products, systems or devices that are under the control of the contracting party, its Clients or a third party after the Location Data (or a part of the Location Data) has been used by a Publication Partner and/or one of its clients, and that it is neither required to ensure a non-modification or non-usage of the concerned Location Data by such Publication Partner, its clients or a third party. To comply with data protection legal standards, UB will inform all Publication Partners in the event of a termination of the Contract with the Client and/or should the Client wish to remove any personally identifying information or other information related to data protection.

d. UB is granted a right of use to the Client's brand(s) as reference Client(s) for marketing purposes and written sales presentations and make use of the Client's brand names/company name and logo for these purposes. This includes, among others, the UB website and blog, marketing materials, event and exhibition booths, PR and social media activities as well as advertising materials for sales partners. Client further consents to the publication of a company success story and a reference statement (a quote) from Client. These will both only be published with the Client's approval. Client may fully or partly rescind its approval at any time and without stating reasons.

3. Except as expressly set forth herein, neither Party makes any warranties, whether express, implied, statutory or otherwise, including but not limited to warranties of merchantability, fitness for particular purpose or noninfringement.

**G. Payment Terms**

1. In the Order Form, the Client and UB agree on a guaranteed monthly "**Location Fee**". The monthly Location Fee exclusive of taxes is calculated for each location. The Location Fee will depend on the Product, as agreed in the Order Form.

2. In the Order Form, UB and the Client can agree on a fee for a monthly **"Minimum Volume**" of locations (**"Basic Fee"**) during the Contract term and the extension periods to be charged. The Basic Fee is calculated by multiplying the number of an agreed monthly Minimum Volume of locations with the Location Fee.

3. If the number of locations in any given month is less than or equal to the agreed monthly Minimum Volume, the Client pays the Basic Fee. If the number of locations in any given month is higher than the agreed monthly Minimum Volume, the Client pays the Basic Fee plus the Location Fee per location exceeding the Minimum Volume ("**Total Location Fee**"). The fees cannot be refunded.

4. Additionally, if agreed in the Order Form, UB may charge a one-time fee after access has been set up ("**Setup Fee**").

5. Unless otherwise agreed in the Order Form, UB will invoice the amount of applicable fees by the 15th day of the following month. The amount shown on the invoice is due immediately upon receipt of the invoice and must be paid within thirty (30) days of receipt of the invoice, unless otherwise agreed.

6. If no other payment method has been agreed upon, payments to UB are to be made by bank transfer to the bank account designated by UB. Other payment methods can be individually selected after the Contract is concluded. Any fees which may arise in connection with the Client paying UB shall be paid by the Client.

7. All payments must be in the net invoice amount, deductions are not permitted.

8. Should the Client fail to make timely payments as set forth herein, UB may: (i) impose a service charge on the unpaid balance at One Point Five Percent (1.5%) per month (i.e. 18 % per annum), or the maximum rate permitted by law, from the then current due date until the invoice and all service charges thereon have been paid in full. If allowed by applicable law, Client shall also pay on demand any costs incurred by UB (including reasonable attorney's fees and legal expenses) in connection with the collection of any amounts due from Client to UB which are not paid as agreed herein; (ii) refuse to take any further actions under the Contract until the amount due has been fully paid; and/or (iii) treat the failure of the Client to make payments as a repudiation of the Contract by the Client if the amount due remains unpaid after providing seven (7) days' notice to the Client of such breach and an opportunity to rectify the breach. Such repudiation shall entitle UB to elect, without prejudice to any other rights of UB, to terminate the Contract in whole or in part (including any order or part thereof) and, in either case, to recover damages for the breach of the Contract.

**H. Liability**

1. Each Party shall only be liable for misconduct, acts of intent or gross negligence. Such limitation of liability shall not apply (i) if a Party has issued a guarantee, (ii) when violating material obligations that are of essence to the other Party and that the other Party can generally rely on, (iii) if personal and/or physical injuries occur, (iv) to defaults or impossibilities on the part of a Party. When violating a material obligation out of any but gross negligence, the violating Party shall only be liable for the damages that are typical for this agreement. Beyond that, each Party shall in no event be liable for any consequential damages of the other Party, such as lost profit, unrealized cost efficiencies or reductions and/or other indirect damages, except for cases of intentional breach. Any limitation of liability of each Party shall also apply to its employees, subsidiaries, representatives and agents.

2. UB shall not be held liable in cases of defective performance related to the respective Products that were fully or partly caused by wrong or inadequate handling of the Product by the Client. This is, for example, the case where a performance completed by UB is only activated by a manual operation performed by the Client.

3. The Client shall indemnify UB against claims asserted by third parties on grounds associated with the publication of Location Data delivered by the Client. The Client shall compensate UB for all damages and costs incurred in relation to such claims (including the costs incurred for enforcing its rights) insofar as UB has correctly processed the Location Data in the meaning of the Contract and the claims are asserted on the grounds of the Client infringing against the guarantees stipulated above. The Parties shall immediately inform each other of such a claim. If Client or UB faces such a claim, or if Client believes the Corporate Location Data could violate third-party intellectual property rights. Client shall immediately procure at his expense (i) the usage rights to the Corporate Location Data for UB, the Publication Partner and their clients, or (ii) delete, replace or alter the data in question so that they no longer violate any rights.

4. Client is aware that it is impossible, even with state-of-the-art technology, to create software which can work without error in all applications and combinations. In the event of a technical performance failure, UB shall attempt to rectify the disruption with normal commercial prudence.

**I. Term**

1. The Term and renewal and termination provisions are stated in the Order Form.

2. The right to terminate the Contract for good cause and without adhering to a termination notice period remains without prejudice. Each Party may, for example, terminate the Contract without adhering to a termination notice period if the other Party modifies its business model in a significant way that affects this Contract or if insolvency proceedings are opened over a party's assets or an application is made for such proceedings.

**J. Confidentiality**

1. "**Confidential information**" means this Contract, all information relating to UB, the Clients, as well as their business partners and all confidential information that was disclosed in circumstances that would cause a reasonable person to assume they are of a confidential nature, regardless whether the information is disclosed orally, figuratively, in writing or on another type of media. The Parties shall not disclose any Confidential Information without the prior written consent of the other Party. This includes the use of logos and names in publications for marketing or advertising purposes.

2. The obligation to confidentiality will continue to bind both Parties for a term of two (2) years after this Contract has terminated.

**K. Transfer**

1. Client hereby agrees that upon prior written notification UB can fully or partially transfer, re-establish, forward or otherwise dispose of their rights and obligations under this Contract, and release themselves from same, to any partner company of UB, any company which UB takes over completely or essentially, or any legal successor if UB is merged or acquired, provided that UBs legal successor ensures Client in writing that they are obligated by the provisions under this Contract. The term "Partner Company" here means any company which controls another company or is jointly controlled by it. The terms "control" and "controlled" mean the legal, usufructuary or equitable ownership, whether direct or indirect, of more than 50% of the entire voting rights in the company.

2. Client shall not assign any of its rights under the Contract, except with the prior written consent of UB. The preceding sentence applies to all assignments of rights, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law or any other manner. Any change of control transaction is deemed an assignment hereunder. Any purported assignment of rights in violation of this Section K (2) is null and void.

**L. Miscellaneous**

1. Unless notice specifically allows email as provided in such section, all communications or notices required or permitted by the Contract shall be in writing and shall be deemed to have been given (i) on the date of personal delivery to an officer of or personally to the other Party, or (ii) the day following deposit when properly deposited for overnight delivery with a nationally recognized commercial overnight delivery service, prepaid, and addressed as provided in the Contract, unless and until either of such Parties notifies the other in accordance with this Section L (1)) of a change of address.

2. No waiver by UB of any of the provisions of the Contract is effective unless explicitly set forth in writing and signed by UB. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Contract operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

3. Certain provisions set forth herein, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of the Contract, including but not limited to Sections H and J.

4. The Contract is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Contract.

5. Should any provision of the Contract be deemed incomplete, legally invalid or unenforceable, such provision may be severed from the Contract and be replaced by as closely an equivalent effective provision as possible. The remaining terms of the Contract shall remain in full force and effect.

6. UB shall not be held responsible for failure to perform or delay in performing any of its contractual obligations if such failure or delay is due to unforeseeable events beyond UB's reasonable control ("Force Majeure"), including but not limited to acts of God, war, insurrection, epidemics, sabotage, labor disputes, strikes, lock-outs, shortage in material or energy, acts, orders or priorities of any government, embargo and any other cause whether arising from natural causes, human agency or anything beyond the reasonable control of UB. UB shall notify the Client in writing within one

(1) week following the occurrence of any event of Force Majeure citing this Section in said notice and shall supply all relevant information about its effects on the performance of the Contract. In case the duration of Force Majeure exceeds six (6) months, the Parties will have the right to terminate the Contract immediately. Contractual obligations performed up to such date of termination shall be remunerated.

7. Any claims, disputes or controversies arising between the Parties hereunder shall be governed by and construed in accordance with the internal laws of the State of Delaware, without regard to conflicts of laws that would require the application of the laws of another jurisdiction.

8. The Parties shall attempt to resolve any dispute, controversy, or claim arising under or relating to the Contract, or to a material breach, including its interpretation, performance, or termination. If the Parties are unable to resolve such dispute, either party may refer the dispute to arbitration. The arbitration shall be conducted in accordance with the Commercial Rules of the American Arbitration Association, which shall administer the arbitration and act as appointing authority. The arbitration, including the rendering of the decision and/or award, shall take place in San Francisco, California, and shall be the exclusive forum for resolving the dispute, controversy, or claim. The arbitrator shall make the final determination as to any discovery disputes between the Parties. The award or decision of the arbitrator shall state the reasons upon which the award or decision is based and shall be final and binding upon the Parties. The prevailing party shall be entitled to compensation for the expense of the arbitration, including, but not limited to, the award of reasonable attorneys' fees, at the discretion of the arbitrator. Both Parties waive their right to any appeal under any system of law. The award shall be enforceable before any court of competent jurisdiction upon the application to such court by either Party. The arbitrator shall have no authority to award any of the types of damages excluded by hereunder and shall be so instructed by the Parties.

9. Notwithstanding Section K (8), the Parties agree that if any term, condition, obligation or restriction in this Contract is breached and that the damages to the aggrieved Party are difficult or impossible to ascertain or quantify, the aggrieved Party shall be entitled to injunctive or other equitable relief, in addition to any other remedies which said Party may have at law.

10. UB reserves the right to amend these Terms and Conditions at its sole discretion at any time if adhering to a reasonable notice period of at least four (4) weeks. If Client makes no objection within four (4) weeks after notification or publication, the amended Terms and Conditions are deemed accepted. The notification of the amendment will contain separate reference to the significance of this four-week notice period. If Client objects to the amended Terms and Conditions in a timely manner, UB is entitled, under consideration of Client´s justified interests, to terminate the Contract with the Client existing at the time at which the amendment enters into force; otherwise, the contractual relationship based on the previous Terms and Conditions remains in existence.