

STANDARD TERMS AND CONDITIONS OF BUSINESS

1. DEFINITIONS

In these terms and conditions (the "**Conditions**") the following definitions are used:

"**Ad-hoc Service**" means the bespoke services provided by Company (i.e. one-off custom or bespoke services which are not continuous tracking services).

"**Affiliate**" are legally independent companies in which each other holds a majority interest within the meaning of §§ 15 German Stock Corporation Act (AktG).

"**Client**" means the party to whom the Company provides the Services as per the applicable Specification.

"**Company**" means Kantar GmbH a company registered in the Trade Register of Munich District Court under HRB 114447.

"**Codes of Practice**" means mandatory codes, rules and regulations of regulatory bodies and voluntary codes of practice of industry – recognised self-regulatory bodies (including but not limited to ESOMAR) and in all cases directly applicable to the conduct of the Services by the Company but excluding specific laws, regulations and codes relevant to the Client.

"**Confidential Information**" means any information (whether disclosed orally, in writing or electronically and whether marked confidential or not) that (i) is marked or otherwise identified as "confidential" or with a similar designation, or (ii) even if it is not marked or identified as "confidential", a reasonable person would recognise as information that ought to be treated as confidential information, which is disclosed or otherwise comes into the possession or control of the Client or any of its employees or agents as a result of a Contract including, but not limited to, information relating to the Company's business affairs, marketing information, distribution information, business methods, survey methodologies, questionnaires, methodologies, plans and efforts, courses of dealings or contracts with customers and vendors and Company software, directors, officers and employees, budgets, prices, order book, accounts, finances, parent and subsidiary companies, Client Personal Data, studies or surveys commissioned and paid for by the Client and any similar information in relation to their customers or clients, any information relating to the Company or their clients which is commercially sensitive or relates to know-how, formulae and processes, technical or non-technical data, patterns, compilations, programs, databases or business affairs of the applicable party of one of its Affiliates; financial information, contractual information, client information, prices and costs, data related to regulatory submissions or Proposals and study designs for forming the subject of an executed Specification.

"**Continuous Service(s)**" means bespoke continuous or tracking market research services which are not Ad-hoc or Syndicated Service(s) provided by the Company as described in the Statement of Work.

"**Contract**" means the written contract between the Company and the Client consisting of these Conditions, together with a form of written document including but not limited to: the Proposal, Statement of Work, Job Confirmation Form or Purchase Order (where used) which incorporates these Conditions and sets out amongst other things the Services, Deliverables and Fee. In the event of any inconsistency between the documents comprising the Contract, this shall be resolved according to the following numbered order of priority: (i) the Statement of Work or Job Confirmation Form (where used); (ii) these Conditions; (iii) the Proposal; and (iv) the Purchase Order.

"**Control**" means (i) possession, direct or indirect, of the power to direct the management or policies of such entity, whether through ownership of voting securities, by contract relating to voting rights, or otherwise or (ii) ownership, direct or indirect, of more than fifty percent (50%) of the outstanding voting securities or other ownership interest of such entity.

"**Controller Personal Data**" means any Personal Data Processed by a party acting as a Processor or a Sub-processor on behalf of the Controller pursuant to the Contract.

"**Data Protection Legislation**" means all laws and regulations, including laws and regulations of the European Union ("EU"), the European Economic Area ("EEA") and their member states, Switzerland and the United Kingdom, including as from 25 May 2018, GDPR, applicable to the Processing of Personal Data under the Conditions.

"**Deliverable(s)**" means such survey results, reports, data, summaries, comments, discussion and/or analysis as are named as such in the Contract, created for and provided by the Company to the Client when implementing the Proposal in the course of providing the Services.

"**Expenses**" means those out-of-pocket expenses incurred by the Company in the course of providing the Services and not expressly included in the Fee.

"**Fee**" means the total fee(s) to be paid to the Company for the provision of the Services to the Client set out in the Contract.

"**GDPR**" means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation). The terms, "Commission", "Controller", "Data Subject", "Member State", "Personal Data", "Processing", "Processor" and "Supervisory Authority" shall have the same meaning as in the GDPR and their cognate terms shall be construed accordingly.

"**Independent Auditor**" means an auditor from PWC, Deloitte, KPMG, Ernst & Young or another mutually agreeable internationally recognized auditing firm;

"**Intellectual Property Rights**" or "**IPR**" means any and all industrial and intellectual property rights, in particular patents, rights to inventions, copyright and related rights, moral rights, database rights, semiconductor topography rights, utility models, rights in designs, trademarks, service marks, trade or brand names, domain names, rights in goodwill or to sue for passing off, and other similar or equivalent rights or forms of protection in each case whether registered or unregistered and including all applications (or rights to apply) for, and for renewals and extensions of, such rights as may now or in the future exist anywhere in the world (and "**Intellectual Property**" shall be interpreted accordingly).

"**Job Confirmation Form**" means the written form of acceptance for the provision of the Services in accordance with the Proposal to which these Conditions are incorporated, to be approved and returned to the Company by an authorised signatory of the Client. This approval can be in the form of an email.

"**Kantar Group**" means Kantar or any Kantar Affiliate.

"**Primary Records**" means all records, materials and information obtained by verbal interviewing techniques, postal and other self-completion questionnaires, mechanical or electronic equipment, observation and any other method where the identity of the provider of the information may be recorded or otherwise traced and all similar records.

"**Proposal**" means the written final proposal and/or quotation for the provision of the Services issued by the Company to the Client. Where a Statement of Work or Job Confirmation Form is issued by the Company, this shall supersede the Proposal.

"**Purchase Order**" means the purchase order or equivalent official document issued by Client which meets all applicable Client procedures and policies for authorising expenditure and paying invoices to the extent required by the Contract.

"**Secondary Records**" means all data, tables, records and information from which the provider of the information is not traceable comprising the analysis of the Primary Records but not forming part of the Deliverables unless named as such in the SOW.

"**Services**" means all services performed by the Company for the Client including but not limited to Ad-hoc Service and/or Continuous Service and/or Syndicated Service (as the case may be) as described in the Specification.

"**Statement of Work**" or "**SOW**" means the written form of acceptance for the provision of the Services in accordance with the Specification to which these Conditions are incorporated and as executed or approved by the Client in writing.

"**Specification**" the description of the services as set out in the Statement of Work, Job Confirmation Form or Proposal (as applicable).

"**Sub-processor**" means any third party appointed directly by Company to Process Client Personal Data on behalf of Client in connection with the Contract.

"**Syndicated Service(s)**" means market research services including "omnibus" research which is either commissioned by the Company itself for resale or is commissioned by and/or conducted for more than one client as described in the applicable Specification.

"**Third Party Software**" means commercially available off-the-shelf software developed by persons other than the Company, which may be required for the purpose of accessing or using the Deliverables, including, by way of example only, Microsoft Excel and SPSS.

2. RESEARCH STANDARDS

2.1 The Company shall perform the Services in a professional manner, in accordance with the agreed Contract for such Services and any applicable Codes of Practice and within the meaning of the law on Contracts to Produce Work pursuant to §§ 631 ff. of the German Civil Code (BGB) and, in the case of purely consulting services, within the meaning of the law on Service Contracts pursuant to §§ 611 ff. of the German Civil Code (BGB), in accordance with the professional principles and rules of professional conduct of market and social research. The Company is

member of the Association of German Market and Social Research Institutes (ADM e. V. – Arbeitskreis Deutscher Markt- und Sozialforschungsinstitute).

- 2.2 The Client shall make available such information as is requested by the Company to ensure compliance and the Client shall be responsible for the accuracy of any information and for any instructions supplied by or on behalf of the Client.

3. ACCEPTANCE OF CONTRACT, NO OTHER TERMS

- 3.1 The Contract shall be valid for acceptance by the Client for a period of two (2) calendar months from the date that the Contract is issued.
- 3.2 The Contract will be deemed to be accepted on the date that the Client notifies the Company in writing that it has accepted the terms of the Contract or the date that the Client signs and executes the relevant Specification (whichever is the earlier).
- 3.3 For the avoidance of doubt, where the Client must, to comply with its own procedures, issue a Purchase Order and fails to do so, the Client understands and accepts that the Company shall not be obliged to commence the Services nor supply any Deliverables until the Purchase Order has been received by the Company. In these circumstances the Company may at its sole and absolute discretion commence the planning and project management of the Services but will not commission field work or any third party costs, and all time scales for delivery will be revised accordingly. All Client Purchase Orders must include or reference the agreed final version of the Specification where no Statement of Work/Job Confirmation Form is used. The Company shall not be required to commence provision of the Services until it has received acceptance of the Specification as set out above.
- 3.4 For the avoidance of doubt these Conditions shall apply exclusively and take precedence over any terms provided by the Client including but not limited to those that may be contained in a Purchase Order. In particular general terms and conditions of the Client shall not apply, irrespective of whether or not such general terms and conditions have been expressly rejected by the Company or if the Company, having knowledge of them, effects contractual performance without reservation.
- 3.5 Individual written agreements made with the Client in individual cases (including collateral agreements, supplements and amendments) shall in all cases take precedence over these General Terms and Conditions.

Through its services, the Company supports the Client in making their decisions. It does not, however, make these decisions itself.

4. THE FEE

- 4.1 The Fee is quoted in the Contract exclusive of Value Added Tax (VAT) (or any other equivalent sales tax). Where required by law, VAT (or any other equivalent sales tax) will be chargeable in addition to the Fee.
- 4.2 The Company shall be entitled to recover reasonable Expenses incurred pursuant to the provision of the Services subject to copy receipts being retained by the Company (and provided to Client upon written request) unless such expenses have been expressly stated in the Contract as being included in the Fee.
- 4.3 If the Fee has been based upon information provided by the Client which is subsequently shown to be incomplete or incorrect, the Company shall be entitled to increase the Fee to take account of any resulting additional time involved in providing the Services (or additional services) and any necessary additional costs incurred by the Company.
- 4.4 The Client further acknowledges that any changes to the Services or Deliverables beyond that originally notified to the Company and anticipated by the Contract may incur additional fees and/or Expenses which will be agreed in writing between the Company and the Client prior to such extended change.
- 4.5 Unless expressly stated otherwise in the Contract, the Fee is proposed and payable in Euro. For projects involving currencies other than Euro, the Fee quoted in the Contract will be calculated based on an indicative exchange rate. This fee is subject to change due to exchange rate movements prior to the formation of the Contract at which time the Company normally obtains forward cover. Should culpable delay on the part of the Client affect this procedure and involve the Company incurring additional costs not envisaged at the time of formation of the Contract, the Company reserves the right to adjust the Fee. Where the Client is culpably late in paying any sums due to the Company hereunder and such late payment results in the Company incurring additional costs due to exchange rate movements, then the Company reserves the right to pass on these costs to the Client. Any extra costs referred to above shall be confirmed by the Company to the Client from time to time in writing.

- 4.6 The Fee quoted in the Contract assumes that payments to the Company will be made free and clear of and without deduction of withholding tax levied in any country from which payment is made. Should any such tax arise which in the Company's reasonable opinion cannot be readily recovered within a reasonable time scale, then the Company shall be entitled to increase the Fee to the extent necessary that after the payment of any required tax, the Company receives and retains a net amount equal to the agreed Fee.
- 4.7 The Company reserves the right to charge for additional unforeseen costs incurred as a result of statutory amendments to rates of pay, taxes or duties. Furthermore, if at any time the Client requests that any aspect of the Services set out in the Contract (including timing) be changed, the Company reserves the right to adjust the Fee accordingly.
- 4.8 The Company shall give the Client written notice of the revised Fee, and if such increase exceeds 10% of the previous agreed Fee the Client shall, providing that it does so within 7 days of receipt of notification of the revised Fee, be entitled to serve immediate notice of termination of the Contract. However, in such an event the Client shall be liable to pay the Company that part of the Fee that relates to all work undertaken, and for any non-cancellable third party costs incurred and/or committed to by the Company up to the date of termination.
- 4.9 For the avoidance of doubt, all Fees paid under these Conditions shall be paid without deduction.
- 4.10 All sums payable to the Company under the Contract shall become due immediately on its termination, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 4.11 The Client's set-off and retention rights due to counterclaims, which are (a) contested, (b) not final or res judicata or (c) not based on the same contractual relationship are excluded.
- 4.12 If it becomes apparent that the Company's demands for payment are jeopardised by the Client's inability to pay, the Company shall be entitled to declare all its demands that are not yet due from the entire business relationship with the Client, to be payable immediately, provided the Company has already rendered its services. Such jeopardy exists, in particular, if a report indicates that the Client is not worthy of credit. The same applies if the Client is in arrears with at least two due invoices.

5. TERMS OF PAYMENT

- 5.1 Unless agreed otherwise in writing, invoicing of the Fee and Expenses for Ad-hoc Services and Continuous Services shall be as follows, beginning with the Job Confirmation Form date:
- for Services with a value of less than 20.000 € and/or a duration of less than 2 month 100% on completion (that is, unless otherwise agreed, on delivery of the Deliverables)
 - for Services with a duration between 2 and 6 months 50% on issuance of the Job Confirmation Form, 40% on commencement of fieldwork and 10% on completion (that is, unless otherwise agreed, on delivery of the Deliverables)
 - for Services with a duration of more than 6 months in equal monthly instalments
- 5.2 Unless agreed otherwise in writing, all Fees and Expenses for Syndicated Services shall be invoiced as follows:
- for one-off SoWs/projects 100% on issuance of the Job Confirmation Form
 - for all other projects in monthly instalments
- 5.3 The Client shall make payment to the Company within 30 days from the date of the relevant invoice.
- 5.4 Without prejudice to any other right or remedy to which it may be entitled, the Company may charge interest at a rate of 9 percentage points above the currently valid basic interest rate from the due date up to and including the date that payment is made in full on any payment which is not paid when due and payable in accordance with these Conditions.
- 5.5 Invoices shall be paid in the currency in which they are issued. Any applicable VAT (or equivalent sales tax) will be added to all invoices.

6. POSTPONEMENT, SUSPENSION OR DELAY

- 6.1 Once the Contract has been accepted by the Client, the Services will be provided by the Company for the duration of the project as set out in the Proposal (or Statement of Work/Job Confirmation Form, where used) and the Client

may not postpone or suspend any element of the Services to which that Contract relates other than in accordance with these Conditions. The Client shall immediately notify the Company of any request to postpone or suspend any element of the Services and it will be in the Company's discretion to agree to any postponement or suspension.

- 6.2 In the event of an agreed postponement or suspension, the Client shall pay all costs incurred and/or committed to by the Company up to the point of such postponement or suspension and any additional costs occasioned by the postponement or suspension and associated rearrangement of the Services.
- 6.3 In the event that the Company's performance of the Services is prevented or delayed by any culpable act or default of the Client (including without limitation a culpable delay in supplying a Purchase Order in accordance with clause 3.3), or any employee, agent or contractor employed or engaged by or on behalf of the Client (not being the Company), and the Company as a result spends additional time and/or costs in providing the Services or suffers any loss, then the Client shall make payment to the Company for the said additional costs and/or compensate the Company for any loss so incurred, in addition to the agreed Fee. Further, the Client agrees that the Company shall be entitled to amend the programme for the performance of the Services and delivery of any Deliverables.

7. TERM AND TERMINATION

7.1 Either party (the "**Complaining Party**") may terminate the Contract by giving written notice to the other party (the "**Defaulting Party**") if any of the following events occurs:

7.1.1 The Defaulting Party commits any material breach of any of the provisions of the Contract and either:

- (a) the breach is not capable of remedy or
- (b) if the breach is capable of remedy, the Defaulting Party fails to remedy it within 45 days after receiving a written notice from the Complaining Party containing full particulars of the material breach and requiring it to be remedied; or

7.1.2 The Defaulting Party (which term shall include the holding company or ultimate parent company of the Defaulting Party) becomes bankrupt or goes into liquidation (whether voluntary or compulsory), is dissolved, compounds with its creditors or has a receiver, administrative receiver or administrator appointed over the whole or any part of its assets or a petition is presented, or a meeting is convened for the purpose of considering a resolution, for the making of an administrative order, the winding-up, bankruptcy or dissolution of the Defaulting Party or the Defaulting Party suffers any similar process under the law of its domicile or place of its jurisdiction.

7.2 Either party may terminate the Contract for convenience by giving the other party:

7.2.1 (three (3) months' prior written notice in respect of Ad-Hoc Services; and

7.2.2 six (6) months' prior written notice in respect of Continuous Services and Syndicated Services.

7.3 In addition, in respect of Syndicated Services, the Company shall be entitled to terminate such Services on 1 month's prior written notice where, in the Company's reasonable opinion, the continued provision of such Services to the Client is not commercially viable (for example, where the number of subscribers to such Services falls below an acceptable level).

7.4 Unless otherwise agreed by the Company, in the event of a termination of the Contract for convenience by the Client pursuant to Clause 7.2, the Client shall pay the Fee up to the date of termination (and for the avoidance of doubt a proportion of the Fee may relate to the whole term of the original Contract and become payable irrespective of an earlier termination date) and all committed and unavoidable costs (including but not limited to set up costs).

7.5 Where the Contract has been terminated by the Company pursuant to Clause 7.2, the Company shall liaise with the Client regarding the orderly handover of the Services to the Client or a replacement provider, as the case may be.

7.6 Either party's right to terminate the Contract for good cause shall remain unaffected.

7.7 A termination requires written form in order to be effective.

8. PRODUCT AND OTHER TEST MATERIALS

8.1 Where products, samples or test materials are provided by the Client to the Company for use in connection with the Services, (a) any content, packaging or labelling of such products, samples or test materials shall comply with all relevant laws in all relevant territories and (b) the products, samples or test materials shall not (i) infringe any

intellectual property or other rights of any third party or (ii) be defective. The Client shall be solely liable for and shall fully indemnify the Company and the other members of the Kantar Group against any damage, loss, liability, claim, proceeding, expense, injury, or inconvenience caused by the use of such products, samples or materials, which do not meet the aforementioned requirements due to the Client's culpable breach of its aforementioned obligations. If required by the Company, the Client shall produce evidence of sufficient product liability or other indemnity insurance as determined by the Company.

- 8.2 If the Client wishes the Company to represent it in respect of dealing with any complaint regarding any products, samples or other materials used in the Services, this shall only be with the prior agreement of the Company (which may be withdrawn at any time) and at the cost of the Client.
- 8.3 The Client agrees that when it appoints the Company to provide Services which relate to a new or revised product or service of the Client, the Company shall not under any circumstances be responsible for the loss of any patent protection arising as a result of the performance by the Company of such Services, unless it acted intentionally or grossly negligently.
- 8.4 The Company shall not be liable in any circumstances for the loss of or damage to any such products, samples or test materials, once they have been supplied to respondents and will be entitled to confidentially destroy any remaining physical products, samples or test materials supplied by the Client upon completion of the Services unless otherwise agreed in the Contract.
- 8.5 In all other respects, the provisions of the German Product Liability Act shall apply.

9. ACCURACY OF DELIVERABLES

- 9.1 The Company shall provide the Services with reasonable skill and care in accordance with the Specification and the Deliverables shall be the result of careful analysis of respondent data and shall have been subject to thorough checks by or on behalf of the Company in accordance with its quality control policies. The Company agrees to use all reasonable endeavours to comply with the MRS Code of Conduct (www.mrs.org.uk).
- 9.2 The Client acknowledges and accepts that
- 9.2.1 the response rates to surveys/questionnaires cannot be predicted and are not guaranteed by the Company,
- 9.2.2 all figures contained in Deliverables will be estimates derived from sample surveys and subject to the limits of statistical errors/rounding up or down;
- 9.2.3 unless otherwise stated in the Contract, data collection sample achievement both at a total level and within quota will be within a margin of +/- five percent (5%) of the numbers stated; and
- 9.2.4 translating a Deliverable from the controlled test environment to the real market place, it is possible that some of the assumptions on which a Deliverable is based will not remain constant and any subsequent change in market conditions or to the test product itself, could impact on the initial performance predictions including possible invalidation of the Deliverable(s) in question.
- 9.3 Except as expressly set out in these Conditions, the Company does not warrant any certain quality of the Services and/or Deliverables either express or implied, including, without limitation, its merchantability and fitness for a particular purpose and does not assume any quality guarantee (*Beschaffenheitsgarantie*) in this respect.

The Company does not guarantee that the data collected, evaluated and analysed by it using the rules and methods of market, opinion and social research can be commercially exploited by the Client in a specific way.

10. DELIVERY

- 10.1 The Company 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 Specification. However, the Company shall not be liable for any failure to adhere to the quoted timings or for any loss or damage suffered by the Client resulting from any delay caused by (a) circumstances not attributable to the Company or (b) any act or omission by the Client and/or by any third party for whom the Company is not contractually responsible hereunder. The parties agree that all timings are non-binding and time shall not be of the essence as regards the Contract.
- 10.2 Where the Company agrees to supply a Deliverable to the Client in electronic format, both parties shall use their best endeavours to comply with any security specifications which may be issued by the Company to the Client from time to time.

- 10.3 The Client shall ensure that a single authorised person, or where required a single authorised person per region or territory, shall take responsibility for co-ordinating on behalf of the Client all matters relating to the Company distribution of data electronically. Such Client contact shall be responsible for matters including the distribution of user identities, restricted use of passwords and other security issues. The Client shall ensure that use of any password allocated by the Company is strictly limited. The Company reserves the right to withdraw the use of any password in the event that it considers there may have been, or is likely to be, a breach in security.

11. APPROVALS

- 11.1 The Client shall be responsible for fully and promptly complying with all requests for information or approval to assist the Company in complying with any required timescale.
- 11.2 The Client and the Company agree that for the purposes of the Contract, any variation to the terms of the Contract will be made in writing and agreed by both parties. The Client acknowledges that circumstances may arise where the Company must act on the basis of verbal authority and accepts that it may do so where authority cannot reasonably be provided in written form (e.g. in case of imminent danger (*Gefahr in Verzug*)).
- 11.3 Where the Company provides a contact report confirming a verbal discussion with the Client, it is imperative that any disagreement on matters covered is notified to the Company immediately. If no disagreements are raised within 4 days of the date of the receipt of the contact report it shall be deemed to be confirmed as accurate.

12. DATA OWNERSHIP AND STORAGE

- 12.1 Questionnaires, audio and visual tapes and computer records prepared by or on behalf of the Company during the course of providing the Services and whether completed or not shall remain the property of the Company unless otherwise agreed in the Contract.
- 12.2 The Client may, on request and at its own expense, be supplied with copies of the survey records which have been used to prepare a Deliverable, subject to the requirements of the MRS Code of Conduct and the Data Protection Legislation to respect the anonymity of respondents. For the avoidance of doubt, the Company shall not be required to provide copies of survey records to the Client if, in the Company's sole opinion, to do so would be in breach of the MRS Code of Conduct and/or applicable Data Protection Legislation and regulations. The Client shall store and use any survey records provided by the Company strictly in compliance with all applicable Data Protection Legislation and regulations. The Client shall fully indemnify the Company against any and all claims relating to its culpable breach of the aforementioned obligation.
- 12.3 The Primary Records shall at all times remain the property of the Company, who shall be entitled to destroy them, without reference to the Client on the earlier of twelve (12) months after the submission of the Deliverables or twelve (12) months after completion of the Services set out in the Specification (for a Continuous/Syndicated Service this will be 12 months after completion of each fieldwork period) with the sole exception of Qualitative recruitment screening questionnaires which will be retained for three (3) months. Title in the Secondary Records remains at all times the property of the Company unless named as Deliverables or otherwise agreed in the SOW/Job Confirmation Form (where used). The Company shall be entitled to destroy them, without reference to the Client, two (2) years after the submission of the Deliverables or two (2) years after completion of the Services set out in the Specification.

13. CONFIDENTIALITY, PUBLIC STATEMENTS AND USE OF DELIVERABLES

- 13.1 At all times during the term of the Contract and for a period of two years after its termination, each party ("**Receiving Party**") shall, and shall use reasonable endeavours to procure that the Receiving Party's personnel keep confidential all Confidential Information and shall not:
- 13.1.1 without the other party's prior written consent, use such information for any purpose other than to perform the Receiving Party's obligations under the Contract or a Specification; or
- 13.1.2 disclose such information except:
- (a) to the Receiving Party's professional advisers (and where the Receiving Party is the Company, to any member of the Kantar Group) who reasonably need to know such information in connection with the Receiving Party's obligations under the Contract or a Specification (provided that such persons are bound by equivalent obligations of confidence); or
 - (b) as may be required by law or by a court, regulatory authority or other competent authority; or

(c) to the extent that such information is in the public domain, or has been derived independently by the Receiving Party, otherwise than as a result of a breach of this clause or law; or

(d) as may be specifically agreed between the parties.

13.2 The Company and the Client shall ensure that all their respective Affiliates are bound by obligations which are no less restrictive than this clause 13 (including during any pitch process and specifically in relation to any Specification) at all times during the term of the Contract and for two years thereafter.

13.3 Each party shall be entitled to list the other as its service provider or client in marketing/promotional material. Except for this right neither party shall have any right to use the other party's name, trademark, logo, or slogans without the prior written consent of that party.

13.4 Unless explicitly specified otherwise in the Contract, the Company's name may not be quoted in connection with the Services and Deliverables until the exact form of such communication (including the form of any acknowledgement of the Company) has been agreed with the Company. Neither the Deliverables nor any findings or extracts from or summaries of it may be published or used in any publicity or marketing material or advertising without the Company's prior written approval (not to be unreasonably withheld). Without prejudice to the generality of the foregoing, the Client agrees that it shall not (and shall procure that any third party to whom the Deliverables are supplied in accordance with the Contract shall not) disclose the Deliverables publicly in any manner that is likely to harm the Company's or Kantar Group's reputation or business. In particular, the Client agrees not to (and shall procure that any third party to whom the Deliverables are supplied in accordance with the Contract shall not) use the Deliverables in any manner that could or does exaggerate, distort or misrepresent the findings and/or data supplied by the Company.

13.5 Use of the study report and results.

13.5.1 Deliverables are only made available to the Client for internal use, unless the Company agrees in advance in writing to their being disclosed to third parties or published in full or in part. Also, they must not be reproduced, printed or stored, processed or distributed in documentation and information systems of any kind for the purpose of passing them on to third parties or publishing them without the prior consent of the Company.

These regulations also apply to study Deliverables which arose from cooperative research (syndicated studies). The Client is not awarded the sole right to use these.

13.5.2 Publication of results in which the Company is named is only permissible with the Company's express prior written consent and after the Company has approved the specific text to be published.

13.5.3 The use of Deliverables in advance of legal proceedings (e.g. court proceedings, arbitration proceedings, official proceedings) is prohibited without the prior written consent of the Company – unless overriding statutory / administrative regulations or court decisions exist. If the Client wishes to cite the Deliverables, in whole or in part, they must identify the cited passages as such and name the Company as the author of the study report.

13.5.4 If the Client wishes to cite the study report, in whole or in part, they must identify the cited passages as such and name the Company as the author of the study report.

13.5.5 The Client shall indemnify the Company against all claims made against the Company because the Client has deliberately or negligently used the duly obtained results in an unlawful manner, in particular for unlawful, misleading and/or false advertising.

13.6 References to third parties

13.6.1 The parties give their consent to each other to the effect that they and the companies affiliated with them within the meaning of Section 15 ff. AktG [German Stock Corporation Act] may mention the company/brand name of the respective other party, its company logo and subject matter/type of project (e.g. "Employee Commitment", "Customer Satisfaction") as reference to third parties. Either party can revoke this consent at any time by notifying the other party in writing.

13.6.2 The parties shall not present references in a manner which could misrepresent, be detrimental to reputation or business in particular advertise them unlawfully or incorrectly.

14. INTELLECTUAL PROPERTY RIGHTS

- 14.1 The Intellectual Property Rights in any Specification issued by the Company is and shall remain the exclusive property of the Company.
- 14.2 The Primary Records and, unless they are named as Deliverables or otherwise agreed in the Specification, the Secondary Records shall at all times remain the property of the Company. Subject to Clauses 14.4 and 14.5, for Ad-hoc and Continuous Services the Intellectual Property Rights in each Deliverable shall vest in the Client upon payment of all Fees due to the Company in respect of such Deliverable.
- 14.3 For Syndicated Services, the Intellectual Property Rights in the Services and the Deliverables vest in and shall remain vested in the Company at all times. However, upon payment in full by the Client of the Fee and any related charges, expenses or disbursements, the Client shall be granted a non-exclusive, non-transferable, perpetual, worldwide licence (without the right to grant sub-licences) by the Company to use the Services and Deliverables for its bona fide internal business purposes and for any other purpose specified in the Contract.
- 14.4 It is agreed that the Company shall be entitled, both during and after the termination or expiry of the 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.
- 14.5 Notwithstanding Clauses 14.1 to 14.4 above, at all times all rights, including all 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 by or created by the Company in putting together a Specification or carrying out the Services which are of a generic nature or otherwise not produced exclusively for the Client ("**Background Intellectual Property Rights**") shall at all times remain the exclusive property of the Company. The Client shall be granted a non-exclusive, non-transferable, perpetual, worldwide licence to use the Secondary Records (if and to the extent that they are included in the Deliverables) and the Company's Background Intellectual Property Rights but solely to the extent required to use the Deliverables in accordance with the Contract. Where the Company develops additional modules for use with the Company's existing software and/or systems during the course of providing the Services (including Ad-hoc Services), all rights, including all Intellectual Property Rights, shall vest in and remain vested in the Company. Where the Company develops additional modules for use with the Client's software and/or systems, the Company shall have the right to use such modules in future projects and/or services it may provide to its clients.
- 14.6 Where software is to be provided by the Company 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 shall 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, the Company shall not be required to procure the grant of any licence of Third Party Software to the Client as part of the Services.
- 14.7 Where the Client provides the Company with data and/or materials in connection with the Services, such data and/or materials shall remain the exclusive property of the Client but the Company shall be granted a non-exclusive, non-transferable, perpetual, worldwide licence to use such data and/or materials for the purposes of providing the Services in accordance with the Contract.
- 14.8 All Deliverables shall remain the property of the Company until full payment has been made of all demands arising from the respective individual contract. This shall also apply to all future deliverables, even if the Company does not always specifically invoke this. The Company shall be entitled to take back deliverables if the Client acts in breach of contract.

15. LIMITATION OF LIABILITY

- 15.1 A party will only be liable (a) if it assumes a guarantee (*Garantie*), (b) if it is liable according to the German Product Liability Act (*Produkthaftungsgesetz*), (c) if it acts intentionally, fraudulently or grossly negligent, (d) in cases of injury to life, body or health, or (e) in case of an infringement of essential contractual obligations (*wesentliche Vertragspflichten*), i.e. a duty the fulfilment of which is essential for enabling the due performance of a contract and on the fulfilment of which the other party habitually relies and may rely on.
- 15.2 However, in case of a slightly negligent violation of essential contractual obligations, a party's liability will be limited to the foreseeable damages which are characteristic for such type of contracts (*vertragstypische vorhersehbare Schäden*).

- 15.3 In the cases of Clause 15.2, neither party shall be liable for loss of business, use, profit, anticipated profit, contracts, revenues, goodwill or anticipated savings, loss of data or use of data, or other consequential or indirect loss or damage.
- 15.4 In the cases of Clause 15.2, the Company's total liability for all claims under or in connection with the Contract for loss or damage not otherwise excluded shall not in aggregate exceed the greater of
- 15.4.1 the amounts paid or payable by Client to the Company under the Contract; or
- 15.4.2 EUR 50,000 (fifty thousand Euro).
- 15.5 If conclusions and/or recommendations are required of the Company as part of the Services, such conclusions and/or recommendations are solely and exclusively an opinion of the Company and are based on variable assumptions used in the field of market research and forecasting and based on a controlled test environment. Whilst they are the result of careful analysis and thorough work procedures, they constitute a single factor among many to be taken into account by the Client. The results of qualitative research cannot be projected onto the overall population due to sample selection, interviewing methods and sample size. In no event (other than in the case of the Company's proven wilful or gross negligence) shall the Company be liable to the Client for any loss or damage whatsoever with respect to any conclusions or recommendations made by the Company in relation to the Services and contained in the Deliverables or to reliance thereupon by the Client. The Client hereby acknowledges that it shall be solely responsible for the consequences of any action taken by it based on the Deliverables or pursuant to its interpretation of the Deliverables unless there is a breach of duty on the part of the Company within the meaning of these General Terms and Conditions.
- 15.6 Apart from that, a party will not be liable, irrespective of the legal basis (contract, tort, indemnifications etc.). In particular, a party will not be liable in case of a slightly negligent infringement of non-essential contractual obligations (*nicht wesentliche Vertragspflichten*).
- 15.7 If and to the extent that a party's liability is limited or excluded pursuant to the preceding provisions, this shall also apply to (a) the corresponding personal liability of that party's employees, vicarious agents, and legal representatives and (b) the liability of any Affiliates and the corresponding personal liability of that Affiliates' employees, vicarious agents, and legal representatives.

16. ASSIGNMENT AND SUB-CONTRACTING

- 16.1 The Company shall be entitled to assign its rights and obligations under the Contract to any member of the Kantar Group or in the event of a change of control without the prior consent of the Client; however, the Company will notify Client in writing of such assignment. The Company shall also be entitled to assign receivables due from Client without the prior consent of the Client.
- 16.2 Save as set out above, neither party may assign all or any part of the Contract without the prior written consent of the other party, which shall not be unreasonably withheld.
- 16.3 Provided that the Company shall remain primarily responsible to the Client for the performance of the Services, the Company shall have the right to subcontract any part of the provision of the Services and Deliverables to other members of the Kantar Group or to the Company's approved third party vendors, agencies or fieldworkers. The Company is only responsible for the quality of the service provided by subcontractors if those subcontractors have been selected and paid for directly by the Company. If the Client designates a specific subcontractor, then the Company shall not be responsible for the accuracy, completeness or quality of the work of that subcontractor.

17. DATA PROTECTION

- 17.1 Both parties shall comply at all times with their respective obligations under Data Protection Legislation and in accordance with the professional principles and rules of professional contract of market and social research in connection with the performance of their obligations under the Contract.
- 17.2 The parties acknowledge and agree that with regard to the Processing of Client Personal Data, Client is the Controller, the Company is the Processor. In respect of Syndicated Services the Company is an independent Controller. The duration of the Processing, the nature and purpose of the Processing, the types of Controller Personal Data and categories of Data Subjects Processed under the Contract are further specified in the Specification.
- 17.3 A party acting as Controller undertakes on a continuing basis that it has lawfully obtained all Personal Data provided to the Processor. In its position as controller within the meaning of Article 4 No 7 GDPR, the Client is

solely responsible within the scope of this Contract for compliance with statutory provisions on data protection, especially for the lawfulness of data transfer to the Company and for the lawfulness of data processing and the instructions issued by the Client. If data subjects are to be contacted by the Company, the Client guarantees in particular, that, if legally necessary, the data subjects have given their consent in being contacted, or that the Controller has a legitimate interest contacting the data subjects (Art. 6 Sect. 1 f) GDPR) and complies with the laws on unfair competition (§ 7 of the German Act Against Unfair Competition) or other applicable national laws. The Client agrees to indemnify and hold harmless the Company from all claims of third parties which are based on a violation of the aforementioned provisions to the extent Company is not liable for contributory negligence.

17.4 In the event that the Services and/or Deliverables involve the Processing of Personal Data for the purpose of the Services the Controller shall ensure the necessary consent from the relevant Data Subjects has been obtained or ensure that it otherwise has the right under the Data Protection Legislation to Process such Personal Data. Details of the processing in accordance with article 28 of the GDPR have been set out in the Specification.

17.5 A party, acting as Processor, shall:

17.5.1 at all times take appropriate technical, operational, managerial, physical, organisational measures in accordance with prevailing practices of care, skill, professionalism and diligence to safeguard against unauthorised or unlawful processing of personal data and against any unauthorised or unlawful accidental loss, destruction of, or damage to, personal data and ensure the security of such personal data;

17.5.2 only use Client Personal Data in accordance with such local Data Protection Legislation;

17.5.3 to keep accurate and up to date and not delete, transfer, modify, extract, remove or otherwise process any of the Client Personal Data, except in accordance with the Controller's instructions and for the purposes set out in the relevant Specification;

17.5.4 not process itself or through any third party any Client Personal Data outside of the European Economic Area (EEA) without the prior written consent of the Controller. The Controller undertakes not to withhold its consent unreasonably provided that the Processor has furnished all necessary legal and technical documentation clearly mapping its processes, procedures and security measures prior to the commencement of processing and provided that the Controller is satisfied with the same;

17.5.5 within the reasonable timescales specified by the Controller, comply with any information notice served by the Controller requiring the Processor to furnish the Controller such information and in such format as the Controller may reasonably require and delete and amend any Client Personal Data held by the Processor belonging to the Controller to the extent that the Controller is not reasonably able to perform such a request itself and the Processor will promptly certify in writing once completed;

17.5.6 provide to the Controller without undue delay written notice of any actual security breach affecting Client Personal Data belonging to the Controller. For the purposes of this provision, a security breach is defined as any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Client Personal Data, transmitted, stored or otherwise Processed by Processor or its Sub-Processors which results in any actual loss or misuse of Client Personal Data. Such notice shall summarize in reasonable detail the impact of such security breach and the persons whose Personal Data are affected; and

17.5.7 not subcontract any Processing of Personal Data in relation to any Specification to any third party without the prior written consent of the Controller. Any such consent granted by the Controller may be subject to such conditions as the Controller (acting reasonably) deems appropriate, including any requirement that the proposed subcontractor should enter into the standard contractual clauses set out provided by the annex to Decision 2010/87/EC of the European Commission dated 5 February 2010 for the transfer of Personal Data to Processors established in third countries, as amended from time to time, or equivalent. Any sub-Processors mentioned in the Contract will be deemed approved.

17.6 In the event and to the extent the Controller provides written approval for the Processor to disclose Client Personal Data to the Processor's subcontractor, the Processor shall, prior to any such disclosure, enter into a written, valid and enforceable agreement with such subcontractor that includes terms that are substantially the same as the obligations applicable to Client Personal Data as contained in this clause 17.7.

18. FREEDOM OF INFORMATION ACT 2000

18.1 The Client must notify the Company immediately in writing in the event that it is or if it becomes a "public authority" for the purposes of the Freedom of Information Act (*Informationsfreiheitsgesetz*) (or any replacement of the same from time to time or equivalent legislation applicable in territories outside of the UK) (the "FOIA").

- 18.2 If applicable, in the event that the Client receives a request for public disclosure under the FOIA of any information relating to the Company, the Services, the Deliverables or the Contract, the Client shall promptly notify the Company in writing (enclosing a copy of the public disclosure request) so that the Company can work with the Client in honouring its obligations under the FOIA whilst at the same time, having due regard to the confidentiality of the Company's confidential and commercially sensitive information.
- 18.3 The Client shall return all confidential information (including, without limitation, all copies thereof) disclosed by the Company for the purposes of entering into the Contract and carrying out the Services as soon as reasonably practicable after all Deliverables have been provided.
- 18.4 The Company shall use reasonable endeavours at all times to assist Client with FOIA requests and the Government's Transparency Agenda. In fulfilling its obligations under FOIA, the Client accepts and agrees that the Company's Specifications are copyrighted and are, together with the Contract, to be held in strict commercial confidence at all times. The Client understands that any release of the Specification or Contract would harm the Company's commercial and competitive interests and undertakes (and undertakes to procure such an undertaking from any third party to whom the Specification or Contract might be released in accordance with the Contract) at all times to use all reasonable endeavours to agree the content and such redaction as the Company may reasonably require of any release of the Specification or Contract (or any extract thereof) with the Company prior to release.

19. NOTICES

All notices to be given by either party to the other shall be in writing and addressed to the receiving party at that party's last known address. Service may be deemed to be delivered immediately by personal delivery or secure corporate electronic mail. Postal service shall be deemed delivered 48 hours after posting by recorded delivery mail. Service by e-mail and facsimile shall be deemed to be delivered simultaneously with transmission subject to production of confirmation of transmission.

20. RIGHTS OF THIRD PARTIES

The Company and the Client do not intend that any of the terms and conditions of the Contract will be enforceable by any person not a party to the Contract.

21. ANTI BRIBERY AND CORRUPTION

- 21.1 The Client and the Company undertake each to comply with, and that the Services will be performed in accordance with any anti-bribery or anti-corruption laws of the jurisdiction in which the Services are being provided, as amended from time to time ("**the Anti-Corruption Laws**") and that each shall not do, nor omit to do, any act that will lead to the other being in breach of any of the Anti-Corruption Laws.
- 21.2 The Client and the Company shall each have in place and comply with their own anti-bribery and corruption policy ("**Company Anti-Bribery and Corruption Policy**") to ensure that each complies with the Anti-Corruption Laws. Each shall review their Anti-Bribery and Corruption Policy on a regular basis and shall promptly implement any amendments to their Anti-Bribery and Corruption Policy which each considers necessary for continued compliance with the Anti-Corruption Laws.
- 21.3 The Client and the Company shall co-operate with each other from time to time in connection with the obligations of each under this clause. This obligation shall continue after the expiry or termination of the Contract.
- 21.4 The Client and the Company shall immediately notify the other in writing of any suspected or known breach of their Anti-Bribery and Corruption Policy or the Anti-Corruption Laws insofar as it affects the Services under the Contract. This obligation shall continue for a period not exceeding three months after the expiry or termination of these Conditions.

22. DISPUTE RESOLUTION PROCEDURE

The Company is obliged to point out that the EU-Commission provides a platform for out-of-court online dispute resolution (or platform), which can be accessed at <https://ec.europa.eu/consumers/odr>.

Nevertheless, the Company is neither willing nor obliged to participate in dispute resolution proceedings before a consumer arbitration board.

23. GENERAL CONDITIONS

- 23.1 Entire Agreement.

These Conditions, any and all Specifications into which the terms of these Conditions are incorporated, constitute the entire agreement between the parties in relation to their subject matter and supersede and extinguish all previous drafts, agreements, arrangements and understandings between the parties, whether written or oral, relating to such subject matter. All other terms are expressly excluded, including any terms and conditions of purchase of the Client. In case of discrepancies between the German and the English version, the German version shall prevail.

23.2 Survival.

The provisions of these Conditions which are expressly or impliedly intended to survive the termination or expiry of the Contract shall survive such termination or expiry.

23.3 Force Majeure.

The Company shall not be liable for any non-performance or delayed performance of its obligations hereunder due to, fires, storms, riots, strikes, disease, shortages of materials, lock-outs, wars, floods, civil disturbances, terrorism (or material threat of an act of terrorism), Governmental control, major technical malfunction (including, without limitation, failure of the internet), pandemic, restriction or prohibition whether local or national or other unforeseeable circumstances for which the Company is not responsible. Force Majeure shall be understood in its broadest sense due to the foregoing instances

23.4 Severability.

If any provision of these Conditions or the Contract is or becomes illegal, invalid or unenforceable under the law of any jurisdiction, that shall not affect or impair: (i) the legality, validity or enforceability in that jurisdiction of any other provision of the Contract; or (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of the Contract.

23.5 By accepting the Specification (as applicable), the Client shall be deemed to have accepted these Conditions in their entirety.

23.6 No addition or amendment to these Conditions, any exclusion of these Conditions or any substitution of any other terms by the Client will be accepted by the Company unless such an addition, amendment, exclusion or substitution has been confirmed by a director of the Company in writing; the same shall apply to the waiver of this written form requirement. This may lead to the re-appraisal by the Company of any agreed timetable for the performance and/or the Fee quoted in the Specification for the Services.

24. LAW

These Conditions and the Contract shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. The Company and the Client hereby agree the Companies Seat to submit to the exclusive jurisdiction in respect of all disputes arising out of or in connection with these Conditions or the Contract.

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