

# Standard Terms and Conditions

1. **PARTIES**
  - 1.1. **Kantar Nigeria Limited (Registration Number RC 869906)** whose registered address is **Jehovah Shammah Court , 376, Ikorodu Road, Maryland, Lagos, Nigeria**, hereinafter referred to as **"Kantar"**.
  - 1.2. **Kantar / Firefly / Kantar Consulting / Kantar Retail / Kantar Public / Kantar Media / Kantar Vermeer Kantar Worldpanel** are trading names of Kantar under which Kantar undertakes Research or Consulting Projects for its clients.
  - 1.3. The **"Client"** is defined as the party to whom Kantar provides the Service as set out in the Proposal.
  - 1.4. Kantar and the Client will jointly be referred to as the **"Parties"** and **"Party"** will have the corresponding meaning.
2. **DEFINITIONS AND INTERPRETATION**
  - 2.1. In these Terms, unless the context indicates otherwise:
    - 2.1.1. **"Acceptance"** means written acceptance of a Proposal by the Client.
    - 2.1.2. **"Confidential Information"** in the context of this Contract, means all information, data or material of whatsoever nature, in any form, which either Party discloses to the other pursuant to this Contract, including any Proposal and anything the receiving Party creates that is derived from, or based upon, the information, data or materials disclosed to it by the disclosing Party. Without limiting the generality of the above, this includes any and all business secrets or confidential information relating or belonging to either Party including, but not limited to, information about sales or marketing plans, business plans, financial information, delivery schedules, designs, drawings, technical specifications, performance data, manufacturing techniques, know-how, technology, information relating to intellectual property rights, any source code or object code or other software of any nature whatsoever, any information obtained through inspection of products, components or apparatus developed or manufactured by or on behalf of either Party or from instructions for use, servicing or repair of products or components. It does not include any information or materials that: (a) are in or enter into the public domain (other than as a result of disclosure by the receiving Party or any third party to whom the receiving Party disclosed such information); (b) were already in the lawful possession of the receiving Party prior to the disclosure; (c) are subsequently obtained by the receiving Party from a third party who is free to disclose them to the receiving Party; or (d) are required to be disclosed by law or regulatory authority.
    - 2.1.3. **"Contract"** means the contract entered into between the Client and Kantar and that incorporates these Terms together with the Proposal. In the event of conflict between these Terms and those in the Proposal, the provisions of these Terms will prevail, unless the Parties have agreed otherwise in writing.
    - 2.1.4. **"Data Protection Laws"** means all local data protection laws and regulations, in addition to the laws and regulations of the Republic of South Africa, the European Union ("EU"), the European Economic Area ("EEA") and their member states, Switzerland and the United Kingdom, applicable to the Processing of Personal Data under the Agreement, including POPIA and GDPR.
    - 2.1.5. **"Deliverables"** means the reports, dashboards, survey results, data, summaries, comments, discussion, analysis and other results to be provided by Kantar to the Client in fulfilment of the Project.
    - 2.1.6. **"Fee"** means the remuneration to be paid by the Client to Kantar for the Project for the provision of Services and/or Deliverables as set out in the Proposal.
    - 2.1.7. **"GDPR"** means EU General Data Protection Regulation 2016/679.
    - 2.1.8. **"Intellectual Property Rights"** means copyright, database rights, trademarks, trade or business names, service marks, registered and unregistered designs, patents and/or know-how, rights in Confidential Information and any other intellectual property rights whatsoever, irrespective of whether such intellectual property rights have been registered or not, which may subsist in any part of the world.
    - 2.1.9. **"JCF"** means a Kantar Job Confirmation Form relating to a Project to be undertaken (see Proposal).
    - 2.1.10. **"Kantar Group Companies"** means Kantar Group Ltd and any parent undertaking of Kantar Group Ltd, and any undertaking that, in relation to Kantar Group Ltd and/or any parent undertaking of Kantar Group Ltd, is a subsidiary undertaking from time to time.
    - 2.1.11. **"MSA"** means a Master Service Agreement concluded between the Parties.
    - 2.1.12. **"POPIA"** means the Protection of Personal Information Act - Act No 4 of 2013 (Republic of South Africa).
    - 2.1.13. **"Project"** means the Qualitative or Quantitative Research Projects to be undertaken by Kantar, made up of the Services and/or Deliverables and all work to be undertaken by Kantar in accordance with a Proposal that has been accepted by the Client.
    - 2.1.14. **"Proposal"** means a document that sets out the proposed scope, duration, cost and other key aspects of a Project that Kantar has offered to provide for the Client and that has been given to the Client by Kantar for the Client's consideration. The Proposal may take the form of a JCF and this definition should be read to explicitly include that format.
    - 2.1.15. **"Public Statement"** means any advertising, marketing material, press releases or the like made in the public space.
    - 2.1.16. **"Respondent"** means any individual or organisation from whom any information is sought by Kantar for the purpose of the Project.
    - 2.1.17. **"Service"** means the Custom Research Service and/or Multi-Customer Service and/or Tracking Study (as the case may be) to be provided to the Client as specified in the Proposal or other document agreed between the Parties.
      - 2.1.17.1. **"Custom Research Service"** means the bespoke research studies designed specifically for the Client that are carried out on a case-by-case basis by Kantar.
      - 2.1.17.2. **"Multi-Customer Service"** means the non-Custom Research Service or non-bespoke continuous market research service provided by Kantar to one or more clients, including without limitation, any syndicated service.
      - 2.1.17.3. **"Tracking Study"** means a Quantitative Research Project that provides periodic updating of the Client and its competitors' performance on specified criteria, such as brand health.
    - 2.1.18. **"Tax"** means all forms of tax, charge, duty, withholding, deduction, rate, levy and governmental charge (whether national or local) in the nature of tax whatsoever and whenever created, enacted or imposed by any governmental, provincial, local municipal or other body, together with all related fines, penalties, interest, charges and surcharges.
    - 2.1.19. **"Terms"** means the terms and conditions contained herein, to the exclusion of any other terms and conditions purported to be applicable to the relationship between the Parties.

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- 2.1.20. **“Test Materials”** means any information, products, samples, prototypes or other materials of the Client’s, as well as any relevant third-party information, samples or materials.
- 2.2. In these Terms, unless the context indicates otherwise:
- 2.2.1. reference to the singular includes plural and vice versa;
  - 2.2.2. reference to the masculine gender includes the feminine gender and vice versa;
  - 2.2.3. references to persons will include natural and juristic persons;
  - 2.2.4. references to writing will include email, unless expressly stated otherwise;
  - 2.2.5. references to either Party will include such Party’s successors-in-title or permitted assigns or if such Party is liquidated or sequestrated, be applicable to and binding upon that Party’s liquidator or trustee, as the case may be; and
  - 2.2.6. reference to an enactment will mean to that enactment as it is in force at the date of signature hereof, and as it is amended or re-enacted from time to time.
- 2.3. When a number of days is prescribed in the Terms, they must be determined exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in South Africa, in which case the last day will be the next succeeding day which is not a Saturday, Sunday or public holiday in South Africa.
- 2.4. The headings used in these Terms are not to be part of the Terms, and will not be taken into consideration in the interpretation or construction of these Terms.
- 2.5. Terms other than those defined in Clause 2.1 above will be given their plain English meaning. Any terms, acronyms, and phrases that are known in the industry will be interpreted in accordance with their generally accepted meanings.
- 2.6. The rule of construction that an agreement will be interpreted against the Party responsible for the drafting or preparation of the contract will not apply.

## 3. CONTRACT

- 3.1. Unless otherwise agreed in writing, this Contract will apply to all Services and Deliverables provided by Kantar to the Client.
- 3.2. These Terms, together with the Proposal to which they are attached, will constitute the entire Contract between Kantar and the Client and will supersede all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Contract. Any alteration to these Terms or to the Proposal must be agreed by Kantar and the Client in advance in writing. Any such alteration may lead to re-appraisal by Kantar of any agreed timetable and/or the Fee quoted in the Proposal. The Parties agree that any terms and conditions contained in any purchase order, works instruction or any other form issued by the Client will be disregarded and will not apply to any Project to be undertaken by Kantar for the Client in accordance with this Contract.
- 3.3. Should an MSA exist between these parties, this Contract will be read with the MSA. In the event of a conflict between the provisions of this Contract and the provisions of the MSA, the provisions of the MSA will prevail.
- 3.4. A Proposal will be valid for Acceptance for two (2) calendar months from the date the Proposal was issued to the Client, unless an authorised representative of Kantar has confirmed an extension to the validity period in writing, in which case the Proposal will remain open for acceptance until such extended validity period expires. Kantar will be entitled to withdraw a Proposal at any time and in such circumstances, it will immediately cease to be open for Acceptance.
- 3.5. The Client will be deemed to have accepted the Proposal by either: (i) notifying Kantar in writing that it has accepted the Proposal; or (ii) otherwise notifying Kantar in writing that it wishes Kantar to commence provision of the Service (including, without limitation, by issuing a purchase order in respect of the Service or any part thereof).

## 4. PAYMENT OF FEES

- 4.1. Unless otherwise specified, the Fee is a fixed lump-sum price and is quoted excluding Value Added Tax. Where required by law, VAT will be chargeable in addition to the Fee.
- 4.2. Unless otherwise agreed in writing, payment of the Fees will be 60% (sixty percent) on the date of Acceptance and the balance on completion of the Services (including final delivery of the Deliverables.) If a Service is to be carried out in stages (e.g. Tracking Studies), with interim Deliverables, final invoices for each stage will be raised on delivery of the relevant interim Deliverables.
- 4.3. All invoices will be due on the invoice date and will be subject to payment within 30 (thirty) days. Any payment after the expiration of this 30-day period will be subject to interest at the ruling prime overdraft rate of Kantar’s bankers from time to time, calculated daily, from the due date to the date when Kantar receives full payment. The Client will pay the interest promptly on demand and Kantar reserves the right to suspend work on a Project until payment of any outstanding amounts is made.
- 4.4. Kantar will be entitled to recover reimbursable expenses incurred pursuant to the provision of the Services, unless such expenses have been included in the Fees.
- 4.5. Invoices will be paid in the currency in which they are issued.
- 4.6. Unless expressly stated otherwise, the Fee in any Proposal is denominated in Nigerian Naira. If the Proposal specifically involves a currency other than Nigerian Naira, then the proposed Fee is subject to exchange rate movements prior to execution of the Contract and up to 1 (one) banking day thereafter. Should delay or other factors affect this procedure and involve Kantar incurring additional expenses that are not envisaged at the time of formation of the Contract, Kantar is entitled to pass on the extra expenses to the Client, which extra expenses will be confirmed by Kantar to the Client from time to time in writing and added to the next invoice issued by Kantar.
- 4.7. The level of the Fee assumes that payments to Kantar will be made free and clear, and without deduction or withholding or any other foreign Tax levied in any country from which payment is made, other than within the country in which Kantar resides. Should any such foreign Tax arise, then the Fee will be increased to the extent that it reflects the amount that would have been payable by the Client to Kantar had any sums not been deducted or withheld in respect of such Taxes. The Client and Kantar agree that where a Double Taxation Agreement may reduce either Party’s liability to pay a withholding Tax, they will co-operate and take reasonable steps so as to mitigate the withholding Tax liability for the relevant Party.

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## 5. CHANGE, DELAY OR CANCELLATION

- 5.1. If the Client requests changes to the Project (including timing), Kantar reserves the right to revise the Proposal including, without limitation, adjusting the Fees accordingly.
- 5.2. Kantar will use all reasonable endeavours to provide the Services, and to deliver any Deliverables, in accordance with the estimated timings set out in the applicable Proposal. However, Kantar will not be liable for any failure to adhere to the quoted timings or for any resultant loss or damage suffered by the Client, caused directly or indirectly by any act or omission of the Client and/or of any third party for whom Kantar is not contractually responsible hereunder. Furthermore, Kantar will not be liable for any damage, loss or expenses whatsoever arising out of any failure to complete any Project as a result of any cause or factor outside the direct control of Kantar (including, but not limited to: (i) adverse weather conditions, natural disasters, pandemics or other acts of God, (ii) action of any governmental or military authority, or any rules, regulations or orders thereof, (iii) accidents, acts of the public enemy, terrorist acts, war, rebellion, insurrection, riots, strikes, or lockouts, or (iv) blackout, website failure or unavailability caused by telecommunication, internet or other technical malfunction or postal delay).
- 5.3. The Client will be responsible for promptly complying with all requests for information or approval to assist Kantar in complying with any required timescale.
- 5.4. If a Project is shortened, delayed, cancelled or terminated early by the Client, the final invoice will include the balance of the Fees for providing the Service plus any reasonable costs and expenses incurred by Kantar due to the Client's acts or omissions together with all non-cancellable third party costs that Kantar has committed to as a result of the Contract that are not able to be cancelled. For example, the Client shall be liable for the costs and expenses incurred by Kantar for pre-booked fieldwork, which is delayed, not used or not fully used by reason of the Client's acts or omissions. In addition, a cancellation fee of a minimum of 25% (twenty five percent) of the difference between the total amount billed above and the full Project price will be charged.
- 5.5. Kantar reserves the right to charge for additional unforeseen expenses incurred as a result of matters beyond its control including, but not limited to: the enactment of any law or any order, regulation or by-law having the force of law that will be applicable to the Contract, enacted after the date of the Contract; taxes or duties; war; civil disturbance; strikes or capricious behaviour of the authorities; any other circumstances outside of the control of Kantar. Kantar will give the Client written notice of the revised Fee. Should the increase exceed 10% (ten percent) of the previously agreed Fee, the Client will be entitled to cancel the Project within 7 (seven) days of receipt of such notice but will, in these circumstances, be liable for all expenses already committed to or incurred by Kantar.
- 5.6. This research proposal is offered subject to the potential impact of the coronavirus pandemic which is having multiple and fast-changing impacts on daily lives. Our research programmes will reflect the prevailing concerns and behaviour shifts of the general population in each country or market where data is collected as well as our duty of care to the personnel conducting the research and respondents. It is possible that some types of consumer research will be more affected than others with potential impacts in terms of changes to awareness, attitudes and behaviour. We will ensure that we liaise with you constantly during the project however, please be aware that we may need to make changes to the research programme. This includes, but is not limited to, service delivery obligations, recovery of expenses, cancellation fees, accuracy of deliverables and the impact of 'force majeure'.

## 6. SUBCONTRACTING AND ASSIGNMENT

- 6.1. Kantar will be entitled to employ subcontractors on the Project. However, the use of any subcontractor will not relieve Kantar from any of its obligations under the Contract and Kantar will be responsible for the performance of any subcontractor appointed by Kantar. If applicable, and upon receipt of a request from the Client to do so, Kantar will provide the Client with the name of any subcontractor employed upon the Project.
- 6.2. Save as set out above, neither Party may cede or assign all or any part of the Contract or any right or obligation arising therefrom, without the prior written consent of the other Party, which consent will not be unreasonably withheld.

## 7. TERMINATION

- 7.1. The duration of the Contract will be specified in the Proposal.
- 7.2. Either Party may terminate this Contract immediately (a) for a material breach by the other which is incapable of remedy or, if capable of remedy, is not remedied within 30 (thirty) days of written notice being given to the defaulting Party, or (b) if the other Party becomes bankrupt or goes into liquidation (whether voluntary or compulsory), is dissolved, has a receiver or administrator appointed over the whole or any part of its assets, a petition is presented, or a meeting is convened for the purpose of considering a resolution for the winding-up, bankruptcy or dissolution of the other Party, or the other Party suffers any similar process under the law of its domicile or place of its jurisdiction.
- 7.3. For Multi-Customer Services, Kantar will be entitled to terminate this Contract by serving 1 (one) month's written notice at any time, if (a) the number of Client subscribers falls below an acceptable level to Kantar, or (b) Kantar is unable, or finds it impracticable, to continue the Service or any part of it. Kantar will use reasonable endeavours to complete any Service or Deliverable in progress at the time of termination.
- 7.4. During the notice period, as served in accordance with Clause 7.3, Kantar will continue to work on the Project and the Client will be liable to pay Kantar the Fee for the Services, Deliverables and all work performed up to the date of termination, together with all third-party expenses Kantar has committed to as a result of the Contract that are not able to be cancelled.

## 8. KANTAR'S OBLIGATIONS

- 8.1. Kantar will execute the Contract with the care, skill and diligence required in accordance with best practice in the market research profession, and in compliance with any industry codes of practice and conduct applicable to the Contract.

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- 8.2. Kantar will comply with all Government Legislation and with all orders, regulations and by-laws made with statutory authority by government departments or by local or other authorities that will be applicable to the Contract, and in particular any Data Protection legislation, in all matters arising in the performance of the Contract.
- 8.3. Kantar warrants that the Deliverables will be original and not copied from any third party, nor will they infringe a third party's Intellectual Property Rights.
- 8.4. Kantar disclaims all other warranties, either express or implied, including warranties relating to the merchantability, or fitness for a particular purpose, of the Services or Deliverables.

### 9. TEST MATERIALS

- 9.1. The Client (or its agent) will make available any Test Materials that are required by Kantar for the performance of the Project, as requested by Kantar. The Client warrants the accuracy and completeness of any information or Test Material supplied by it or on its behalf.
- 9.2. The Client is responsible for the prompt delivery to Kantar of the Test Materials. If the Client fails to comply with this clause, the Client will be liable for any resulting delays, additional Fees and reasonable additional expenses incurred by Kantar in the performance of the Project.
- 9.3. Where Test Materials are supplied to Kantar for use in connection with a Project, the Client agrees that the Client will be solely liable for, and will indemnify Kantar against, any damage, loss, expense, injury, or inconvenience caused by such Test Materials, whether to Kantar or any third party. Kantar will not be liable in any circumstances for the loss of, or damage to, any such Test Materials, save for where such is a result of the acts, default or gross negligence of Kantar, and once they have been supplied to Respondents.
- 9.4. Where Test Materials supplied by the Client (or its agent) are used in the Project, the Client warrants that all contents, packaging and labelling comply with all relevant laws in all relevant territories.
- 9.5. The Client will be responsible for either providing any Respondent disclaimer/waiver or approving any draft Respondent disclaimer/waiver prepared by Kantar that may be required for the Test Materials in question.
- 9.6. The Client will indemnify Kantar and the Kantar Group Companies against any loss, liability, cost, expense, claim or proceeding, directly or indirectly suffered by Kantar and the Kantar Group Companies as a result of Kantar's use of any Test Materials, or from any allegation that they infringe any intellectual property or other rights of any third party, or from any of them being defective. If required by Kantar, the Client will produce evidence of sufficient product liability or other indemnity insurance, as determined by Kantar.
- 9.7. The Client warrants that where the Client (or its agent) supplies Kantar with any Test Materials, for example, Respondent samples, the use of such Test Materials by Kantar will not be in contravention of any Data Protection or Privacy legislation, or any other legislation, laws, rules and regulations applicable to the Project. Kantar will not be responsible for any inaccuracies, inconsistencies or loss arising as a result of any shortfall in the integrity of any data or material supplied by or on behalf of the Client, save for where such is a result of the acts, default or gross negligence of Kantar.

### 10. SAMPLE ACHIEVEMENT

- 10.1. The Parties recognise and accept that owing to complexities within markets, precise achievement of sample cannot be guaranteed without a price premium that is generally unnecessary for most market research projects. Consequently, unless expressly agreed otherwise in writing between the parties, the Fee quoted by Kantar and accepted by the Client will have been based on the achievement of a sample size that is consistent with the intended objectives of the Project, but that allows for a margin of tolerance around the specified sample. For the avoidance of doubt, the Fee is not based on the precise achievement of sample, and while Kantar will use reasonable endeavours to achieve the specified sample for the Project, Kantar will not be liable for under- or overachievement within a reasonable margin of tolerance.
- 10.2. The Deliverables, as well as any conclusions and/or recommendations provided by Kantar as part of the Services, will be the result of careful analysis of Respondent data and will have been subject to Kantar's internal quality procedures and thorough checks. Any conclusions and/or recommendations are solely and exclusively an opinion of Kantar and are based on variable assumptions used in the field of market research and forecasting and based on a controlled test environment. Deliverables, conclusions and/or recommendations will be, to the best of Kantar's knowledge, accurate, but since they are based on data derived from Respondent surveys, they will be subject to the usual statistical norms and variables applied to research of this nature and capable of subjective interpretation. When seeking to rely on the Deliverables, the Client acknowledges these factors and accepts that Kantar cannot be liable for the views expressed by Respondents. Further, as the Deliverables are just one factor to be taken into account by the Client, the Client accepts that, save for any negligence by Kantar that materially invalidates the Deliverables, Kantar cannot be held liable for the consequences of any action taken by the Client based on the Deliverables, any conclusions and/or recommendations or the Client's interpretation of the same.
- 10.3. The Client also accepts that in translating the Deliverables from the controlled test environment to the real marketplace, it is possible that some of the assumptions on which the Deliverables are based will not remain constant. Any subsequent change in market conditions, or to the test product itself, could impact the initial performance predictions, including possible invalidation of the Deliverables.

### 11. ELECTRONIC DELIVERY

- 11.1. Where Kantar agrees to supply data to the Client in electronic format, both parties will use their best endeavours to comply with any security specifications, which will be issued by Kantar to the Client from time to time.
- 11.2. In such circumstances, Kantar will not be responsible for any delays in delivery of data outside of Kantar's control. The Client will ensure that a single authorised person will take responsibility for co-ordinating all matters relating to the distribution of data electronically on behalf of the Client. Said Client contact will be responsible for the distribution of user identities, restricted use of passwords and other security issues. The Client will ensure that all use of any password allocated by Kantar is strictly limited. Kantar reserves the right to withdraw the use of any password in the event that it considers that there may have been or is likely to be a breach in security or for any other valid commercial reason.

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## 12. INTELLECTUAL PROPERTY RIGHTS AND PUBLIC STATEMENTS

- 12.1. The Intellectual Property Rights in any Proposal issued by Kantar are, and will remain, the exclusive property of Kantar. The Client agrees not to disclose the Proposal to any third party nor to use the Proposal other than for the purpose of considering its contents with a view to appointing Kantar to perform the Project set out therein.
- 12.2. For Multi-Customer Services, the Intellectual Property Rights in the Deliverables vest in Kantar at all times. The Client will be entitled, on the completion of the Service and after payment of all Fees due to Kantar, to use the Deliverables for their *bona fide* and proper internal business purposes or other purposes specified in the Proposal, but will not grant licences to others.
- 12.3. For Custom Research Services and Tracking Studies, the Intellectual Property Rights in the Deliverables vest in the Client on the completion of the Service, or the relevant stage of the Service, and subject to payment of all Fees due to Kantar in respect of such Deliverables.
- 12.4. It is agreed that Kantar will be entitled, both during and after the termination or expiry of this Contract, to use all Deliverables and other findings and records resulting from the Services for its own internal purposes, as part of its own databases and for purposes connected with its business, including in connection with any relevant legal dispute.
- 12.5. Notwithstanding Clause 12.3 above, all know-how and Intellectual Property Rights of whatsoever nature in and to any techniques, principles and formats, and in all proprietary materials, software, programs, macros, algorithms, modules, methodologies and anything else used or created by Kantar in putting together a Proposal or carrying out the Services, which are of a generic nature or otherwise not produced exclusively for the Client, will at all times remain the exclusive property of Kantar. Where software is to be provided by Kantar as part of the Services, the Client acknowledges that its use of such software may be subject to separate licence terms. For the avoidance of doubt, the Client will be responsible for ensuring that it is appropriately licensed to use any third-party software required to access or otherwise use the Deliverables. Unless expressly agreed between the parties, Kantar will not be required to procure the grant of any licence of third-party software to the Client as part of the Services.
- 12.6. The Deliverables provided by Kantar are normally only for the Client's internal use. The Client undertakes to inform Kantar of any intended wider publication of any Deliverable or any results (whether wholly or in part) supplied by Kantar prior to release. The Client will not disclose any Deliverable publicly in any manner that exaggerates, distorts or misrepresents the findings of, or data supplied by, Kantar or is likely to harm Kantar's, or any of the Kantar Group Companies', reputation or business.
- 12.7. The Client understands that it must inform Kantar in writing prior to the commencement of any work if it intends to make any Public Statement that contains the whole or any part of the Deliverables or any part of the Services. The Client will not make any such Public Statement based on any Deliverable or on any part of the Services without the prior written consent of Kantar.
- 12.8. Each Party will be entitled to list the other as its service provider or client in marketing/promotional material. Aside from this right, the Client will have no right to use Kantar's name, trademark, logo, or slogans, or that of any of the Kantar Group Companies, without the prior written consent of Kantar.
- 12.9. In addition to Clause 12.6, 12.7 and 12.8, the Client hereby consents to Kantar using the Client's name and logos in presentations and proposals etc. unless the Client notifies Kantar that it has withdrawn such consent.

## 13. CONFIDENTIALITY

- 13.1. The receiving Party agrees that it will (a) use the Confidential Information only to fulfil its obligations pursuant to this Contract; (b) treat all Confidential Information of the disclosing Party as secret and confidential and will not copy or disclose any such Confidential Information to any third party; (c) not, without the express written consent of the disclosing Party, disclose the Confidential Information or any part of it to any person except to the receiving Party's directors, employees, parent company, subsidiaries or agreed subcontractors, who need access to such Confidential Information for use in connection with the Project and who are bound by appropriate confidentiality and non-use obligations; and (d) comply promptly with any written request from the disclosing Party to destroy or return any of the disclosing Party's Confidential Information (and all copies, summaries and extracts of such Confidential Information) then in the receiving Party's power or possession.
- 13.2. The Parties' obligation to maintain confidentiality will survive for a period of 3 (three) years from the date of disclosure or completion of the Project, whichever is longer.
- 13.3. Without limiting the generality of Clause 13.1 above, Proposals issued by Kantar contain Confidential Information about Kantar and the Client will keep secret and not disclose the content of any Proposal or any information or ideas, in whatever form, disclosed during or in connection with any pitching or briefing process, to any third party without the prior written consent of Kantar. Further, the Client will not derive other material from, or use any Proposal other than for the purposes of considering its contents with a view to appointing Kantar to provide the Services set out therein.

## 14. COMPLIANCE, DATA PROTECTION AND DATA OWNERSHIP AND STORAGE

- 14.1. Kantar currently strives to operate according to ISO standards. ISO 20252 establishes the terms and definitions as well as the service requirements for organizations and professionals conducting market, opinion and social research. The standard sets out requirements for a quality management system. The standard requires senior management to be responsible for quality of client service, and the development, interpretation and continual improvement of the system. It also requires the appointment of a quality manager with sufficient authority to be responsible for and have control over the entire system. The standard also sets out requirements for the confidentiality of research, project documentation, training, outsourcing, and reviewing the effectiveness of the quality system as a whole.
- 14.2. The services of Kantar are either performed internally or outsourced by Kantar fieldwork/data capturing. These suppliers comply with rigorous Kantar standards and they are continually reviewed to uphold quality standards as outlined by ISO 20252.
- 14.3. Both parties agree to use reasonable endeavours to comply with the ESOMAR Code of Conduct.
- 14.4. In the event that the Service and/or Deliverables involve the supply to the other Party of individuals' personal data for the purpose of controlling or processing such data, the disclosing Party will obtain the necessary consent from the relevant individuals or ensure that it otherwise has the right under the relevant local data protection laws and regulations to provide such data.
- 14.5. In connection with personal data supplied by the Client to Kantar, Kantar will: (a) process such data only for the purposes of providing the Services; (b) take such technical and organisational security measures against unauthorised and unlawful processing of, accidental loss of, destruction of or damage to personal data as may be required, having regard to the state of technological development and the cost of any

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measures, to ensure a level of security appropriate to the harm that might result from such processing, loss, destruction or damage and the nature of the data to be protected; and (c) answer the Client's reasonable enquiries to enable the Client to monitor Kantar's compliance with this clause. The Client undertakes to comply with the relevant local data protection laws and regulations and keep personal data supplied by Kantar secure and only use such data in accordance with such local data protection laws and regulations. Subject to prior consent from an individual, Kantar reserves the right to re-contact an individual for participation in further surveys unconnected to the Project.

- 14.6. Kantar shall reasonably cooperate with the Client in meeting the relevant requirements of the relevant local data protection laws (including, where applicable, article 28(3)(h) of the General Data Protection Regulation (EU) 2016/679) in relation to personal data provided by the Client to Kantar. Client accepts that certain sensitive information in relation to IT and security will be redacted before being audited and may only be audited at Kantar's premises. With Kantar's agreement, this audit may cover documents only or may include a supervised and controlled onsite audit, subject to the Client notifying Kantar of the identity of the Independent Auditor and that such Independent Auditors have entered into an appropriate confidentiality agreement with Kantar. Audits shall take place no more than once in any calendar year. Costs of the audit, including appointment of the Independent Auditor, will be borne by Client. Kantar shall be entitled to review and retain any audit report, prepared by Independent Auditor and to consult the Independent Auditor on the content, prior to the report being submitted to the Client. For the avoidance of doubt, all confidential information of Kantar obtained pursuant to any audit shall be maintained in confidence and may not be disclosed to any third party. Neither the Independent Auditor or Client shall be permitted to perform penetration tests, vulnerability scans, or otherwise interrogate Kantar's network or information technology systems. In no circumstances shall Client or Independent Auditor have access to (a) individual payroll and personnel files; (b) individual expenditure or records relating to the Kantar's other clients; (c) any of the Kantar's overhead costs; or (d) Kantar's server rooms or IT systems. For the purposes of this clause 14.6, "Independent Auditor" means an auditor from PWC, Deloitte, KPMG or Ernst & Young or another mutually agreeable internationally recognised auditing firm.
- 14.7. Completed questionnaires, audio and visual tapes and computer records prepared by or on behalf of Kantar during the course of providing the Services will remain the property of Kantar and will be retained, stored and destroyed/erased in accordance with applicable laws, regulations and Kantar's internal policies.
- 14.8. Provided these are still held by Kantar pursuant to Clause 14.7, the Client may, on request and at its own expense, be supplied with copies of the survey records that have been used to prepare a Deliverable, subject to the requirements of the ESOMAR Code of Conduct to respect the anonymity of Respondents. For the avoidance of doubt, Kantar will not be required to provide copies of survey records to the Client if, in Kantar's sole opinion, to do so would be in breach of the ESOMAR Code of Conduct and/or applicable data protection laws and regulations. The Client warrants that it will store and use any survey records provided by Kantar strictly in compliance with all applicable data protection laws and regulations and that it will fully indemnify Kantar against any and all claims relating to its breach of the same.
- 14.9. The terms, "Processing" shall have the same meaning as in POPIA or the GDPR, and their cognate terms shall be construed accordingly. For the purposes of this document, the terms "Personal Data" and "Personal Information" shall be used interchangeably, and all local data protection laws and regulations shall be construed accordingly.

### 15. LIMITS AND EXCLUSIONS OF LIABILITY

- 15.1. Under no circumstances will either Party be liable to the other for any special, indirect or consequential damages whether arising from tort (including negligence) breach of contract or howsoever, loss of profits, loss of turnover, loss of data, loss of business opportunities, loss of goodwill, or consequential loss, howsoever arising.
- 15.2. Subject to Clause 15.3, unless otherwise agreed in a written document that is executed by both parties, Kantar's liability for any claims, demands, damages, expenses (including legal expenses) and expenses resulting from any tortious act or omission, and/or breach of Terms set out in the Contract, is strictly limited to the amount of any Fees receivable by Kantar in respect of the specific Service or Deliverable that is the subject of the potential claim. The Client will only have the right to bring a claim against Kantar for a period of one year from the date of the completion of the Service or Deliverable or the termination or expiry of this Contract, whichever is the earlier.
- 15.3. Except as set out in Clause 15.1, liability is not limited or excluded for (a) fraudulent misrepresentations; (b) death or personal injury caused by the gross negligence of either Party; and (c) liability that may not be excluded in terms of any relevant law.
- 15.4. The Client acknowledges that the Proposal has been put together on the basis that if the Client requires additional protection or cover, the Client will take out its own insurance.

### 16. INDEMNITY

- 16.1. Kantar will indemnify the Client against injury (including death) to any persons, or loss of or damage to any property, which may arise out of the act, default or negligence of Kantar, any subcontractor, employee or agent of Kantar.
- 16.2. In addition, Kantar will indemnify the Client against all claims, demands, proceedings, damages, charges and expenses whatsoever in respect thereof or in relation thereto, provided that Kantar will not be liable for, nor be required to indemnify the Client against, any compensation or damages for, or in respect of, injuries, loss or damage resulting from any act, default or negligence on the part of the Client, its employees, agents, subcontractors or suppliers (not being Kantar or employed by Kantar).

### 17. NOTICES

- 17.1. All notices to be given by either Party to the other will be in writing and addressed to the receiving Party at that Party's last known address. Service will be deemed to be received immediately by personal delivery. Postal service will be deemed delivered 48 (forty-eight) hours after posting by recorded delivery mail. Service by facsimile will be deemed to be delivered simultaneously with transmission subject to production of confirmation of transmission.
- 17.2. Email notification is not sufficient.

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## 18. WAIVER

18.1. No failure or delay of either Party in exercising any right, power or remedy under the Contract will operate as a waiver of that Party's rights. No single or partial exercise of any right, power or remedy by a Party will be deemed to be a waiver of that or any other of its rights, powers or remedies, nor will it preclude any further exercise of any right, power or remedy. A waiver of any provision of the Contract will only be effective if it is made or given in writing and signed by both parties. Any such waiver by either Party of any obligation of the other will not operate or be construed as a waiver of any subsequent breach of the same provision or any other provision of the Contract.

## 19. SEVERABILITY

19.1. If any of these terms or conditions is found to be invalid, ineffective or unenforceable, it will not affect any other term or condition (or the provision that contains such invalid, ineffective or unenforceable term or condition) and all terms or conditions (or parts thereof) not affected will remain in full force and effect.

## 20. ETHICAL STANDARDS AND CORPORATE RESPONSIBILITY

20.1. Kantar is a wholly owned subsidiary company of Kantar Group Companies (part of Kantar Group Limited) and complies with the Kantar Code of Business Conduct, Anti-bribery & Corporate Social Responsibility policies. Clients who wish to check whether these policies are consistent with their own are advised that these Kantar Group Limited policies can be accessed via the Kantar Group Limited website: <http://www.kantar.com/corporate-governance>.

## 21. RIGHTS OF THIRD PARTIES

21.1. Kantar and the Client do not intend that any of the terms and conditions of this Contract will be enforceable by any person or entity who is not a party to the Contract.

## 22. PREVAILING LAW

22.1. The Contract between the Client and Kantar will be governed by the laws of Nigeria and the Nigerian courts will have exclusive jurisdiction save in respect of enforcement, where their jurisdiction will be non-exclusive.

**IT IS A CONDITION OF KANTAR'S COMMENCING WORK ON THE PROJECT THAT THESE TERMS AND CONDITIONS ARE THE ONLY TERMS AND CONDITIONS WHICH APPLY. BY INSTRUCTING KANTAR TO COMMENCE WORK ON THE PROJECT, THE CLIENT ACKNOWLEDGES THIS TO BE THE CASE.**