

(US) Kantar Terms and Conditions

1. Definitions

In this Contract:

- 1.1 "**Anti-Tax Evasion Laws**" means laws relating to tax evasion, the facilitation of tax evasion, or failure to prevent the facilitation of tax evasion.
- 1.2 "**Bribery Laws**" means laws relating to bribery or corruption.
- 1.3 "**Business Day**" means any day (other than a Saturday or Sunday or bank holiday in the territory in which the Customer is located) when the clearing banks are open in the territory in which the Customer is located.
- 1.4 "**Customer**" means the Kantar entity specified in the PO in the "Bill to" field.
- 1.5 "**Conditions**" means these terms and conditions.
- 1.6 "**Contract**" means the contract between the Customer and the Supplier comprising these Conditions and the information contained in the PO.
- 1.7 "**Customer Indemnitees**" has the meaning given in Clause 14.
- 1.8 "**Delivery Date**" means the date specified on the PO in the column headed "Needed by".
- 1.9 "**Delivery Site**" means the place specified as the "Ship to" address in the PO.
- 1.10 "**Force Majeure**" means an occurrence beyond the control and without the fault or negligence of the party affected and which that party is unable to prevent or provide against by the exercise of reasonable diligence.
- 1.11 "**Goods**" means the goods specified in the PO.
- 1.12 "**Insolvency Event**" means the relevant party is unable to pay its debts as they fall due, or an order is made or a resolution is passed for the winding up of that party, or the relevant party has a receiver or administrator appointed of the whole or any part of its assets or undertaking, or circumstances arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding up or administration order, or makes an arrangement with creditors, or is subject to any bankruptcy process or proceeding, or the relevant party undergoes a process that is similar or equivalent to any of the foregoing in any jurisdiction.
- 1.13 "**IPRs**" means all intellectual property rights (and applications for the same) anywhere in the world, whether registered or unregistered, including patents, rights in inventions (whether patentable or not), trade marks (including any goodwill acquired in such trade marks), copyrights (including rights in computer software and databases), database rights, design rights, rights in know-how, confidential information and trade secrets, and all other equivalent or similar rights or forms of protection.
- 1.14 "**Modern Slavery Laws**" means laws relating to human trafficking, forced or compulsory labour, debt bondage, bonded labour, or any other form of modern slavery.
- 1.15 "**PO**" means the purchase order issued by the Customer and accepted by the Supplier that incorporates these Conditions by reference.
- 1.16 "**Price**" means the price specified in the PO.
- 1.17 "**Services**" means the services specified in the PO.
- 1.18 "**Supplier**" means the supplier specified in the PO.
- 1.19 "**Supplier Personnel**" means the Supplier's subcontractors, and directors, officers, employees, workers, agents, individual contractors and other personnel of the Supplier or any of its subcontractors.
- 1.20 "**Transfer Regulations**" means the Transfer of Undertakings (Protection of Employment Regulations) 2006, the European Community Council Directive 2001/23 EC on the approximation of the laws of the European Union member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (referred to as the Acquired Rights Directive) and any national laws implementing the same or any successor legislation in force from time to time or any other laws or regulations of any national, state, provincial or federal government or local government that require or operate to transfer between legal persons the employment or engagement or the contracts of employment or engagement of employees or workers on the transfer of an undertaking or part of an undertaking or a service provision change.

2. The Contract

These Conditions govern the Contract to the entire exclusion of all other terms or conditions and supersede all previous agreements relating to the same subject matter. Any additional terms and conditions provided by the Supplier to the Customer shall be invalid and shall not form part of the Contract, unless specifically agreed to in writing by the Customer's authorised representative. To the extent there is any conflict or inconsistency between these Conditions and the information in the PO, these Conditions shall take priority. Each party acknowledges that it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Contract.

3. Supply of Goods and Services

3.1 The Supplier shall supply the Goods and Services and perform its other obligations under this Contract in accordance with best industry practice and this Contract. The Supplier shall ensure that Supplier Personnel are suitably qualified, adequately trained and capable of performing the tasks and responsibilities assigned to them and that they comply with any workplace policies in effect at the Delivery Site and at any premises used or occupied by the Customer where the Services are performed.

3.2 The Supplier shall: (a) deliver the Goods to the Delivery Site during normal business hours on or before the Delivery Date. Time shall be of the essence of delivery; and (b) ensure that a packing list referencing the applicable PO number accompanies all shipments and that all boxes, packages, shipping memoranda, invoices and correspondence reference the applicable PO number.

3.3 The Supplier shall comply with the Customer's Code of Business Conduct for Suppliers, available at <https://www.kantar.com/supplier-code-of-business-conduct> and Information Security Requirements, available at <https://www2.kantar.com/supplier-security-obligations>.

4. Risk and title

Risk in Goods shall pass to the Customer on complete unloading of the Goods at the Delivery Site ("Delivery"), and title shall pass to the Customer on Delivery or, if sooner, on payment of the Price for the Goods.

5. Excess Goods

If the Supplier delivers Goods in excess of the number ordered or purchased by the Customer under the Contract, the Customer may elect to keep or reject the excess. If the Customer elects to keep the excess, title in the excess Goods shall pass to the Customer on Delivery. If the Customer rejects the excess, it shall notify the Supplier in writing, title and risk in the excess Goods shall remain with the Supplier, and Clauses 8.3 (a), (b), (c) and (d) shall apply.

6. Cancellation

6.1 The Customer may cancel this Contract in whole or in part: (a) in relation to Goods, by written notice to the Supplier at any time before Delivery; and (b) in relation to Services on not less than 30 days' prior written notice to the Supplier.

6.2 If the Customer cancels under Clause 6.1(b), the Customer shall pay pro-rata for Services performed in accordance with the Contract up to the date of cancellation, and the Supplier shall refund any portion of the Price paid that relates to the period after cancellation.

7. Supplier's undertakings

The Supplier warrants, represents and undertakes that: (a) it has full right, title and authority to sell the Goods and provide the Services in accordance with this Contract; (b) it sells the Goods free from all liens, charges and encumbrances; (c) the Goods will be brand new and unused on Delivery and will conform to this Contract, any samples provided to the Customer by the Supplier and any description or specification referred to in the PO or made generally available to the public; (d) without limiting (c) of this Clause, the Goods and Services will be of satisfactory quality, fit for any purpose made known to the Supplier expressly or by implication, and will be free from all defects in materials, design and workmanship; (e) the Goods will conform with all standards referred to in the PO or on the relevant Goods or in any packaging or documentation supplied with the Goods; and (f) the Goods and Services have been or will be produced, provided and sold in compliance with all applicable laws.

8. Customer's remedies

8.1 Legal acceptance of Goods shall occur only on written notice of acceptance from the Customer to the Supplier. Payment for the Goods, or receipt or signature of a delivery note (or similar document) shall not constitute legal acceptance nor indicate that the Goods conform to this Contract, and shall not affect the Customer's right to reject the Goods.

8.2 If there is a breach of Clause 7, whether or not the Company has accepted the Goods or Services, the Company may, by notice in writing to the Supplier: (a) reject the relevant Goods or Services and (at the Customer's discretion) all other Goods delivered by the Supplier under the same PO, and Clause 8.3 shall apply; or (b) require the Supplier to repair or replace the relevant Goods or remedy the relevant Services at the Supplier's cost so that they conform which this Contract, in which case the Supplier shall do so as soon as reasonably practicable and in any event within 5 Business Days after the Supplier's receipt of written notice under this Clause 8.2.

8.3 If the Customer rejects any Goods or Services under this Contract or at law:

- (a) if the Customer has paid for the rejected Goods or Services, then within 5 Business Days after the Supplier's receipt of written notice of rejection, the Supplier shall refund the Customer the Price and all other sums paid under this Contract for those Goods and/or Services;
- (b) the Supplier shall not invoice the Customer for the rejected Goods or Services and the Customer shall not be liable to pay for them;
- (c) the Customer shall either make the rejected Goods available for collection by the Supplier at the Supplier's cost, or return the Goods to the Supplier at the Supplier's cost, and the Supplier shall indemnify the Customer against all reasonable storage costs incurred by the Customer pending collection or return of the rejected Goods;
- (d) risk in the rejected Goods shall rest with the Supplier from the date of the Supplier's receipt of the Customer's written notice of rejection; and
- (e) if the Customer buys goods or services in substitution for those rejected by the Customer, the Supplier shall indemnify the Customer from and against the difference between (i) the total Price that would have been payable under this Contract for the rejected Goods and Services, and (ii) the price actually paid by the Customer for substitute goods and services, unless the price in (ii) is lower than the price in (i).

9. Payment

9.1 The Price for Goods includes all charges for packaging, insurance, carriage and delivery. The Price is exclusive of sales or similar taxes, which shall be invoiced at the prevailing rate at the time the invoice is submitted.

9.2 The Supplier may invoice the Customer for Goods following Delivery, and for the Services, as specified in the PO.

9.3 Subject to Clause 9.4: (a) the Customer shall pay the Supplier's invoice on the Customer's next payment run following a date that is sixty (60) days after the end of the month in which a valid invoice specifying the correct PO number is received; and (b) the Supplier may charge interest on any undisputed overdue sum at the rate of 2% above the Bank of England base rate per annum from the date payment was due until the date of actual payment, whether before or after judgment. The Parties agree this is a substantial remedy for late payment, which should apply in place of any statutory rate of interest on late payments.

9.4 The Customer may: (a) withhold payment for any item on the Supplier's invoice that the Customer reasonably disputes; and (b) set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier under this Contract.

10. Confidentiality

10.1 The Supplier shall keep strictly confidential and not disclose to any person (except to its employees and individual contractors on a need to know basis for the purpose of performing this Contract) any information that the Supplier receives or obtains in connection with this Contract and that: (a) relates to the business or affairs of the Customer or any of the Customer's affiliates or clients; or (b) is marked as confidential; or (c) would appear to a reasonable person to be confidential or proprietary from the nature of the information or circumstances in which it was disclosed or obtained. Without limiting the foregoing, the Supplier shall use the same degree of care to protect such information as it uses to protect its own confidential information, but in no circumstances less than reasonable care.

10.2 The obligations in this Clause 10 shall not apply to information that: (a) was already known to the Supplier without an obligation of confidentiality at the time the Supplier obtained the information under or in connection with this Contract; (b) is publicly known or becomes publicly known through no wrongful act of the Supplier; (c) is approved for release by written authorisation of the Customer; or (d) is developed (now or in the future) independently by the Supplier without reference to the information acquired under or in connection with this Contract.

10.3 The obligations in this Clause 10 shall survive five years from the date of expiry or termination of this Contract, except in the case of trade secret information, in which event the obligations shall survive in perpetuity.

11. Publicity

The Supplier will not, without the Customer's prior written consent: (a) make any public announcement or statement that the Supplier provides or has provided goods and/or services to the Customer; or (b) use the name, logo, trade mark or symbol of the Customer or any Customer affiliate in any advertising, client lists, press releases, or promotional or marketing material.

12. IPRs

All IPRs developed or created by the Supplier or Supplier Personnel in the course of performing this Contract shall belong to the Customer. The Supplier hereby irrevocably assigns to the Customer and shall cause the Supplier Personnel to assign to the Customer (as a present assignment of future rights) all such IPRs on their creation and shall do all things and execute all documents necessary to give effect to this assignment. The Supplier shall cause Supplier Personnel to waive unconditionally and irrevocably, to the extent permitted by applicable law, all claims they may have now or in the future in any jurisdiction to so-called "moral rights" or rights of droit moral relating to the rights assigned under or pursuant to this Clause.

13. Data Protection and Security

The data protection and security requirements at <https://www.kantar.com/supplier-data-processing-agreement> shall apply.

14. Indemnity

The Supplier shall indemnify, defend and hold harmless the Customer, Customer affiliates and the Customer's and its affiliates' directors, officers, employees, workers, agents and individual contractors ("**Customer Indemnitees**") from and against all losses, claims, liabilities, costs and expenses that Customer Indemnitees suffer or incur in connection with (a) death or personal injury to any person or damage to tangible property caused by (i) the Supplier's or any Supplier Personnel's act or omission or (ii) the Supplier's breach of this Contract; and (b) any claim by a third party that a Customer Indemnitee's use or receipt of the Goods or Services infringes the IPRs of any third party. The Customer shall have the right, at the Supplier's cost and using the Customer's own counsel, to participate in the defence of any claim covered by the indemnity in this Clause.

15. Liability

15.1 The exclusions and limitations in this Clause 15 do not apply to: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; or (c) any liability that cannot be excluded or limited by law.

15.2 Neither party shall be liable to the other for any indirect or consequential loss suffered or incurred by the other under or in connection with this Contract, whether in contract, tort (including negligence) or otherwise.

15.3 Notwithstanding Clause 15.2, the following types of loss if suffered or incurred by the Customer or its affiliates are agreed to be direct losses that may be recovered: loss of profit, wasted expenditure, additional costs and expense of procuring goods or services in substitution for Goods and Services that should have been provided by the Supplier under this Contract, and loss of anticipated savings.

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15.4 Subject to Clauses 15.1 and 15.2, the Customer's total and aggregate liability under this Contract whether in contract, tort (including negligence) or otherwise shall not exceed the total Price for Goods and Services under this Contract.

15.5 Nothing in this Clause 15 limits or excludes the Supplier's liability: (a) for gross negligence or deliberate or willful default; (b) for breach of Clause 10 (Confidentiality); (c) for failure to comply with the data protection and security requirements referred to at Clause 13; (d) under the indemnity at Clause 14; or (e) for breach of Clause 18 (Anti-Bribery and Anti-Tax Evasion) or Clause 19 (Modern Slavery).

15.6 Subject to Clauses 15.1, 15.2 and 15.5, the Supplier's total and aggregate liability under this Contract shall not exceed 300 per cent of the total Price for Goods and Services and all other sums paid or payable to the Supplier under this Contract.

16. Termination

16.1 The Customer may terminate this Contract by written notice to the Supplier if: (a) the Supplier is in material breach of this Contract and the breach is irremediable, or the Supplier fails to remedy the breach within thirty (30) days after receipt of written notice to do so; (b) the Supplier suffers an Insolvency Event; or (c) the Supplier breaches Clause 7(f) (compliance with applicable laws) or Clause 10 (Confidentiality), or the data protection and security requirements referred to in Clause 13, or Clause 18 (Anti-Bribery and Anti-Tax Evasion) or Clause 19 (Modern Slavery).

16.2 The Supplier may terminate this Contract by written notice to the Customer: (a) if the Customer suffers an Insolvency Event provided termination is permitted under, and effected in accordance with applicable law; or (b) in the circumstances set out in Clause 17 (Force Majeure).

16.3 The following Clauses shall survive termination or expiry of this Contract: Clause 5 (Excess Goods), Clause 9 (Payment), Clause 10 (Confidentiality) (subject to Clause 10.3), Clause 14 (Indemnity), Clause 15 (Liability), this Clause 16.3, and Clause 21 (General).

17. Force Majeure

If a party (the "Affected Party") is unable to carry out any of its obligations under this Contract due to Force Majeure, this Contract shall remain in effect but the Affected Party's relevant obligations and the corresponding obligations of the other Party ("Non-Affected Party") shall be suspended (including any obligation to make payment) for a period equal to the circumstance of Force Majeure, provided that the suspension of performance is of no greater scope than is required by the Force Majeure. If an event of Force Majeure continues for a period in excess of one (1) month, the Non-Affected party may give written notice to the Affected Party to terminate this Contract immediately.

18. Assignment and Subcontracting

18.1 The Customer may, with notice to the Supplier, assign this Agreement or any of its rights or interests hereunder, or delegate any of its obligations hereunder, to (1) an Affiliate, (2) the Customer's successor pursuant to a merger, reorganization, consolidation or sale or (3) an entity that acquires all or substantially all of that portion of the Customer's assets or business for which the Supplier's Services were acquired or are then being used. Except as otherwise provided above, neither Party may assign this Agreement or any of its rights or interests hereunder, nor delegate any obligation to be performed hereunder, without the prior written consent of the other Party. This Agreement shall be binding upon, and shall inure to the benefit of, the legal successors and permitted assigns of the Parties.

18.2 The Supplier shall not sub-contract the performance of its obligations under the SOW to a third party without the Customer's prior written consent. The Customer's approval of a subcontractor shall not constitute a waiver of any rights the Customer may have based on the Supplier's representations and warranties. The Supplier shall be fully responsible for all acts and omissions of its subcontractors. Nothing in this Agreement shall be construed to create any contractual relationship between the Customer and any subcontractor, nor any obligation on the part of the Customer to pay or to ensure the payment of any money due any subcontractor.

19. Anti-Bribery and Anti-Tax Evasion

The Supplier shall: (a) comply with and shall procure that Supplier Personnel comply with, all Anti-Bribery Laws and Anti-Tax Evasion Laws (together, "Anti-Corruption Laws"); (b) not (and shall procure that the Supplier Personnel shall not) do or omit to do anything which would constitute an offence under Anti-Corruption Laws or that will place the Customer in breach of any Anti-Corruption Laws; (c) have in place policies and procedures to ensure compliance with this Clause 18 and enforce them where appropriate; (d) disclose such policies and procedures to the Customer and allow it to audit compliance; and (e) report any breach of this Clause 18 or any significant breach of the policies and procedures required under this Clause 18 to the Customer immediately. The Supplier warrants, represents and undertakes that it has never been convicted of, nor entered into any settlement with an enforcement agency for, an offence related to Anti-Corruption Laws.

20. Modern Slavery

The Supplier warrants, represents and undertakes that neither the Supplier nor any Supplier Personnel has: (a) committed an offence under any Modern Slavery Laws ("Modern Slavery Offence"); (b) been notified that it is subject to an investigation relating to an alleged Modern Slavery Offence or prosecution under any Modern Slavery Laws; or (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged Modern Slavery Offence or prosecution under any Modern Slavery Laws. The Supplier shall comply with all applicable Modern Slavery Laws and shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it or any Supplier Personnel have breached or potentially breached this Clause 19.

21. Transfer of personnel

20.1 The parties expect that the Transfer Regulations will not apply on the commencement of the Services or any part of them by the Supplier ("Entry"), or when the Supplier and/or any subcontractor stops providing the Services, or any part of them ("Exit").

20.2 If (1) the Transfer Regulations apply in respect of any person on Exit, or (2) any person asserts that: (a) they are or should be employed either by the Customer or by a third party (and/or any subcontractor appointed by a third party) engaged to provide services which are the same as or similar to the Services (an "Incoming Supplier") (i) as a result of the Transfer Regulations, or (ii) for some other reason connected with the provision of the Services; or (b) that the Customer or an Incoming Supplier has otherwise inherited liability as a result of the Transfer Regulations in connection with Exit, then the Supplier will indemnify the Customer and any Incoming Supplier against all Losses arising out of or in connection with:

(a) such person's employment or engagement with or termination of employment or engagement by the Supplier and/or any subcontractor, or their (actual or alleged) employment or engagement with or termination of employment or engagement by the Customer and/or an Incoming Supplier; and
(b) any claim or assertion that the Customer and/or an Incoming Supplier is liable for any breach of the Transfer Regulations.

22. General

21.1 A waiver must be in writing and signed by an authorised representative of the waiving party to be effective. A failure to require the strict performance of any obligation under this Contract or a failure to exercise (or a delay in exercising) any right or remedy under this Contract shall not constitute a waiver of that obligation or of that right or remedy.

21.2 All remedies in this Contract are cumulative and in addition to (not in lieu of) any other remedies available to a party at law or in equity.

21.3 Any variation to this Contract must be in writing and signed by an authorised representative of each party.

21.4 If any provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this section shall not affect the validity and enforceability of the rest of this Contract.

21.5 Nothing in this Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties or, constitute any person as the agent of another, nor authorise a party to make or enter into any commitments for or on behalf of the other.

21.6 The Customer may recover losses suffered or incurred by its affiliates and/or Customer Indemnitees in connection with this Contract as if such losses were suffered or incurred by the

Customer, and a Customer Indemnitee may enforce Clause 14, but otherwise, a person who is not a party to this Contract shall not have any right to enforce it. The consent of any person who is not a party is not required to rescind, vary, suspend, enforce or terminate this Contract, or to assign or transfer any rights or obligations, or to grant any waiver under or in connection with this Contract, at any time.

21.7 Notices must be in writing and sent FAO of the relevant party's representative at the address specified in the PO. Notices may be sent by email to the relevant party's representatives' email address specified in the PO, provided a hard copy of the notice is also sent by hand or by pre-paid post. A copy of all notices to the Customer must be sent to procurement@kantarc.com.

21.8 This Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law and the English courts shall have exclusive jurisdiction.