

Native App Terms and conditions

Please read these Terms and Conditions (these "Terms") carefully. All Services provided by Provider to Customer shall be governed by these Terms and Conditions.

1. Definitions

1. As used in these Terms, the following terms shall have the meanings given to them below. Other terms are defined in other sections of these Terms. Such other defined terms are identified by being in bold text and flanked by quotation marks. Such other terms shall have the meanings so assigned to them whenever used in these Terms.

"Acceptable Use Policy" means Provider's then current Acceptable Use Policy available at <https://luckyscannabis.com/faq/> and attached hereto as Schedule A.

"Account(s)" means the Customer account(s) enabling a person to access and use the Services, including both administrator accounts and user accounts.

"Affiliate" means any entity that is controlling, controlled by, or under common control with a party, in each case where the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract interest or otherwise.

"Agreement" means these Terms together with all Service Orders and Supplemental Terms for Services governed by these Terms or that otherwise reference these Terms and that are entered into between Provider and the Customer.

"Business Day" means any weekday other than a bank or public holiday in The United States of America.

"Business Hours" means the hours of 09:00 to 21:00 EST on a Business Day.

"Charges" means amounts charged by Provider to Customer for the Services in accordance with the Agreement.

"Customer" means the person or entity identified as such in the Services Order Form.

“Customer Data” means all data, works and materials, including Customer Personal Information: uploaded to or stored on the Hosted Services by the Customer; transmitted by the Hosted Services at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Hosted Services; or generated by the Hosted Services as a result of the use of the Services by the Customer (but excluding anonymized customer data where no personal identifiable information is available to the viewer, analytics data and anything relating to the use of the Hosted Services and server log files).

“Customer Personal Information” means any Personal Information that is processed by the Provider on behalf of the Customer pursuant to these Terms.

“Data Protection Laws” means all applicable laws relating to the processing and/or protection of Personal Information.

“Documentation” means the documentation for the Services produced by Provider and delivered or made available by Provider to Customer.

“Effective Date” means the date on which Provider sends an order confirmation to Customer following Customer’s acceptance of these Terms via the self-service sign-up or as otherwise agreed by the parties in writing.

“Federal Cannabis Law” means federal laws of the United States regulating marijuana or cannabis as included on Schedule 1 under the United States Controlled Substances Act, including any such federal laws of the United States pertaining to manufacturing, distributing, dispensing or possession of marijuana or cannabis.

“Hosted Services” means the Services provided by Provider to Customer through Lucky’s web-based portal made available by Provider to Customer as a service via the internet in accordance with the Agreement.

“Intellectual Property Rights” means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, or otherwise under or related to any patent, copyright, trademark, business names, trade names, know-how, trade secret, database protection, or other intellectual property laws, and all similar or equivalent rights or forms of protection, including but not limited to any application or right of application for such rights.

“License Fees” means all of the recurring license fees, software license fees, per store license fees, license and support fees, or any similar fees for access to the Services as

more particularly described on the applicable Service Order; except that License Fees shall not mean or include any messaging, message segment, SMS usage, phone, email or variable carrier fees charged on a per use basis.

“Mobile App” means the mobile application known as the Lucky’s Native App Extension if or when such application is made available by Provider through mobile app stores.

“Personal Information” means any information relating to, capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular natural person or household, including, without limitation, any inferences drawn therefrom or derivatives thereof, or any other information that is regulated as “personal data” or “personal information” under applicable law.

“Provider” means Lucky Pablo, Inc. a corporation incorporated in Michigan having its principle office at 24655 Southfield Rd. Ste. 210, Southfield MI 48075.

“Sensitive Personal Information” means any of the following: (i) credit, debit or other payment card data subject to the Payment Card Industry Data Security Standards (“PCI DSS”), or other financial account numbers or credentials; (ii) patient, medical or other protected health information regulated by the Health Insurance Portability and Accountability Act (“HIPAA”); (iii) social security numbers, driver’s license numbers or other government ID numbers; (iv) any information deemed to be “special categories of data” of an EU resident (as defined in European Union Regulation 2016/679); or (v) other personal or sensitive information subject to regulation or protection under the Gramm-Leach-Bliley Act, Children’s Online Privacy Protection Act or similar foreign or domestic Laws.

“Service Order” means any order for Services placed by Customer via the self-service signup form located at <https://luckyscannabis.com/rewards/> and accepted by Provider as evidenced by the order confirmation sent by Provider to Customer and any other written order for Services placed by Customer and accepted in writing by Provider.

“Services” means any services that the Provider provides to Customer, or has an obligation to provide to the Customer, under the Agreement, which may include Hosted Services, Supplemental Services, and Support Services.

“Support Services” means those support services made available by Provider in relation to the use of, and the identification and resolution of errors in, the Hosted Services or Supplemental Services, but shall not include the provision of training services.

“Supported Web Browser” means the current release from time to time of Mozilla Firefox, Google Chrome or Apple Safari, or any other web browser that the Provider agrees in writing shall be supported.

“Term” means the period commencing on the Effective Date and continuing until termination of the Agreement in accordance with Section 18.

2. Hosted Services

1. Subject to Customer’s compliance with the Agreement, Provider hereby grants to the Customer a non-exclusive license to use the Hosted Services by means of a Supported Web Browser during the Term. Provider shall use commercially reasonable efforts to maintain the availability of the Hosted Services to the Customer at the gateway between the public internet and the network of the hosting services provider for the Hosted Services, but does not guarantee 100% availability.

2. Except to the extent expressly permitted by the Agreement or as otherwise required by law, the license granted by Provider to Customer under Section 2.1 is subject to the following additional prohibitions and limitations:

(a) Customer shall not sub-license its right to access and use the Hosted Services, except that the foregoing restrictions shall not prohibit Customer from providing access to the Hosted Services to any Authorized User properly authorized in accordance with these Terms.

(b) Customer must not permit any unauthorized person to access or use the Hosted Services;

(c) Customer must not use the Hosted Services to provide services to third parties;

(d) Customer must not republish or redistribute any content or material from the Hosted Services;

(e) Customer must not make any alteration to the Hosted Services, except as permitted by the Documentation;

(f) Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Hosted Services or impairs the availability or accessibility of the Hosted Services;

(g) Customer must not use the Hosted Services in any way that is unlawful, illegal, fraudulent, or harmful, or in connection with any unlawful, illegal, fraudulent, or harmful purpose or activity;

(h) Customer must not conduct or request that any other person conduct any load testing or penetration testing on the Hosted Services; and

(i) Customer must not reverse engineer the Services and/or any Hosted Services technology.

3. Customer shall use reasonable efforts, including implementing and maintaining reasonable security measures relating to administrator Account access details, to ensure that no unauthorized person may gain access to the Hosted Services using an administrator Account.

4. Customer must comply with Acceptable Use Policy and must ensure that all persons using the Hosted Services for or on behalf of the Customer or by means of an Account comply with the Acceptable Use Policy.

5. For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code, and source code) of the Hosted Services, either during or after the Term.

3. Customer Data

1. Customer hereby grants Provider a limited, non-revocable, non-transferable right and license to receive, store, process, and transfer the Customer Data solely as permitted under these Terms. Provider and its authorized agents, employees, and subprocessors acting under the authority of the Provider shall process Customer Data, including Customer Personal Information solely (i) for the purpose of providing the Services and as otherwise permitted under these Terms, (ii) as specifically instructed by Customer in writing or by the Customer creating a digital request to transfer or send data via the Services to any outside party or connected integration vendor, (iii) in accordance with any Service Order or Supplemental Services that specifically contemplate or require additional processing or sharing, or (iv) as required to do so by applicable law, including Data Protection Laws, to which the Provider is subject (in which case, the Provider shall notify the Customer of that legal requirement before such processing, except as otherwise prohibited by law). Notwithstanding the foregoing, the

Provider may also process Customer Data and Customer Personal Information for data security purposes and for internal commercial use, including the development of anonymous analytics, statistics and log data that may be published, sold, or otherwise shared (such data, "Analytics Data"), but Provider may not sell any Customer Personal Information. For the avoidance of doubt, Provider will not disclose such Analytics Data to third parties except as authorized hereunder. Such Analytics Data sold or processed by Provider may include product and store level sales information (for example, price and volume) of Customer. Customer may elect to opt-out of the sale (but not the processing) of any Analytics Data identifiable to Customer and/or its stores by selecting the appropriate setting in the Hosted Services for any such selling of Analytics Data after the date of such opt-out. Subject to any such opt-outs, Customer hereby grants Provider an unlimited, non-revocable, transferable license in and to any and all the Analytics Data for use by Provider for any and all purposes.

2. Provider will make commercially reasonable efforts to ensure that Customer Data is made available to Customer, either through the Hosted Services or upon Customer's written request to Provider no later than sixty (60) days prior to the termination of these Terms if such Customer Data has not otherwise been made available. Any such Customer Data made available by Provider pursuant to this section shall be in any format as reasonably determined by Provider. Provider shall have no obligation to store or make available any Customer Data more than ninety (90) days from the termination or expiration of these Terms or any applicable Service Order, whichever occurs earliest.

3. The Customer warrants to the Provider that the Customer Data will not infringe the Intellectual Property Rights or other legal rights of any person and will not breach the provisions of any applicable law, statute, or regulation.

4. Except for the licenses provided in Section 6.1, nothing in these Terms shall be construed as granting Provider or any third party any right, title, or interest in Customer Data.

5. Each party has made and will continue to make available to the other party information that is not generally known to the public and at the time of disclosure and is identified as, or would reasonably be understood by the receiving party to be, proprietary or confidential information of the disclosing party ("Confidential Information"). Confidential Information may be disclosed in oral, written, visual, electronic or other form. Customer's Confidential Information includes Customer's (a) business plans, strategies, forecasts, projects, and analyses; (b) financial information and fee structures; (c) business processes, methods, and models; (d) director, member, manager officer, employee, customer, and company information (whether past, current or prospective);

(e) Personal Information; (f) product and service specifications; and (g) manufacturing, purchasing, logistics, sales and marketing information. The receiving party will use the same care and discretion to prevent disclosure, publication or dissemination of any Confidential Information received from the disclosing party as the receiving party uses with its own similar Confidential Information that it does not wish to disclose, publish or disseminate (but in no event, not less than a reasonable degree of care). The Provider will ensure that its personnel use Customer Confidential Information only to the extent necessary to perform its obligations under these Terms. The receiving party will be liable for any unauthorized disclosure or use of Confidential Information by any of its personnel, agents, advisors, or Affiliates. Confidential Information shall be returned or deleted within 7 days upon a party's written request.

4. No assignment of Intellectual Property Rights

1. Except as otherwise expressly stated herein, nothing in these Terms shall operate to assign or transfer any Intellectual Property Rights from Provider to Customer, or from Customer to Provider.

5. Privacy and Data Protection

1. Each party shall comply with any Data Protection Laws with respect to the processing of the Customer Personal Information.

2. Customer represents and warrants to Provider that it has the legal right to disclose all Personal Information that it does in fact disclose to Provider in connection with the Services.

3. Notwithstanding any other provision of the Agreement, Provider may process Customer Personal Information as necessary to provide any Services and to the extent that Provider is required to do so by applicable law. If Provider is required by applicable law to process any Customer Personal Information, Provider shall inform Customer of the legal requirement before processing, except as prohibited by applicable law.

4. Provider shall ensure that persons authorized to access or process such data have executed confidentiality and/or non-disclosure agreements no less protective of Customer's Personal Information than these Terms.

5. Provider and Customer shall each implement appropriate technical and organizational measures to ensure an appropriate level of security for the Customer Personal Information.

6. Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organizational measures to assist Customer with the fulfillment of Customer's obligation to respond to requests exercising a consumer's rights under Data Protection Laws.

7. Provider shall report any Data Breach to the Customer within 3 days following the Provider becoming aware of such Data Breach. "Data Breach" means any event that materially compromises the confidentiality, security, integrity, or availability of Customer Personal Information including any (i) unauthorized access, use, disclosure, modification, or destruction of Customer Personal Information or (ii) loss or misuse (by any means) of any Customer Personal Information.

8. Following any Data Breach, Provider shall make available to Customer all information necessary to demonstrate the compliance of Provider with its obligations under this Section 10 and the Data Protection Laws, including: (i) any report generated in connection with a Data Breach, (ii) the contact information of the person(s) handling any suspected Data Breach, and (iii) a description of the measures taken or proposed to be taken to address a Data Breach. Provider shall maintain compliance with industry standard information security practices, such as SOC 1 Type 2 and SOC 2 Type 1, and shall perform or have performed, at least annually, audits of Provider's compliance with such industry standard information security practices.

9. Customer specifically agrees not to use the Services to collect, store, process or transmit any Sensitive Personal Information, except as specifically agreed to in writing by the parties. Provider shall have no liability under the Agreement or otherwise for Sensitive Personal Information, notwithstanding anything to the contrary herein.

10. If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Information carried out under the Agreement, then the parties shall use their reasonable best efforts promptly to agree to such modifications to these Terms as may be necessary to remedy such non-compliance.

6. Acknowledgements and Further Warranty Limitations

1. Customer acknowledges that complex software is never wholly free from defects, errors, and bugs; and subject to the other provisions of these Terms, Provider gives no warranty or representation that the Services will be wholly free from defects, errors, and bugs.

2. Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms, Provider gives no warranty or representation that the Services will be entirely secure.

3. Customer acknowledges that the Services are designed to be compatible only with that software and those systems specified as compatible; and Provider does not warrant or represent that the Services will be compatible with any other software or systems.

4. Customer acknowledges that Provider will not provide any legal, financial, accountancy or taxation advice; and, except to the extent expressly provided otherwise in these Terms, Provider does not warrant or represent that the Services or the use of the Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

5. Violation of Federal Cannabis Laws shall not be, on its own and without connection to a violation of any other applicable law or term of the Agreement, considered a breach of these Terms, or any party's obligations hereunder, including references to applicable law and/or illegal conduct, where such party is otherwise in material compliance with all state, local, and/or Canadian provincial laws pertaining to the sale, manufacture, licensing, production, and possession of cannabis and marijuana.

7. Mutual and Special Indemnity

1. Mutual Indemnity. Each party shall indemnify, defend, and hold harmless the other party from and against any and all third-party claims, costs, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any gross negligence or willful misconduct of such indemnifying party.

2. Customer Special Indemnity. Customer shall indemnify, defend, and hold harmless Provider from and against any and all third-party claims, costs, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any Customer Data or breach or alleged breach by Customer of Section 10.9 (Sensitive Personal Information), or violation of the Acceptable Use Policy.

3. Provider Special Indemnity. Provider shall defend (or at its option settle) any third-party claim, suit or action against Customer alleging that the Services, Hosted Services, or Mobile App infringe any Intellectual Property Rights of such third party (each, an "Infringement Claim") and indemnify Customer from the resulting costs and damages finally awarded against Customer to that third party by a court of competent jurisdiction or agreed to in settlement by Provider. Customer shall (a) promptly provide Provider with notice of any Infringement Claim within a reasonable period of time after learning of it; (b) allow Provider sole control over the claim's defense and settlement; and (c) reasonably cooperate in response to Provider's requests for assistance. Customer may not settle or compromise any Infringement Claim without Provider's prior written consent. If the Services, Hosted Services, or Mobile App is or are, or in Provider's opinion likely to become, the subject of an Infringement Claim, then Provider may (i) procure for Customer, at no cost to Customer, the right to continue using the Services, Hosted Services, or Mobile App, (ii) replace or modify the infringing the Services, Hosted Services, or Mobile App to make it non-infringing, at no cost to Customer, or (iii) if the right to continue using the infringing the Services, Hosted Services, or Mobile App cannot be procured for Customer for a reasonable cost, or cannot reasonably be modified to make it non-infringing, terminate this Agreement, and refund to Customer any prepaid Fees. Notwithstanding the foregoing, Provider will have no obligation under this Section 16.3 or otherwise with respect to any Infringement Claim based upon: (1) any use of the Services, Hosted Services, or Mobile App in a manner not in accordance with the Agreement or the applicable Documentation; (2) any use of the Services, Hosted Services, or Mobile App in combination with products, equipment, or software not supplied by Provider if such infringement would have been avoided without the combination with such other products, equipment, or software; or (3) any modification of the Services, Hosted Services, or Mobile App by any person other than Provider or its authorized agents or subcontractors; or (4) any Services, Hosted Services, or Mobile App provided on a no charge, beta, trial or evaluation basis. Provider's obligations under this Section 16.3 are Provider's sole obligations and Customer's exclusive remedy for any Infringement Claim.

8. Force Majeure Event

1. If an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars) gives rise to a failure or delay in either party performing any obligation under the

Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of such event(s).

9. Assignment

1. Neither party shall assign or delegate its rights or obligations under the Agreement either in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign this Agreement, and all rights and obligations hereunder, to a successor to all or substantially all of such party's assets or voting securities, whether by sale, merger, or otherwise, provided that such assignee shall agree to be bound by the Agreement.

10. Notices

1. Any notice from one party to the other party with respect to the Agreement must be given by the following method: by email to the relevant email address specified through the Hosted Services, in which case the notice shall be deemed to be received upon receipt of the email by the recipient's email server.

11. General

1. **No Waiver.** No breach of any provision of the Agreement shall be waived except with the express written consent of the non-breaching party. The failure of a party to insist upon strict adherence to any term of the Agreement shall not be considered waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of the Agreement.

2. **Severability.** If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

3. **No Third Party Beneficiaries.** The Agreement is made for the benefit of the parties and is not intended to benefit any third party or be enforceable by any third party.

4. Complete Agreement. The Agreement, including the various components thereof and any schedules, addenda, and modifications thereto, shall constitute the entire agreement between the parties in relation to the subject matter therein, and shall supersede all previous agreements, arrangements, and understandings between the parties in respect of that subject matter.

5. Applicable Law. The laws of the State of Michigan, without giving effect to its conflict or choice of law rules, govern all matters arising under or related to this Agreement.

12. Miscellaneous

1. Customer hereby grants to Provider a limited, revocable license to use Customer's name and identifying marks in advertising Provider's Services, including through marketing activities and in marketing materials, subject to Customer's reasonable objection.

2. The Customer may not use the Services to message or otherwise send communications to individuals who are not current customers of a store currently listed as an active store of Customer in the Hosted Services or other settings page of any Services (each such store, a "Customer Store"). If the Customer messages individuals who are not customers of a Customer Store, the Customer will be in material breach of these Terms.

13. Dispute Resolution

1. If any dispute arises under or with respect to the Agreement, Provider and Customer shall first attempt to resolve the dispute through negotiation. If the parties cannot resolve the dispute after 30 days of negotiation, then the parties shall submit the dispute to binding arbitration before a single arbitrator in accordance with the American Arbitration Association's Commercial Arbitration Rules. The arbitration shall be conducted in Michigan and judgment on the award may be entered in any court having jurisdiction. Notwithstanding the foregoing or anything in the Agreement to the contrary, Provider may pursue a claim for non-payment of Charges in any jurisdiction or venue without condition or delay.

2. TO THE EXTENT ALLOWED BY LAW, (A) EACH PARTY WAIVES ANY RIGHT TO PURSUE DISPUTES ON A CLASS-WIDE BASIS, TO EITHER JOIN A CLAIM WITH THE CLAIM OF ANY OTHER PERSON OR ENTITY OR TO ASSERT A CLAIM

IN A REPRESENTATIVE CAPACITY ON BEHALF OF ANYONE ELSE IN ANY LAWSUIT, ARBITRATION, OR OTHER PROCEEDING, AND (B) WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LAWSUIT, ARBITRATION, OR OTHER PROCEEDING.

14. Amendments

1. Provider reserves the right to make changes to these Terms from time to time by providing Customer with written notice of the changes at least 20 days prior to any such changes. Such written notice shall specify the effective date of such changes (which must be at least 20 days after delivery of the notice) and Customer's continued access or use of the Services on or after the effective date of any such changes constitutes Customer's acceptance of and consent to any such changes. If Customer opposes any such changes to the Terms, Customer may terminate the Agreement effective immediately upon written notice to Provider prior to the effective date of any such new Terms.

2. Notwithstanding the foregoing, no modification of either party's respective limitations of liability or indemnification obligations hereunder shall be binding unless made in a written document that expressly identifies it as an amendment to the Agreement and is signed by each party's authorized representative.

Contacting us

If you have any questions, concerns, or complaints regarding this Agreement, we encourage you to contact us using the details below:

info@luckyscannabis.com

This document was last updated on April 5, 2022