

Terms & Conditions

1. DEFINITIONS

In these conditions: -

Affiliate means in relation to a party to this Agreement, any corporation or other entity that controls, is controlled by, or is under common control with, a party. A corporation or other entity shall be regarded as in control of another corporation or entity if it owns or directly or indirectly controls 50% or more of the voting securities or other ownership interest of the other corporation or entity, or if it possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation or other entity.

Agreement means these Terms and the Proposal.

Background IP means the DT Behavioural Data and any Intellectual Property Rights other than the Foreground IP that arises or is obtained or developed by Supplier and/or third parties and which may be developed independently of the Services and includes, any of the following, whether created before, during or after the Agreement: methods and systems Supplier uses to provide the Services, including without limitation, sampling, research, and methods of process or questioning, research products, sample or panel database(s), systems of analysis, observation, questions or questionnaire forms, and completed questionnaires, as well as all computer software or programs, models or systems, and analysis, used in Supplier's performance of the Services, whether or not such methodologies or software are patentable or copyrightable.

Change means a change to the scope of the Services set out in the Proposal.

Change Request means a request by a Party for a Change.

Client means any person or organisation receiving the Services pursuant to and named in an applicable Proposal.

Client Data means all data supplied by Client under the Proposal.

Completes means a completed Survey (and associated Survey responses) finished by a Survey Respondent who has successfully answered the entire questionnaire, regardless of the answers given, and where the Respondent has not been Screened Out.

Confidential Information means information which is disclosed or provided (whether orally, in writing, graphically, electronically or by any means) by Disclosing Party its Representatives to the other Receiving Party or its Representatives which is of a confidential or proprietary nature or which a reasonable person would believe should be treated as such, including but not limited to research methodologies, technical information, designs, recipes, plans, programs, methods, systems, formulae, processes, technology, object code, source code, executable code, metadata, flow charts, devices, designs, machines, inventions, research or development projects, plans for future project development, financial information, sales practices, business plans, marketing and pricing plans and strategies, customers, suppliers, Personal Data and all other confidential information of every kind and character, together with any analyses, compilations, studies or other documents prepared by the Receiving Party and/or its Representatives that contain or otherwise reflect such information.

Concept Products means Client's new concepts, products, services or designs, where such products form part of the subject matter of the Survey.

Cookie means online data collection technology.

Cookie Tracking means a service involving Client's online data collection through the deployment of Cookies on Respondent's browsers.

Data Protection Legislation means the following as amended, extended or re-enacted from time to time: (i) EC Directive 2002/58/EC on Privacy and Electronic Communications; (ii) the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426); (iii) the General Data Protection Regulation ((EU) 2016/679) ("GDPR"); (iv) the Data Protection Act 2018; and (v) all applicable local laws or regulations relating to the processing of Personal Data as contemplated under this Agreement.

Data Controller has the meaning given to it under the Data Protection Legislation.

Data Processor has the meaning given to it under the Data Protection Legislation.

Deliverable(s) means all data, materials, reports, products and deliverables developed by Supplier, its Affiliates or its agents, contractors and employees exclusively for Client as part of or in relation to the Services in any form as specified in a Proposal and where Digital Tracking is part of the Services provided, and if agreed in the Proposal, the Deliverables shall include the Results.

Disclosing Party means the Party disclosing Confidential Information to the Receiving Party or its Representatives.

Drop Out means a Respondent who has not been Screened Out but fails to complete the Survey.

DT Behavioural Data means reports, products and results produced by Supplier or its agents, contractors and employees as part of or in relation to the Services in the form as specified in a Proposal that are in a non-aggregated form (i.e. at an individual level (with directly identifiable personal data removed))

Effective Date means the earlier of the start date stipulated in the Proposal, or if no date is specified, the date upon which Supplier actually commences the provision of the Services.

ESOMAR 28 means the twenty-eight questions posed by ESOMAR to help buyers of online sample, which Supplier has answered to assist its clients in buying its services, a copy of which can be found at the following url: https://www.toluna-group.com/docs/default-source/Brochure_Docs/esomar-28.pdf?sfvrsn=10

Fees means the fees as set out in the applicable Proposal and in the currency specified therein.

Force Majeure Event means any acts, events, omissions or accidents beyond either of the Parties' reasonable control including but not limited to any of the following: disease, epidemic or pandemic, flood, earthquake, windstorm or other natural disaster; war; terrorist attack, civil war, civil commotion or riots; fire, explosion or accidental damage; adverse weather conditions; interruption or failure of utility service, including but not limited to electric power, gas or water; any labour dispute, including but not limited to strikes, industrial action or lockouts leading to non-performance by either of Supplier or its subcontractors.

Foreground IP means any Information created exclusively for Client, during the course of the performance of the Services, including the Deliverables and where agreed in the Proposal, the Results, but excluding the Background IP.

Full Service means where Supplier provides Client access to Sample Sources, programs Client's Survey, distributes invitations to the appropriate Sample Source, hosts the Survey on its network of computer servers and gathers the quantitative marketing research data and delivers the results to Client in un-tabulated form.

Guidelines shall include: the Public Release Policy, together with any Industry Standards.

Group Compan(y)(ies) for Supplier means any corporation or entity where at least 50% of the ultimate ownership interest is owned by TOLUNA Acquisitions Limited (as may be renamed), including but not limited to entities containing the names Toluna and Harris Interactive.

Incidence Rate means the ratio between the total number of Completes divided by the sum of total Completes and total number of Respondents who have been Screened Out.

Industry Standards means generally accepted professional industry standards and practices for survey research including any guidelines or codes of conduct published by the UK Market Research Society and ESOMAR.

In-House Usage Testing (I-Hut) or Concept Testing means a Survey whereby a Concept Product is sent to Respondents at their home address, or other mutually agreeable location for product testing and the subsequent Survey responses are based on such testing.

Intellectual Property Rights means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in Confidential Information (including know-how, tools and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

IP Claim has the meaning given to it in clause 12.4.

LOI refers to the average length of the Survey to be completed by the Respondents.

Losses means all losses, damages, liabilities, costs, expenses, fines and penalties (including, without limitation, reasonable legal fees and costs).

Personal Data has the meaning set out in the Data Protection Legislation.

Processing has the meaning given to it in the Data Protection Legislation, and "Process" will be construed accordingly.

Program and Host means where Supplier programs Client's Survey, invites potential Respondents from a list provided by Client or such other third parties at Client's direction, hosts the Survey on its network of computer servers and gathers the quantitative marketing research data and delivers it to Client in un-tabulated form.

Proposal means the document (including but not limited to an order form, work order or online order page) provided by Supplier which sets out the specification of the Services and the Fees and which is incorporated into the Agreement (and subject to these Terms).

Public Release Policy means Supplier's Policy regarding Public Release of Study Results as set out in Appendix 2 attached hereto;

Receiving Party means the Party receiving Confidential Information from the Disclosing Party and/or its Representatives.

Representatives means with respect to any Party, any Group Company of that Party and its and their respective directors, officers, employees, independent contractors, workers and professional advisors (including, without limitation, legal advisers and accountants).

Respondent means a participant who responds to a Survey.

Results means the results of the Digital Tracking, being: data, reports, materials, products and deliverables produced by Supplier, its Affiliates or its agents, contractors and employees, exclusively for Client as part of or in relation to the Services in any form as specified in a Proposal.

Sample Only Services means where Supplier provides Client access to the Sample Sources, directs appropriate potential Respondents to Surveys programmed and hosted on Client's computer systems and servers or on the computer systems and servers maintained by others but under Client's direction and/or control. Supplier's obligation to direct Sample to Client's Surveys is subject to its determination that it has sufficient Respondents and that it can meet the delivery and other terms established by Client, as well as Client's compliance with this Agreement.

Sample Sources means the Supplier Panels and, where applicable, Third Party Panels and/or Client's Respondents.

Screen-Out(s) means those Respondent(s) that are invited to partake in the Survey but who do not meet the qualifying criteria to participate in the Survey.

Soft Launch means where Supplier commences the field work by sending the Survey to 10%-20% of the total Respondents and then undertakes an analysis of the data in order to check if there is a perfect match with Client expectations.

Services means the services to be performed by Supplier as described in the Proposal. If Client elects under a Work Order to procure Toluna QuickSurveys, then it shall comply with the terms found at: <https://www.quicksurveys.com/Content/Policies/Terms-and-Conditions.aspx> ("TQS Terms"). If there is any conflict between the TQS Terms and the terms of this Agreement, the terms of this Agreement shall prevail.

Supplier means the entity that will provide Services to Client, as stated in an applicable Proposal

Supplier Panels means all panels managed, owned and branded by Supplier or Supplier's Affiliate.

Survey means survey research and analysis of the market for a particular product or service which includes getting feedback from Respondents and completion by respondents of market research questionnaires.

Third Party Panel(s) mean survey panels that are recruited, maintained and administered by a third party with whom Supplier has a separate agreement.

Terms means these terms and conditions of service.

2. FORMATION OF THE CONTRACT

2.1 These Terms are the only terms upon which Supplier is prepared to deal with Client in respect of the provision of the Services and they shall govern the Agreement to the entire exclusion of all other terms and conditions. No terms or conditions endorsed upon, delivered with or contained in any purchase order (or similar document), Client's acceptance of the Proposal, or acknowledgement or acceptance of Client's order by Supplier, shall form part of the Agreement and Client waives any right which it might have to rely on any such terms and conditions.

2.2 Unless otherwise expressly stated in writing, the Proposal, including all other quotations and estimates provided to Client by Supplier will not constitute an offer, capable of acceptance, but are merely invitations to treat. All quotations in respect of Fees are valid for a maximum period of thirty (30) days starting from the date of the original quotation. Notwithstanding the foregoing, Supplier reserves the right to revoke or alter any Fee quotation if, within a period of fifteen (15) days from the date of the original quotation, a currency fluctuation occurs or the Fees are to be increased as referred to in clause 16.11 below.

3. SCOPE OF THE SERVICES

3.1 The Services provided by Supplier shall materially conform with the specifications set out in the Proposal.

3.2 In the event of a material breach of clause 3.1 Supplier shall, as Client's sole and exclusive remedy, re-perform the relevant Services (or part of them) to comply with 3.1.

3.3 A Q&A procedure shall be implemented for all Surveys, which can only be bypassed upon prior written agreement between Client and Supplier. In such cases, Client is responsible for any quality issues as a result of bypassing the Q&A procedure.

3.4 A Soft-Launch shall be implemented for all projects, as is best practice.

3.5 Supplier has the right to review and approve each Survey for which it supplies Respondents, although Supplier shall assume no responsibility for the legality, quality and/or contents of the Survey. Supplier reserves the right to reject any Survey on the grounds that it is too long or complex, contains profane, obscene, hateful, discriminatory, illegal or otherwise objectionable material or breaches Supplier's privacy policy, any applicable laws or the Guidelines.

4. DELIVERY DATES

4.1 Upon commencement of the project as particularised in the Proposal, Supplier shall agree a delivery date with Client. Supplier shall use reasonable endeavours to uphold the deadline, but time shall not be of the essence in this regard. Delivery dates may be subject to unforeseen circumstances and delays caused by the action or inaction of Client.

4.2 Where Surveys are programmed by Client and in the event of a delay caused by a malfunction of the Survey (whether appearing during the Q&A procedure, the Soft-Launch or later) delivery dates may be delayed, and a revised timetable shall be agreed between the Parties.

4.3 The programming of non-English questionnaires shall require the formal sign-off of the English master questionnaire by Client before it can be translated. A delay in doing so may result in a delay to the delivery dates.

5. INCENTIVE PROGRAM (where applicable)

Supplier applies incentive payments at its discretion to promote Survey participation and Supplier must review and approve any such incentive program. Supplier reserves the right to reject any Survey, if in its opinion, the incentive offered to potential Respondents is insufficient to attract qualified Respondents. All incentive programs for use in connection with Supplier Respondents and/or Third Party Respondents, must be administered by Supplier. Any incentives to be paid shall be set out in the Proposal and the cost for such incentives shall become due and payable immediately upon execution of the Proposal. For the avoidance of doubt, the payment terms relating to incentives should be distinguished from the invoice(s) for the Services, which shall be subject to the payment terms set out under clause 11 herein.

6. SAMPLE ONLY SURVEYS (where applicable)

6.1 At the start of the project as particularised in the Proposal, Client and Supplier shall determine the exact profile of the Respondents eligible for participation in the Survey. When Supplier directs potential Respondents to Client Surveys, it shall mask their e-mail addresses and provide unique Respondent identification numbers instead. Pre-screening surveys conducted by Client shall qualify each potential Respondent within the first 10 (ten) questions. If pre-screening questions are located after the first 10 (ten) questions, this is considered to be "Late Screening" by Supplier and an additional 10% surcharge on top of the agreed cost per Interview (CPI) will apply to all Respondents recorded in Surveys with Late Screening. If a Respondent's profile is

inappropriate, and s/he is Screened Out, s/he shall immediately be routed back to a URL designated by Supplier. All Respondents who complete a Client Survey must, at the conclusion of the Survey, be routed back to a URL designated by Supplier.

- 6.2 Where Surveys hosted on Client's computer systems and server, Client must communicate all potential Respondents IDs and their respective questionnaire completion status (Completes, Screen-Outs and those participants who have failed to complete) to Supplier within 5 working days of project closure. If Client fails to communicate such status within such timeframe, Supplier shall pay incentives to all such Respondents and/or potential Respondents who in Supplier's reasonable opinion have completed the corresponding survey and charge Client accordingly.
- 6.3 Client shall disclose the technical and performance specifications of the software and computer systems (including the software and computer systems of others) used to conduct the Surveys so that Supplier may determine their capacity and capability. Client will be responsible for maintaining the uptime of such software and computer systems at 99.5% at all times when Supplier is directing potential Respondents to the Surveys. Supplier reserves the right to limit the number of potential Respondents sent to Client based on its assessment of the capacity of such software and computer systems. If such software and computer systems experience any downtime or technical difficulties that result in Client's inability to accept potential Respondents, collect data, allow potential Respondents to complete Surveys or in any other way prevent potential Respondents from taking and completing Surveys (the "Technical Difficulties"), Client shall immediately notify Supplier so it may cease directing Respondents to Client. In any case; where Client fails to notify Supplier of any Technical Difficulty within 15 minutes of its occurrence, Client will be liable for the cost of Respondents for the entire duration of the Technical Difficulty as if eighty percent (80%) of the potential Respondents are Completes, unless the assumed Incidence Rate of potential Respondents for any Survey affected by a Technical Difficulty is greater than eighty percent (80%), then Supplier will charge Client for Respondents delivered at such higher percentage.
- 6.4 Client shall maintain a system of "real-time reporting" to allow Supplier to determine: (i) the number of potential Respondents that have been directed to each Survey; (ii) the number of Respondents not Screened-Out; and (iii) the number of Completes. Should Client's real-time reporting experience any down time or Technical Difficulties then Supplier shall have the following options: (a) to discontinue the delivery of potential Respondents to any or all of Client Surveys until the difficulties are resolved, or (b) to continue to deliver potential Respondents to Client Surveys and charge Client as if eighty percent (80%) of the potential Respondents are Completes. If the assumed Incidence Rate for any Survey is greater than eighty percent (80%), then Supplier shall charge Client for Sample delivered at the higher percentage.
- 6.5 All help requests initiated by potential Respondents must be directed to the appropriate Survey support e-mail address at Supplier; the e-mail address shall be communicated at the start of the project. Supplier shall give Client prompt notice of the help requests along with the nature of the service issues. Client shall designate a help resource to work with Supplier to address the service issues raised by these help requests. Client shall work diligently to address all help requests and Supplier reserves the right to stop delivering potential Respondents to any and/or all of Client's Surveys until the issues which had given rise to the help requests have been resolved to Supplier's reasonable satisfaction.
- 6.6 During the term of this Agreement, Client shall develop and maintain a privacy policy and comply with its terms and all other applicable privacy laws, rules and regulations, including the Guidelines. Client shall only disclose to Supplier Personal Data about its customers, members and consumers in material conformance with; (i) any statement or policy that Client provides to such Data Subjects concerning the use and disclosure of such Personal Data; and (ii) all applicable laws.

7. DATA DELIVERY (where applicable)

In the case of Surveys hosted on Supplier's computer systems and servers, Supplier shall deliver the survey results to Client in the format agreed upon in the Proposal. Should Client subsequently request the data in a different format, this shall constitute a subsequent order and shall be charged separately.

8. COOKIES AND POST TERMINATION USE OF THE SERVICES

- 8.1 Unless specifically agreed in the Proposal or otherwise agreed in writing: (i) Client shall not be entitled to place or store Cookies on any Respondent's internet browsers; and (ii) following termination of this Agreement, Client shall immediately cease to use any Respondent Personal Data (including for the avoidance of doubt any information derived from any Respondent Personal Data and any Cookie placed and/or stored on such Respondent internet browser).
- 8.2 Client shall ensure that if agreed in a Proposal or otherwise agreed in writing that Cookies may be deployed against a Respondent's internet browser that: (i) any Cookie placed or stored on a Respondent's internet browser shall expire upon expiry of the period specified in the relevant Proposal or other written agreement, or if none specified, a maximum period of one (1) year from the placement and storing of such Cookie; (ii) it shall provide Supplier with as much detail as may reasonably be requested by Supplier for the purposes of complying with Supplier privacy policies and with applicable law; and (iii) it shall ensure that the Cookie can be uninstalled by the Respondent by following the instructions provided by Client, including by Client providing the Respondent with an "opt-out cookie".
- 8.3 Client warrants, represents and undertakes that any Cookie will not: (a) infringe any copyrights, patents, trade secrets, or other proprietary rights of a third party; (b) interfere with any anti-virus or other similar software on a Respondent's computer; (c) restore any deleted HTML cookies or hinder computer browsing performance in any noticeable way; (d) collect or record URL addresses or any information that is displayed on secured web pages; (e) collect keystrokes, IP addresses or associate the data with any unique persistent identifier; or (f) collect or attempt to collect any Personal Data from any Respondent.

9. CLIENT'S USE OF THE SERVICES

- 9.1 Client shall only use the Services (including the Deliverables) for the purposes of market research and in accordance with the Guidelines and for any other purpose, including, without limitation, marketing, promotional, selling or influencing the opinions or decisions of any Respondent.

10. THE TERM

- 10.1 This Agreement shall commence upon the Effective Date and subject to earlier termination in accordance with clause 16, shall continue until the later of the date upon which all:

- (a) Services under any active Proposal have been provided by Supplier; and
- (b) Fees for all Services have been paid by Client and received by Supplier in cleared funds.

- 10.2 Any regular or recurring Services as may be stated in a Proposal, unless terminated with at least 6 months' notice before the end of the initial term, will automatically renew on a 12-month basis (**Renewal Term**) and will continue until terminated by Client with 6 month's written notice prior to the end of a Renewal Term.

11. PAYMENT OF THE FEES

- 11.1 In consideration for the Services, Client shall pay Supplier the Fees. The Fees quoted are net of tax, which if applicable shall be charged in accordance with the tax laws of the country issuing the invoices for Supplier, which Client shall pay in full. Any withholding or service tax deducted from remittance of payments in respect of Supplier's invoices will be automatically charged back to Client. If Supplier subsequently receives a refund in respect of such tax charge, Supplier shall refund an amount equal to the tax refund back to Client.

- 11.2 The Fees for the Services are based on the specifications, LOI and Incidence Rates provided by Client, and as may be set out in the Proposal, or otherwise agreed between the parties. If the actual net Incidence Rate and/or the LOI differs from the original estimated net Incidence Rate and/or LOI, Supplier may at its option increase the price of the Survey based on the actual net Incidence Rate and LOI. Supplier shall use reasonable endeavours to report

actual Incidence Rates after one night of interviewing. In the unlikely event that Supplier is unable to provide sufficient Completes, Client shall only be charged for the number of Completes performed.

- 11.3 **Modification Fee:** If Client requires changes to the Survey after the Survey has already been tested by Supplier, or after the Respondents have already been recruited according to the original specifications, these alterations shall be charged at the hourly modification fee rate of £100. Supplier shall confirm the hours required for the changes upon receipt of the requirements from Client.
- 11.4 **On-hold Charge:** A £500 hold charge shall be applied if Sample deployment is placed on hold by Client for more than three (3) working days once Respondent selection has been executed and/or a questionnaire has been checked. If Respondents have already been deployed, all Completes achieved shall be charged to Client in addition to this.
- 11.5 **Minimum Fee:** Unless otherwise agreed in the Proposal, each project is subject to a minimum Fee of £1,000 (not including expenses or incentives), which shall be charged by Supplier in the event the final Fees due, based on the project volume due are less than £1,000.
- 11.6 **Over-Recruitment:** Client shall pay for the total number of Completes right up until the moment the Survey is finally closed.
- 11.7 **Drop Outs:** If, where the Survey which is hosted on Client's computer systems and servers, more than 10% of eligible Respondents are Drop Outs, it will be assumed that this is due to a technical problem on Client's side or that the questionnaire is overly complex or incomprehensible. In this case Client shall pay 50% of the price of a Complete for all Drop Outs after the first 10%.
- 11.8 Unless specifically stated otherwise in the Proposal, the Fees payable in respect of the Services may be charged 40% prior to the commencement of the Services, 30% at the interim stage, and 30% upon completion of the Services. Subject to clause 11.9, Client shall pay all invoices within thirty (30) days of the date of the invoice. Time for payment is of the essence.
- 11.9 Client shall, acting reasonably and in good faith be entitled to dispute any invoice provided by Supplier by providing Supplier with notice of the dispute (including full details) within fourteen (14) days of the date of invoice, provided always that the undisputed part is paid by the due date. The Parties shall use reasonable endeavours to resolve any dispute as soon as is reasonably practicable and Client shall pay the amount determined to be payable within 7 days of the Parties reaching agreement.
- 11.10 Save in respect of a bona-fide disputed amount in accordance with clause 11.9, in the event of late payment, Supplier reserves the right to suspend or terminate the provision of the Services.

11.11 **Changes to the Services and Increases in the Fees**

Either Party may submit a Change Request and the Parties shall co-operate in good faith with each other, whilst discussing the scope and nature of the Change Request. Supplier shall notify Client of any additional Fees, costs or expenses (together with the impact on any project timescales) to apply in relation to the implementation of the Change Request and with the prior agreement of Client, Supplier shall implement the Change and increase the Fees, expenses and/or costs accordingly.

- 11.12 Client shall not be entitled to set off against any amount payable under this Agreement any amount due by Supplier to Client under this Agreement or any other agreement.

12. **INTELLECTUAL PROPERTY AND COPYRIGHT**

12.1 **The Foreground IP:**

- (a) The copyright in the Foreground IP shall transfer to Client when Supplier has received in full all sums due to it in respect of the Services and the Supplier hereby assigns by way of present and future assignment of copyright, all right title and interest in and to the Foreground IP to Client.
- (b) **Use of Foreground IP** - Client shall not (and shall procure that its Representatives shall not) use the Foreground IP or any data derived from the Foreground IP or Services in any manner which breaches applicable law or the Public Release Policy as set out in **Appendix 2** attached hereto. Client shall be responsible for ensuring that any use by Representatives of the Foreground IP, data derived from the Foreground IP and the Services, complies with the terms of this Agreement.

- 12.2 **Background IP** - Supplier shall at all times retain sole and exclusive ownership of Background IP. Supplier shall own all right, title and interest in any improvements, enhancements and adaptations of the Background IP. Supplier hereby grants to Client a non-exclusive, non-transferable, non-sublicensable (other than to Client's Affiliates) licence to use the Background IP to the extent necessary to use the Deliverables in accordance with this Agreement. Client may not reverse engineer the Background IP in any manner, nor may Client modify or reuse any Background IP in any manner other than as specifically set out in the Agreement.

- 12.3 **Client Data** - Client Data is and shall remain the exclusive property of Client (or, where applicable, the third party from whom its right to use such data has derived) and Client hereby grants to Supplier a non-exclusive, non-transferrable, non-sublicensable (other than to Supplier's Affiliates) licence to use Client Data to the extent necessary to perform the Services in accordance with this Agreement.

- 12.4 **Indemnity for third party claim on Intellectual Property Rights** – Subject to clause 19, Supplier will indemnify Client from and against all Losses suffered or incurred by Client arising out of or in connection with any claim brought against Client for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use of the Foreground IP (**IP Claim**).

- 12.5 The indemnity provided under clause 12.4 shall not apply to the extent that the IP Claim arises out of or results from: (a) any act or omission of Client or its Representatives which constitutes a breach of the Agreement or negligence; (b), Supplier's use of anything provided by Client or its Representatives relating to the provision of any information, including but not limited Intellectual Property Rights, Confidential Information or other materials or information; (c) any modification to the Foreground IP not carried out by Supplier; or (d) any combination of the Foreground IP with any other information not provided by Supplier.

- 12.6 Client shall:

- (a) promptly notify Supplier of any IP Claim;
- (b) permit Supplier, at its own cost, to conduct all negotiations and proceedings;
- (c) permit Supplier to settle the claim (provided any such settlement wholly and unconditionally releases Client from liability under the IP Claim);
- (d) provide Supplier with such reasonable assistance regarding the IP Claim as is required by Supplier, subject to reimbursement by Supplier of Client's reasonable costs; and
- (e) not, without prior consultation with Supplier, make any admission relating to the IP Claim or attempt to settle it, provided that Supplier considers and defends any IP Claim diligently, using competent counsel and in such a way as not to bring the reputation of Client into disrepute.

13. **CONFIDENTIALITY & NON-PUBLICATION**

- 13.1 Receiving Party undertakes that it shall not at any time during this Agreement, and for a period of two years after its termination, disclose to any person any Confidential Information of the Disclosing Party or its Representatives. Receiving Party shall not use any Confidential Information of Disclosing Party for any purpose other than to perform its obligations under this Agreement.

- 13.2 Receiving Party agrees that any system or process used by it or its Representatives for (but not limited to) gathering, storing, processing or transmitting Confidential Information shall be regularly security assessed and that if any vulnerabilities or threats that pose a risk to any Confidential Information of the

Disclosing Party or its Representatives are discovered during the assessment, it shall rectify such vulnerabilities as soon as is reasonably practicable.

- 13.3 Receiving Party may disclose the Disclosing Party's Confidential Information to its Representatives who need to know such information for the purposes of carrying out the Receiving Party's obligations under this Agreement. Receiving Party shall ensure that its Representatives to whom it discloses Disclosing Party's Confidential Information comply with this clause 13. The provisions of this clause 13 shall not apply to any information that:
- (a) was publicly known and generally available to the Receiving Party or its Representatives prior to the time of disclosure by the Disclosing Party or its Representatives;
 - (b) is or becomes available to the Receiving Party or its Representatives on a non-confidential basis from a source other than the Disclosing Party or its Representatives, provided such source is not known by the Receiving Party or its Representatives to be subject to another confidentiality agreement with or other obligation of secrecy to the Disclosing Party, its Representatives or another party with respect to such information, or
 - (c) is independently developed by the Receiving Party or its Representatives without use of the Confidential Information, as shown by the Receiving Party's or its Representatives' files and records or other evidence in the Receiving Party's or its Representatives' possession.
- 13.4 The Deliverables furnished by Supplier are supplied in strict confidence for Client's internal business use only and Client shall comply with the Public Release Policy in respect of their use of the Deliverables.
- 13.5 Unless expressly approved in writing by Supplier, Client shall not (and shall procure that its Representatives shall not) use the Deliverables or any data derived from the Deliverables or Services whilst identifying Supplier as the source of the Deliverables: (i) for the purpose of supporting litigation; (ii) in any advertising or promotional copy; (iii) for supporting comparative advertising claims; (iv) for resale or syndication; or (v) for distribution to any media outlet in support of external public relations efforts, including news articles, interviews, press releases and events.
- 13.6 Client shall comply with all applicable laws and with the Guidelines in respect of its use of the Deliverables.
- 13.7 Client warrants that it will inform all persons employed by Client who have access to the Deliverables of the restrictions and obligations under these Terms. Notwithstanding the foregoing, Client may disclose the Deliverables to any of its customers, provided that; where Client does so it warrants that it shall obtain an undertaking from its Customer to use the Deliverables in accordance with this clause 13.7.
- 13.8 Client will indemnify and keep Supplier and its employees, officers, directors and agents, and Group Companies indemnified in full from and against all liabilities, costs, expenses, damages and losses and all other professional costs and expenses suffered or incurred by Supplier arising out of or in connection with any breach by Client of this clause 13.8.
- 13.9 Each Party shall retain and keep confidential; copies of the Deliverables for two (2) years from the date of completion of the applicable Services.
- 14. DATA PROTECTION**
- 14.1 Where applicable and subject to clause 14.7, Client is the "Data Controller" and Supplier is the "Processor" with respect to any Personal Data provided to Supplier by Client.
- 14.2 As a Processor, Supplier shall:
- (a) process any Personal Data in accordance with the instructions of Client, the Data Protection Legislation and / or the provisions of this Agreement, and for no other purpose;
 - (b) take appropriate technical and organizational measures to prevent unauthorized or unlawful processing of Personal Data, as well as any accidental damage, loss or destruction thereof;
 - (c) take all reasonable steps to ensure that all Supplier (and its Affiliates) Representatives who access, or process Personal Data are required to maintain confidentiality;
 - (d) Except as provided in Section 14.5 of these Terms and Conditions, Supplier will not transfer any Personal Data outside the European Economic Area unless it has obtained the prior written consent from Client, and that the following conditions are met:
 - (i) Supplier has provided appropriate precautions regarding this transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection for all Personal Data transferred; and
 - (iv) comply with all reasonable instructions regarding the processing of Personal Data, which Client has notified to it in advance;
 - (e) assist Client, at Client's expense, to respond to any requests from a data subject and to assist Client in complying with his / her obligations under the Data Protection Legislation, in the field of security, notification of infringements, impact assessment and consultations with supervisory or regulatory authorities;
 - (f) notify Client as soon as possible of any violation of Personal Data that it becomes aware of;
 - (g) Upon Client's written directive, Supplier will delete or return Personal Data, as well as their copies, upon termination of the Agreement, unless a law in force requires them to store the Personal Data; and
 - (h) maintain complete and accurate records and information to demonstrate compliance with clause 14.2.
- 14.3 Client shall:
- (a) process Personal Data in accordance with the provisions of the Data Protection Legislation;
 - (b) ensure that the processing of the Personal Data of such individuals is in accordance with any applicable privacy policy; and
 - (c) provide Supplier with the assistance reasonably required by Supplier to comply with its obligations under this clause 14.
- 14.4 Client will not use the Services:
- (a) to send commercial, or marketing e-mails or unwanted invitations;
 - (b) to request particular categories of Personal Data from the data subjects and / or disclose them to third parties;
 - (c) to request, collect, store and / or disclose credit or social security card numbers of Respondents or violate one or more Data Protection Legislation;
 - (d) to communicate any message or document deemed offensive, abusive, harassing, threatening, indecent, obscene, racially, ethnically or otherwise, hateful, deviant, defamatory, slanderous or otherwise unlawful;
 - (e) in a manner constituting a violation of any Intellectual Property Rights of a third party;
 - (f) in any way constituting a violation of any applicable laws, rules or regulations, including, but not limited to, any Data Protection Legislation; or
 - (g) in a manner constituting or encouraging conduct that is considered to be a crime or a civil offense by law and regulation in force.
- 14.5 Client consents to the transfer of Personal Data to the Group Company Toluna USA, Inc. ("Toluna USA") for hosting and backup purposes. Toluna USA acknowledges that the European Union has strict safeguards regarding the processing of Personal Data within the EU, including obligations to provide adequate protection for Personal Data transferred outside the EU. To provide adequate protection for certain Personal Data concerning individuals within the EU (including our business customers, suppliers, business partners, job applicants and employees in the United States). Toluna USA has chosen to certify its own membership of the EU-US Privacy Shield Framework administered by the US Department of Commerce ("Data Protection Shield"). Toluna USA is responsible for the processing of Personal Data it receives, in accordance with the Data Protection Shield, and then transfers it to a third party acting as agent for its own account. Toluna USA adheres to the principles of the Data Protection Shield: notification, choice, responsibility for the

subsequent transfer, security, integrity and limitation to a specific purpose of the Personal Data, access, remedy, application and liability.

14.6 The Parties shall comply with **Appendix 1** where Supplier shares Personal Data for Services titled ‘Harris Interactive Pop-Up Communities’, ‘Toluna Quick Communities’ or Services relating to Digital Tracking under clause 20.

14.7 Respondent Personal Data:

14.7.1 Client acknowledges and agrees that Supplier shall not be required to disclose the identity of Respondents or any Respondent Personal Data to Client, except in specifically described research situations, such as validation or modelling, as may be permitted by and in accordance with the applicable laws and the Guidelines and as agreed in advance in the Proposal. Client shall not allow the Respondent Personal Data or any portion of the Services to be matched or linked with any other data Client or third party may have, where such matching or linking will enable a Respondent to be identified.

14.7.2 Notwithstanding the provisions of clause 14.7.1, if agreed in an applicable Proposal that Supplier shall disclose such Personal Data to Client, Client hereby warrants that it shall comply with the terms of 14.7.3 below. In the event that a Respondent revokes their approval for data transfer and/or processing, Client shall delete the respective data immediately upon being so notified.

14.7.3 Where such Personal Data is collected from the European Economic Area, Client shall not transfer the Personal Data outside the European Economic Area unless there is an adequate level of protection for the rights of the data subject. In this respect, Client shall enter into a data transfer agreement on the Standard contractual clauses for the transfer of personal data from the European Community to third countries (controller to controller transfers), with Supplier or a Group Company.

14.7.4 Client shall ensure that the content of the Survey does not breach the laws of the country in which the Survey is conducted. In particular, Surveys may not contain the following: (i) any libellous or threatening content, or any which glorifies violence, nor any obscene, discriminatory or pornographic content; (ii) software, pictures of other materials which infringe the rights of a trademark or a copyright-holding third party; (iii) chain letters, publicity or any material aimed at promoting sales; or (iv) questions concerning illegal products, substances, or acts, or breaches of fair trade rules.

14.7.5 Client shall indemnify Supplier against any claims, losses, damages, costs (including all legal fees) and expenses (“Losses”) incurred by or awarded against Supplier arising out of or in connection with any breach by Client of this clause 14, except to the extent that such Losses have arisen out of any negligence or wilful default of Supplier.

15. LIMITATION OF LIABILITY

15.1 Nothing in this Agreement excludes or limits the liability of the Supplier in respect of:

- (i) death or personal injury caused by its negligence (including negligence of its employees, agents or contractors);
- (ii) fraud, fraudulent misrepresentation or fraudulent misstatement; or
- (iii) liability which may not otherwise be limited or excluded under applicable law.

15.2 Subject to clauses 15.1, Supplier’s aggregate liability, under or arising out of this Agreement and whether arising from breach of contract, tort (including but not limited to negligence), breach of statute, misrepresentation or otherwise shall not exceed the value of the Fees set out in the Proposal as having been actually paid by Client to Supplier in the 12 months immediately prior to which the incident giving rise to the claim first arose.

15.3 Supplier shall not be liable under or arising out of the Agreement and whether arising from breach of contract, tort (including but not limited to negligence), breach of statute, misrepresentation or otherwise for any: (a) special, indirect or consequential loss; (b) pure economic loss; (c) loss of profits or revenue; (d) loss of contracts; (e) loss of business; (f) loss of data; or (g) loss of goodwill.

15.4 Except as expressly provided in this Agreement (and so far as is permitted by applicable law), Supplier excludes all representations and warranties, express or implied (including but not limited to any warranty as to satisfactory quality, or fitness for a particular purpose); and without limiting the generality of the foregoing, Client expressly acknowledges and agrees that Supplier provides no warranty in relation to the Survey response rates or results that may be obtained from the Services. All figures contained in Supplier reports that are estimates derived from Surveys should be viewed as subject to the normal limits of survey error. Supplier does not predict or assure any particular substantive results of its research in advance, nor does Supplier accept any liability for: (a) Client’s interpretation of the Deliverables or of other data furnished to Client by Supplier; any errors caused by errors in data provided by Client to Supplier; or resale of survey results or other data by Client.

15.5 Supplier shall in no way be liable for any copyright infringement or a breach of confidentiality by a Respondent.

16. TERMINATION & CONSEQUENCES

16.1 Neither Party may terminate the Agreement for convenience, unless expressly agreed otherwise in the Proposal.

16.2 Without affecting any of its rights or remedies, either Party to this Agreement may terminate this Agreement with immediate effect by giving notice to the other Party if the other Party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified to do so. Failure to pay the Fees shall (without limitation) constitute a material breach.

16.3 Either Party shall be entitled to terminate the Agreement upon notice to the other if: (a) the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts; or (b) the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party; or (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party; or (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other Party (being a company); or (e) the holder of a qualifying floating charge over the assets of that other Party (being a company) has become entitled to appoint or has appointed an administrative receiver; or (f) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party; or (g) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Party’s assets and such attachment or process is not discharged within fourteen (14) days; or (h) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause 16.3; or if the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

16.4 In the event of any termination of the Agreement by Supplier for any reason or termination of the Agreement by Client pursuant to clause 16.1, Client shall pay the applicable Fees for all work carried out, expenses incurred and financial commitments entered into by Supplier as at the date of termination of the Agreement (including third Party cancellation charges and termination fees). Upon termination of the Agreement for any reason, all Fees which have been invoiced shall be immediately become payable.

16.5 The termination of the Agreement shall be without prejudice to the accrued rights and liabilities of the Parties. The provisions of clauses 1, 11, 13, 14, 15, 16, 17, 18, 19, 20, and 21 shall survive termination of the Agreement.

17. NON-SOLICITATION

Client shall not, for a period of twelve (12) months from the Effective Date, directly or indirectly solicit or entice away (or attempt to solicit or entice away)

from the employment of the Supplier or any Group Company, any employee, worker or independent contractor of those parties. Client shall not be in breach of this clause 17 as a result of running a national advertising campaign open to all comers and not specifically targeted at any of the staff of the Supplier or Group Company. If Client commits any breach of this clause 17, Client shall, without prejudice to any other rights or remedies of the Supplier, on demand, pay to the Supplier a sum equal to twelve (12) months' basic salary that was payable by the Supplier to that employee, worker or independent contractor plus the recruitment costs incurred by the Supplier in replacing such person.

18. **NO RECRUITMENT**

Client acknowledges that Supplier and its Group Companies have spent significant time and resources recruiting individuals who have met necessary or desirable verification requirements and have been selected to join or opted in to the Supplier Panels ("**Panel Members**") and that the Personal Data of any Respondents or Panel Members is the Confidential Information of Supplier or a Group Company. Unless specifically agreed in a Proposal, Client shall not recruit, or attempt to recruit any Respondent (or potential Respondent) or Panel Members from the Supplier Panels, into any panel, community or group of individuals, online or off-line, or take any action that would allow Client to contact, or allow any other Party to contact any Respondent (or potential Respondent), or recruit him/her for any other market research activities, or any other activities at any time in the future. If Client is in breach of this clause 18, Supplier shall charge Client a one-off fee of five (5) times the Fee per Respondent (or potential Respondent) or Panel Member as set out in the Proposal. The Parties each acknowledge and agree that such fees are reasonable and proportionate, are not a penalty, but are necessary to protect Supplier's legitimate interest.

19. **I-HUT/ CONCEPT TESTING (where applicable)**

19.1 If Supplier is to disclose to any Respondent any Confidential Information belonging to Client for the performance of the Services (hereinafter "**Disclosure**"), Client agrees that Supplier will not assume any liability with respect to such Disclosure, and expressly waives any right, remedy or claim that Client may have against Supplier for any claim, expense, or damage resulting from such Disclosure.

19.2 If Client provides Supplier with Concept Products intended to be examined, tested or used by any Respondent, Client shall indemnify and defend Supplier against any complaint, recourse, loss, prejudice, costs or claim for damages, interest resulting from the use, examination or testing of such goods or products, including in the event of death, injury to persons or property or violation of law, whether Client for this purpose is the manufacturer, distributor or agent thereof. If Supplier is required to transport or deliver (or cause to be transported or delivered) such goods or products, then Client shall bear the risk of loss, theft or damage during transportation or delivery.

20. **DIGITAL TRACKING**

20.1 Supplier or its Group Company owns a single-source permission-based digital tracking product, which allows insight into internet services usage, by passively collecting granular individual traffic data in real-time. Digital tracking services, which may include In-App tracking for content-level video and music consumption, ad exposure and e-Commerce at the SKU, advertisement or program level ("**Digital Tracking**"). Any Foreground IP in the Digital Tracking is for the exclusive use by Client within its' own business only and Client shall keep such Foreground IP confidential and not use them in any external publication unless they have received Supplier's prior written consent. Client may not sub-licence any rights to use such Foreground IP for or to any third party.

20.2 If it is agreed in a Proposal that Supplier will provide DT Behavioural Data then Client acknowledges that the Results would contain personal data under the Data Protection Legislation (if applicable). In such circumstances, the parties are controllers in common. As such, both parties shall, in a transparent manner determine their respective responsibilities for compliance with their obligations under the Data Protection Legislation and in accordance with **Appendix 1**.

21. **MISCELLANEOUS**

Authority: Each Party hereby represents and warrants to the other Party that it has all necessary authority to enter into and perform its obligations under this Agreement without the consent of any third party or breach of any contract or agreement with any third party. **Assignment:** Client may not assign its rights or delegate its duties under this Agreement either in whole or in part, and any such attempted assignment or delegation shall be void. **Force Majeure:** Neither Party shall be deemed in default of the Agreement to the extent that performance of its obligations (excluding any payment obligations) or attempts to cure any breach are delayed, restricted or prevented by reason of any Force Majeure Event. **Waiver:** The failure of either Party to seek relief for the other Party's breach of any duty under this Agreement shall not waive any right of the non-breaching Party to seek relief for any subsequent breach. **Severability:** If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this Agreement and the others shall remain in full force and effect. **Contracts Rights of Third Parties:** A person who is not a Party to this Agreement shall not have any rights to enforce any term of this Agreement. **Neutral Construction:** The Parties agree that this Agreement shall be deemed to have been jointly and equally drafted by them, and that the provisions of this Agreement therefore should not be construed against a Party or Parties on the grounds that the Party or Parties drafted or was more responsible for drafting a provision(s). **Entire Agreement:** Each Party to this Agreement acknowledges that this Agreement constitutes the entire Agreement of the Parties with regard to the subject matter addressed in this Agreement, that this Agreement supersedes all prior or contemporaneous agreements, discussions, or representations, whether oral or written, with respect to the subject matter of this Agreement. Each Party to this Agreement further acknowledges that no promises, representations, inducements, agreements, or warranties, other than those set forth herein, have been made to induce the execution of this Agreement by said Party, and each Party acknowledges that it has not executed this Agreement in reliance on any promise, representation, inducement or warranty not contained herein. **Captions and Headings:** Captions and headings are used herein for convenience only, are not a part of this Agreement, and shall not be used in interpreting or construing this Agreement. **Governing law and jurisdiction:** Unless stated otherwise in a Proposal, this Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales. The Parties to this Agreement irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). **Use of data:** Supplier reserves the right to process, collate, aggregate, analyse and use (for any purpose whatsoever, including for conducting analysis on industry trends and developments): (i) any location data; (ii) any traffic data; (iii) any technical device information; (iv) any other data or information relating to or derived from the Services only where that data has been anonymised prior to collation by the Supplier. Supplier may share such data with any third party or publicise the anonymised statistical data that results from such analysis of the information.

APPENDIX 1
SHARING OF RESPONDENT PERSONAL DATA
BY SUPPLIER TO CLIENT

- (A) Where applicable, the Services under the Agreement may require the collection by Client of Shared Personal Data (defined below) of the Respondents or Panel Members of Supplier. In respect of the Shared Personal Data, Client will be a co Controller with Supplier. Supplier wishes the Shared Personal Data to remain confidential and protected from unauthorised access by, and/or use and/or disclosure to, third parties;
- (B) The parties each acknowledge their responsibilities under applicable data protection law; and
- (C) Client agrees to maintain, the security, integrity and confidentiality of the Shared Personal Data in accordance with the terms, covenants, obligations, representations and warranties contained in this Addendum.

1. Definitions in this Appendix:

“**Purpose**” means gathering feedback and insights from the Respondent.

“**Respondent**” means an individual who responds to a survey via the Harris Interactive Pop-Up Communities or otherwise.

“**Services**” means the services described in the Proposal, being Harris Interactive Pop-Up Communities or otherwise.

“**Shared Personal Data**” means the Respondent’s image or audio recording and/or Respondent’s first name or user name and which the parties each control.

2. Representations and Warranties

2.1 Client hereby represents, warrants and undertakes that it will:

- (a) use the Shared Personal Data solely for the Purpose, which shall be for exclusively research purposes;
- (b) not allow the Shared Personal Data to be transferred to any other party, unless it has first obtained the unambiguous specific and informed consent of the Respondent;
- (c) delete the Shared Personal Data as soon as the Purpose is complete and keep the Shared Personal Data only for as long as is necessary as provided under the Principles relating to the processing of personal data under Art 5 GDPR;
- (d) not recruit, or attempt to recruit any Respondent into any panel, community or group of individuals, online or off-line, or take any action that would allow Client to contact, or allow any other party to contact any Respondent, or recruit him/her for any other market research activities, or any other activities at any time in the future;
- (e) not process the Shared Personal Data for any use which is contrary to any guidelines or codes of conduct published by ESOMAR (The World Association of Research Professionals); including, without limitation for marketing, promotional, selling or influencing the opinions or decisions of any Respondent;
- (f) collect the Respondent personal data fairly and lawfully and in accordance with this Appendix and the Data Protection Legislation;
- (g) ensure that the Respondents (and in the case of children under 16 years old, the Respondents’ parents) have provided their unambiguous consent to process their personal data for the Purpose;
- (h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 2 and allow for audits by Supplier or Supplier’s designated auditor;
- (i) put appropriate technical and operational processes and procedures in place to safeguard against unauthorised or unlawful processing of the Shared Personal Data, protect the security, integrity and confidentiality of the Shared Personal Data and will not permit any unauthorised access to, or use, disclosure, publication or dissemination of, the Shared Personal Data and against accidental loss or destruction of, or damage to, Shared Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Shared Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Shared Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it). Client agrees to use the same degree of care and scrutiny as it uses to protect and secure its own confidential information and customer information, but in no event will Client use less than a reasonable degree of care; and
- (j) in the event of a breach of the security of Client’s systems, servers and/or facilities, or any unauthorised access to, or use and/or disclosure of the Shared Personal Data (“**Security Breach**”), while in Client’s possession, Client will promptly notify Supplier, but in no event later than twenty-four (24) hours, after Client or Client’s Customer first learns of or discovers the Security Breach. In the event of a Security Breach, Client will: (i) use its best efforts to mitigate any harmful effect(s) of the Security Breach; (ii) use commercially reasonable efforts to make available sufficient resources and data for Supplier to determine the full impact and root cause of the Security Breach; and (iii) fully co-operate with Supplier in investigating the cause(s) of any Security Breach and in providing notice to affected individuals and/or the appropriate legal and/or regulatory agencies, as required by any Data Protection Legislation or applicable laws and codes of practice.

2.2 Client shall indemnify, defend and hold harmless Supplier and its affiliates, officers, directors, agents, successors and assigns from and against any third party claims and related losses, damages, fines, penalties and expenses, including reasonable attorney’s’ fees, that arise out of or result from Client’s breach of clause 2 of this Appendix.

3. Compliance with laws, including the Data Protection Legislation

3.1 General. It is acknowledged and agreed that due to the nature of the Services that the parties are co controllers under the Data Protection Legislation. As such, both parties shall, in a transparent manner determine their respective responsibilities for compliance with the obligations under the Data Protection Legislation.

3.2 Privacy notices. Each party shall ensure that its’ privacy notices to Respondents are prominently displayed, clear and provide sufficient information to them to understand what of their personal data will be shared with whom, the circumstances in which they will be shared, the purposes for which their personal data will be shared and either the identity of such recipients or a description of the type of organisation that will receive the personal data.

3.3 Processing of Personal Data. Each party shall: (a) comply with all Data Protection Legislation in the processing of personal data; and (b) not process personal data except as necessary to perform the Services, unless such processing is required by Data Protection Legislation. The parties shall take steps necessary to ensure the reliability of any employee, agent or contractor who may have access to personal data, ensuring that access is limited to those individuals who need to know or access personal data as strictly necessary to perform the Services and ensuring that all such individuals comply with Data Protection Legislation.

3.4 Data processors. When appointing data processors, all parties shall: (i) carry out adequate due diligence before the Data processor processes personal data to ensure the Data processor is capable of complying with the terms for data processors under Article 28 GDPR; and (ii) enter into a written addendum with each data processor on terms required under Article 28 GDPR.

3.5 Data Subject Rights. If Client receives a request from a data subject under Data Protection Legislation in respect of personal data, Client should notify Supplier of such request within forty-eight (48) hours of receipt of such request to enable Supplier to respond to such request as required under Data

- Protection Legislation. Client will assist Supplier, at Client's cost, in responding to any request from a data subject and ensure compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
- 3.6 **Personal data breach.** In the event of a personal data breach, all parties shall comply with all obligations under Data Protection Legislation in respect to the mitigation, and remediation of any personal data breach. Where a personal data breach involves personal data, such mitigation and remediation may include, without limitation, the provision of notice to any affected or potentially affected data subjects, and supervisory authorities. All parties and its data processors shall take any and all measures necessary to minimize the adverse impacts of the personal data breach, to restore the security, confidentiality, and/or integrity of personal data, and to prevent a recurrence of any personal data breach.
- 3.7 **Retention of personal data.** Each party should have in place a data retention policy specifying the length of time it will keep personal data for and should securely delete personal data that is no longer needed for the purpose it was obtained for.
- 3.8 **Restricted Transfers.** Transfer of personal data outside the European Economic Area may only be made where there is an adequate level of protection for the rights of the data subject and either after written authorisation by the data subject, or under the EU Model contracts for the transfer of data to third countries.
- 3.9 **Audit Rights.** The parties shall make available to the other party upon reasonable request or as required by Data Protection Legislation all information necessary to demonstrate compliance with this Appendix.
- 3.10 **Indemnity.** Client shall indemnify, defend and hold harmless the Supplier and their respective affiliates, officers, directors, agents, successors and assigns from and against any third party claims and related losses, damages, fines, penalties and expenses, including reasonable attorney's fees, that arise out of or result from Client's breach of this clause 3.
4. **Equitable Relief.** Client acknowledges and agrees that Client's unauthorised use or disclosure of Personal Data provided under this Appendix will cause Supplier irreparable injury for which Supplier would not have an adequate remedy at law. Accordingly, Client agrees that in the event of Client's breach of any provision of this Appendix Supplier will be entitled, in addition to any and all other remedies available at law and/or in equity, to the remedies of injunction (whether temporary or permanent), specific performance or other equitable relief for any threatened or actual breach of the terms of this Appendix.

APPENDIX 2

POLICY REGARDING PUBLIC RELEASE OF STUDY RESULTS

Supplier has a long-established policy regarding studies that are intended for public release. Supplier maintains this policy to ensure that the public, policymakers, the media and other constituents have confidence that we provide honest, reliable, balanced and comprehensive information. Unfortunately, some studies are designed not to inform, but to mislead.

We believe that Supplier has a responsibility — based on industry standards established by organizations such as; ESOMAR, the MRS, the NCPP and the British Polling Council — to guide clients on the best approach to meeting their research needs. Therefore, we advise clients about the questions they want to include in their questionnaires, offer methodological recommendations, and provide guidelines for public disclosure of study results.

The guidelines set forth below have been designed to prevent legitimate criticism and challenges, whether in legal proceedings or otherwise, of study results that are released publicly. By adhering to these guidelines, Supplier and its clients mitigate the risk of embarrassment and/or costly litigation due to legitimate criticism and challenges. Accordingly, these guidelines not only advance the public's best interest by adding to the credibility and integrity of research, but benefit Supplier and its clients as well.

- Clients must inform Supplier prior to the commencement of a study that the study results, in whole or in part, may be disclosed publicly in order for Supplier to ensure that the design and methodology avoid bias, are fair, balanced and sufficiently comprehensive, and are otherwise appropriate for a publicly released study.
- Clients may not attribute study results to Supplier or use or reference Supplier's name, trademarks or logos in any public disclosure of study results without Supplier's prior approval in order for Supplier to ensure accuracy, correct interpretation and representation of the data, that proper attribution is used, and that the disclosure meets industry standards.
- In circumstances where study results are not attributed to Supplier and Supplier's name, trademarks and logos are not used or referenced, clients may publicly disclose study results without Supplier's approval, under the condition that the study results are not presented in a misleading or illegal manner, or in a manner which is likely to have an adverse effect on the reputation or goodwill of Supplier. Nevertheless, it is strongly encouraged that Supplier review each disclosure for accuracy before public release.
- Clients may not make any advertising, marketing or promotional claim based on study results without Supplier's prior approval, regardless of whether Supplier is mentioned in or associated with the claim. Generally, such approval will be granted for a claim only if, among other things, (a) the methodology used to conduct the research is complete, balanced and defensible, (b) the claim is substantiated by the results of the research and is not misleading or biased, and otherwise meets industry standards, and (c) the claim does not specifically identify competitors or their products, services or brands (e.g., position a client against one or more identified competitors).
- Unless legally compelled, clients may not disclose study results in legal, administrative or governmental proceedings without Supplier's prior approval.
- In connection with any public policy/public interest study, if only part of the study is publicly released, then all of the relevant data from the study must be made available upon request, except for data from questions pre-designated to remain proprietary (however, incorporation of those in the design should be done in a way that avoids bias).