



1 DEFINITIONS

In these conditions:-

- 1.1 "the Client" means the person, firm or company to whom this confirmation of contract is addressed.
- 1.2 "the Company" means GfK NOP Limited (and companies in the same group of companies as GfK NOP Limited) whose registered office is at 14 New Street, London, EC2M 4HE, registered in England No. 2512551.
- 1.3 "the Contract Date" means the date of this confirmation of contract.
- 1.4 "the Information" means all data produced pursuant to the provision of the Service, including but not limited to completed questionnaires, computer tape, the findings of the survey and the survey report.
- 1.5 "the Service" means the provision by the Company to the Client of the research and the information, details of which are set out in the survey confirmation.

2 FORMATION OF THE CONTRACT

- 2.1 These conditions shall form the basis of the contract between the Company and the Client. Notwithstanding anything to the contrary in the Client's standard booking conditions, these conditions shall apply except so far as expressly agreed in writing by a person authorised to sign on behalf of the Company. Any variation to this contract in terms of techniques or sample sizes shall not affect any of the other terms of this contract.
- 2.2 No servant or agent or the Company has power to vary these conditions orally.
- 2.3 Unless otherwise expressly stated in writing, all quotations and estimates by the Company are invitations to treat.
- 2.4 The authorisation of the Client or its representative of the confirmation of contract shall constitute acceptance by the Client of these conditions. In the absence of a signature by or on behalf of the Client, authorisation will be acceptable in an electronic format.
- 2.5 The Company will provide the Service to the Client at the request of any representative of the Client unless otherwise instructed in writing by the Client.
- 2.6 The construction, validity and performance of these conditions and this contract shall be governed by English Law.
- 2.7 These conditions supersede all previous terms and conditions of contract issued by the Company.

- 2.8 These general conditions shall be subject to such special conditions as may appear in the survey confirmation.
- 2.9 In the event of any conflict, or apparent conflict, between the special conditions and these general conditions, the special conditions shall prevail.
- 2.10 All notices to be served hereunder shall be served by first class pre-paid post or facsimile message at the registered office or principal trading address of the intended recipient. Notices shall be deemed served when they would ordinarily have been received in normal business hours according to the means of transmission of such notices.

3 CANCELLATION

- 3.1 The consent of the Company to cancellation or variation of the contract shall not in any way prejudice the Company's right to recover from the Client full compensation for any loss or expense arising from such cancellation or variation on an indemnity basis.
- 3.2 Subject to any special conditions appearing in the survey confirmation, the Client may terminate the contract by giving not less than 1 week's prior notice of termination.
- 3.3 In the event of termination of the contract prior to completion of the Service, the Client will be liable to pay that proportion of the fees (as set out in the survey confirmation) as represents all work carried out, expenses incurred and financial commitments entered into by the Company as at the date of termination of the contract in accordance with clause 3.2 above, such proportion to be calculated by the Company at its sole discretion.

4 PRICE

- 4.1 The fees set out in the survey confirmation shall apply only in relation to the techniques and sample sizes set out therein. Any alterations to techniques or sample sizes proposed by the Client may, in the sole discretion of the Company, result in increased fees being payable.
- 4.2 The provision by the Client of inaccurate information in relation to the Service may result in an increase in the fees set out in the survey confirmation.
- 4.3 The fees are quoted exclusive of VAT which will be added to all invoices at the rate applying at the appropriate tax point.
- 4.4 If, through any currency fluctuation, the sterling equivalent of the cost to the Company of any obligations incurred in respect of overseas work for the Client exceeds the cost reflected in the survey confirmation, the Company shall be entitled to charge for such obligations at the exchange rate which is in operation at the time remittance is made abroad.

5 PAYMENT

- 5.1 Unless the survey confirmation makes specific provision for phased payments, the fees payable in respect of the Service will be invoiced as to 50% on the Contract Date and 50% upon delivery of the information.
- 5.2 Invoices in respect of the Service are payable within 30 days of the date of the invoice.
- 5.3 The Company reserves the right to charge interest at 3% per annum above the base rate from time to time in force of Lloyds Bank Plc on all overdue invoices.
- 5.4 The Client shall not be entitled to set off against any amount payable under this contract any amount due by the Company to the Client under any other agreement.
- 5.5 Without prejudice to any other rights of the Company, if the Client shall fail to make punctual payments of any monies due under any agreement between the Company and the Client, the Company may at its option, either withhold the provision of the Service and/or the information, until the total indebtedness of the Client to the Company has been discharged, or cancel this contract.
- 5.6 The Company reserves the right at any time at its discretion to demand security for payments before continuing with the provision of the Service or delivering any of the information to the Client, notwithstanding any subsisting agreement to provide credit to the Client or any provision to the contrary contained in these conditions.

6 COPYRIGHT AND CONFIDENTIALITY

- 6.1 The copyright in the information shall be and shall remain owned by the Company.
- 6.2 All of the information is confidential to the Company. To the extent that the information is given to the Client, the Client undertakes to take all reasonable precautions to maintain the confidentiality of the information and not to allow access to the information other than to:-
 - 6.2.1 those of the Client's employees who have reasonable need to have access to same; and
 - 6.2.2 professional advisers to the Client (such as advertising agencies and P.R. Consultants) but only on the specific understanding that such professional advisers do not pass on or use any of the information for clients of theirs other than the Client.
- 6.3 The information (in whatever form) shall at all times remain with the Company which may, at its discretion, destroy all or part of same after a minimum period of two years following the date of delivery of the Information unless otherwise instructed by the client.
- 6.4 The following Records remain the property of the Client and must not be disclosed by the Company to any third party without the Client's permission:

- 6.4.1 Marketing research briefs, specifications and other information provided by the Client.
- 6.4.2 The research data and findings from a marketing research project (except in the case of syndicated or multi-client projects or services where the same data are available to more than one Client).
- 6.5 Unless it is specifically agreed to the contrary, the following Records remain the property of the Company:
 - 6.5.1 Marketing research proposals and cost quotations (unless these have been paid for by the Client). They must not be disclosed by the Client to any third party, other than to a consultant working for the Client on that project (with the exception of any consultant working also for a competitor of the Company). In particular, they must not be used by the Client to influence research proposals or cost quotations from other research agencies.
 - 6.5.2 The contents of a report in the case of syndicated and/or multi-client projects or services where the same data are available to more than one Client and where it is clearly understood that the resulting reports are available for general purchase or subscription. The Client may not disclose the findings of such research to any third party (other than to his own consultants and advisors for use in connection with his business) without the permission of the Company.
 - 6.5.3 All other research Records prepared by the Company (with the exception in the case of non-syndicated projects of the report to the Client, and also the research design and questionnaire where the costs of developing these are covered by the charges paid by the Client).”
- 6.6 In the event that a Survey involves the receipt by GfK NOP of names and addresses, or other personal data subject to the Data Protection Act 1998 held by the Client on computer files or on paper it is the Client's responsibility to ensure compliance with the Data Protection Act 1998 by notifying such data for research purposes. The Client warrants that no breach of confidentiality shall occur through any such supply of data and shall indemnify the Company from all such claims.
- 6.7 The Client has however no right to know the names or addresses of Respondents unless the latter's explicit permission for this has first been obtained by the Company.
- 6.8 In order to execute the services required for the Client, GfK NOP may transfer personal data to GfK NOP approved suppliers both inside and outside of the European Economic Area; the Client shall ensure that it is lawfully entitled to transfer the relevant personal data to NOP for such purposes.
- 6.9 Email verification: The Client hereby represents to the Company that, with respect to any list of customers or other individuals that the Client provides to the Company for the purpose of sending invitations to participate in survey research on behalf of Client:

- 6.9.1 The Client shall have obtained verifiable consent from every individual included in such list specifying that they have agreed to receive emails inviting them to participate in survey research;
- 6.9.2 Upon request, the Client shall provide to the Company the date, time, method of contact and IP address (if by email) by which client obtained such consent from, as well as the nature of the Client's relationship with, each such individual;
- 6.9.3 The Client shall not have received any withdrawal or opt-out of such consent and agrees immediately to notify the Company if it does.
- 6.9.4 The Client hereby indemnifies and holds the Company harmless from and against any loss, claim or liability (including without limitation, reasonable legal fees and costs) arising from or related to the Client's breach or violation of the foregoing.

7 CARRYING OUT OF THE SERVICE

- 7.1 In the event that the Company shall be commissioned to conduct a survey requiring interviewees to examine or use any products, the Client shall indemnify the Company against any action by any interviewee or third party relating to the description, presentation or use of such products whether or not the Client is the manufacturer, distributor or agent for such products.
- 7.2 Any alteration to techniques or sample sizes from those set out in the survey confirmation, proposed or acquiesced to by the Client, may result in the delivery of the Information being delayed.
- 7.3 The Company reserves the right to sub-contract all or any part of the Service, including but not limited to the research described in the survey confirmation, to recognised suppliers, but subject to the appropriate quality controls and to the prior notification to the Client of the intention to sub-contract.
- 7.4 If the Company is required by the Client to sub-contract any part or parts of the Service to a named sub-contractor or one or more of several named sub-contractors, no warranty can be given by the Company as to the quality or accuracy of such part or parts of the Service.
- 7.5 The Company will use its reasonable endeavours to deliver the information on or before the date stated as the Delivery Date in the survey confirmation but time of delivery of the Information shall not be of the essence.
- 7.6 The Company reserves the right to collect e-mail addresses from respondents on non-Business CATI and CAPI surveys where the sample has not been provided by the Client, for the purpose of further participation in market research surveys carried out by the Company.

8 NON-SOLICITATION

- 8.1 The parties each undertake with the other that during the period commencing on the Contract Date and ending six months following the date of delivery of the Information, neither party shall canvass, or solicit for direct or indirect employment, any personnel of the other party, or proceed with any approach made by or on behalf of any such personnel, unless the prior written consent of the employing party is obtained.

9 QUALITY OF SERVICE AND COMPLIANCE

- 9.1 The Information will contain material derived from sample surveys carried out in accordance with accepted market research methods and as such, are subject to limits of statistical error.
- 9.2 The Company shall use all reasonable endeavours to ensure the accuracy of the Information, but no warranty is given as to the accuracy of any data provided by interviewees.
- 9.3 All warranties or other terms implied by statute or otherwise shall not apply to this contract, including but not limited to those implied by the Supply of Goods and Services Act 1982 and the Consumer Protection Act 1987.
- 9.4 The Company shall not be liable for any consequential or indirect loss suffered by the Client or any third party in relation to the contract and the Client shall indemnify the Company in respect of any claim of any person in respect of such consequential or indirect loss.
- 9.5 The entire liability of the Company under this contract shall not in any event exceed the fees payable under this contract, save in respect of the Company's liability for death or personal injury resulting from negligence.
- 9.6 GfK NOP Ltd complies with the requirements of the international standards ISO 9001:2000 – Quality Assurance and ISO 20252:2006 – Market, opinion and social research.
- 9.7 GfK NOP is a Company Partner of the Market Research Society (MRS); work undertaken by GfK NOP complies with the requirements of the MRS Code of Conduct and associated guidelines.
- 9.8. In the event of the Client wishing to publish all or any part of the Information, the Client has a responsibility to ensure that this is not misleading. The Company must be consulted and agree, prior to publication, the form and content of publication and, if the Company so requires, the Client must acknowledge the Company as the source of the Information, in a manner approved by the Company in writing.

10 FORCE MAJEURE

- 10.1 The Company shall not be liable for any delays in or failure to provide the Service arising from circumstances outside its control, including but not limited to lockouts, fire, accident, adverse weather conditions or the failure of any software or postal or railway strikes.

11 WAIVER

- 11.1 The failure by a party to enforce in any instance the performance by the other of any provision of the contract shall not be construed as a waiver of the first party's rights to future performance of such or any other provision of the contract.

Annex A – Additional Terms and Conditions of Contract applicable to contracts when the Client is a Public Authority as defined in the Freedom of Information Act 2000 and Freedom of Information (Scotland) Act 2002

FREEDOM OF INFORMATION ACT 2000 AND FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

- 1.1 "the Client" means the person, firm or company to whom this confirmation of contract is addressed.
- 1.2 "the Company" means GfK NOP Limited (and companies in the same group of companies as GfK NOP Limited) whose registered office is at 14 New Street, London, EC2M 4HE, registered in England No. 2512551.
- 1.3 For the purposes of this contract Commercially Confidential Information shall mean any information, however conveyed or presented (including such information which is referred to or quoted from in internal communications of the Client or communications between the Client and its authorised contractors), that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the Company, together with all information derived by the Client from any such information including without limitation:
- 1.3.1 all personal data and sensitive personal data covered by and as defined in the Data Protection Act 1998;
 - 1.3.2 information relating to proposed costs and methodologies;
 - 1.3.3 proprietary information and data relating to any of the Company's products or services used or proposed to be used as part of the contract;
 - 1.3.4 any other information where the commercial interests of the Company will or may be prejudiced (in the reasonable opinion of The Company) and where disclosure would or would be likely to:
 - (i) damage to the Company's business reputation or the confidence that customers, suppliers or investors may have in it;
 - (ii) have a detrimental effect on the Company's commercial revenue or threaten its ability to obtain supplies or secure finance; or

- (iii) weaken the Company's position in a competitive environment by revealing market sensitive information or information of potential use to its competitors; and
- 1.3.5 Any other information clearly designated by the Company as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential.
- 1.4 The Client shall treat any Commercially Confidential Information relating to the Company as being information provided in confidence by the Company within the meaning of the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 and shall not disclose any Commercially Confidential Information belonging to the Company to any other person without prior written consent of the Company, except to such persons and to such extent as may be necessary for the performance of the contact or where disclosure is otherwise expressly permitted by the provisions of the contract.
- 1.5 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Company standard contract, the Client shall:
 - (a) treat the Company's Commercially Confidential Information as confidential; and
 - (b) not disclose the Company's Commercially Confidential Information to any other person without the Company's prior written consent.
- 1.6 This clause shall not apply to the extent that:
 - 1.6.1 such information was in the possession of the party making the disclosure, without obligation of confidentiality, prior to its disclosure; or
 - 1.6.2 such information was obtained from a third party without obligation of confidentiality; or
 - 1.6.3 such information was already in the public domain at the time of disclosure otherwise than through a breach of this contract; or
 - 1.6.4 such information was independently developed without access to the Company's Commercially Confidential Information.
- 1.7 The Client may only disclose the Company's Commercially Confidential Information to the Client's personnel and contractors who are directly involved in the provision of the Services and who need to know the information. The Client shall ensure that its personnel and contractors are aware of, and comply with, these confidentiality obligations.
- 1.8 The Client shall not, and shall procure that its personnel and contractors do not, use any of the Company's Commercially Confidential Information received otherwise than for the purposes of this contract.
- 1.9 The Client undertakes (except as may be required by a valid court order or in order to instruct professional advisers in connection with this contract) not to disclose or permit

disclosure of any of the Company's Commercially Confidential Information to the news media or any third party other than its personnel and contractors.

1.10 At the written request of the Company, the Client shall procure that each member of the the Client's personnel and contractors signs a confidentiality undertaking prior to commencing any work in connection with this contract.

1.11 The Client shall forthwith notify the Company of any request received under either or both of the "Acts" and shall notify the party making a request for information that the Company's Commercially Confidential Information is provided to the Client in confidence and therefore shall not be disclosed.