

# Sample Answers Ltd

## Terms & Conditions

### 1. Definitions and Interpretation

**Company:** Sample Answers Ltd, whose registered office is C/O BSG Valentine, Lynton House, 7-12 Tavistock Square, London, WC1H 9BQ. Registered company 03046957

**Client:** the person, firm or company placing an order with the Company

**GDPR:** General Data Protection Regulations 2018

**Goods:** any goods provided by the Company as ordered by the Client

**Services:** any services provided by the Company as ordered by the Client

**Confidential Information:** all information (however recorded or preserved) disclosed by us to the Client or Client's employees, officers, representatives, advisers or sub-contractors involved in the receipt of the Services in connection with this agreement

**Data:** any data, database or information (including personal information) in whatever form, the provision of which may form part of the Goods and Services ordered

**Business Purpose:** the purpose for which you require the Data as defined in the confirmation of the initial order

**Authorised Representative:** a person, notified by the Client whom we are able to rely upon as having full legal authority to enter into this agreement on behalf of the Client

### 2. Quotations and Orders

All quotes are valid for 30 days from the date issued. This period may be extended if confirmed in writing by The Company.

The prices, quantities and delivery time stated in any quotation are not binding on the Company. They are commercial estimates only which the Company will make reasonable efforts to achieve.

The Company will use its best endeavours to supply the Goods and Services within the quoted time (normally within a maximum of seven days from order or otherwise as agreed) but time will not be of the essence within the contract.

The Company shall supply the Goods and Services to the Client in accordance with instructions provided by an Authorised Representative of the Client.

Orders will be deemed to have been placed when an email confirmation has been received from an Authorised Representative of the Client.

In view of the nature of the service, any order, once confirmed by the Company, cannot be cancelled. Cancellation of the order by the Client will only be accepted on condition that any costs, charges and expenses already incurred, including any charges that will be levied by a sub-contractor on account of their expenses, work or cancellation conditions will be reimbursed to the Company forthwith.

All prices quoted and charged by the Company are subject to the addition of Value Added Tax at the prevailing rate.

### 3. Usage of Goods, Services and Materials

Unless otherwise agreed in writing by the Company, the Client shall be entitled to use the Goods, Services and Materials with a non-exclusive, non-transferable, revocable, licence provided as follows:

- a. The Data is licensed for single use unless stated otherwise and for use within a period of not more than 28 days from date of delivery unless otherwise agreed in writing.
- b. The Data may be stored on the Client's System for a maximum period limited to 60 days.
- c. The Data is provided solely for the purpose of conducting Market Research to be carried out in conformity with the recognised ESOMAR/MRS Code of Conduct of the market research industry.
- d. The Client shall not otherwise be entitled to store, or to pass on (whether to his/her client or other person) or make any other use of the Goods, Services and supporting materials.
- e. The Client shall bear responsibility for ensuring that all usage of information contained within any service is in accordance with, and does not contravene, any Data Protection or other laws, regulations or other trade customs and practices. The Company bears no liability for any omissions or faults in these respects.

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- f. The Client shall only make copies of the Data to the extent reasonably necessary for the Business Purpose including back-ups, mirroring and similar security, disaster recovery and testing techniques.
- g. The Client shall not extract, re-utilise, use, exploit, redistribute, re-disseminate, copy or store the Data other than for the Business Purpose.
- h. Where the Business Purpose requires the supply and broadcast of email addresses, the Client shall utilise the unsubscribe links and opt-out statements provided by the Company.
- i. Where the Goods and Services entail Online sample-only services, the Client shall pay for all completed interviews achieved until fieldwork is closed. This may include interviews achieved in excess of the number originally quoted for.

The Client's right to use the Data shall be non-exclusive and for single use only, unless stated otherwise. Single Use permits you to dispatch, broadcast or otherwise communicate a single survey invitation to each contact supplied as part of the Client order.

#### **4. Payments and Charges**

New clients or other clients out of terms may be expected to pay in advance for Goods and Services.

All other invoices issued by the Company shall be paid by the Client within thirty (30) days of the date of invoice unless otherwise agreed in writing by the Company.

In the event of late payment, the Company may charge interest on the amount outstanding from the due date until the date of payment before and after judgement at the rate of five (5) percent above the Base Rate of the Bank of England.

In addition, for any invoice unpaid for more than 60 days after the invoice date, the company shall be entitled to levy a surcharge of either £30 or 5% of the outstanding amount, whichever sum is greater.

If any amount of an invoice is disputed, then the Client shall inform the Company of the grounds for such dispute within seven days of delivery of the Goods and Services and shall pay to the Company the value of the invoice less the disputed amount in accordance with these payment terms. Once settlement of the dispute has been agreed, any sum then outstanding shall also be payable in accordance with these payment terms.

The Company reserves the right to increase a quoted fee in the event that the Client requests a variation to the work agreed.

#### **5. Client Obligations**

In the event that the Client receives a request from a contact supplied by the Company to "Do Not Contact" then the Client will provide the Company with the necessary details for that contact to ensure that the Company can comply with its obligations under GDPR.

The Client undertakes to notify the company immediately of any notice or other communication in respect of the Data received from the Information Commissioner's office or any other official or legislative body.

The Client undertakes that it will at all times comply with the provisions of the GDPR in respect of use and storage of the Data.

The Company accepts no responsibility for any breach by the Client of any legislation as a result of communication to the contacts within Data supplied by the Company.

Subject to the prior written consent of the Company the Client shall not induce to employ, whether as an employee, agent, partner or consultant, any employee of the Company directly associated with delivery of the Goods and Services.

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### 6. Warranties

The Client warrants that:

1. It has fulfilled its obligations under GDPR and undertaken a risk analysis in respect of its proposed use of the data and confirms that it is entitled to and will process the Data in compliance with the Privacy and Data Protection Requirements and that it is not aware of any circumstances likely to give rise to breach of any of the Privacy and Data Protection Requirements in the future (including any Security Breach);
2. It will take appropriate technical and organisational measures against the unauthorised or unlawful Processing of the Data and against the accidental loss or destruction of, or damage to, the Data to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful Processing or accidental loss, destruction or damage;
3. It will take reasonable steps to ensure compliance with those measures; and discharge its obligations under this agreement with all due skill, care and diligence;
4. Except as expressly stated in this agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise upon us, are hereby excluded by the Company to the extent permitted by law.

### 7. Data Accuracy

The Company uses all reasonable endeavours to ensure Data is accurate and up-to-date. Whilst the Company agrees that all Data has been fairly and lawfully obtained in accordance with the Data Protection Act 1998, no warranty is given regarding the accuracy or completeness of individual addresses, contact names or telephone numbers or that any list is a complete compilation of the categories of persons or establishments described therein.

The Company does not warrant that the Data:

- a. is accurate, complete, reliable, secure, useful, fit for purpose or timely;
- b. has been tested for use by you or any third party;
- c. will be suitable for or be capable of being used by you for the Business Purpose.

### 8. Unauthorised Use

If any unauthorised use is made of the goods and services then, without prejudice to our other rights and remedies, the Client shall immediately be liable to pay us an amount equal to the Charges that we would have charged for permitted usage (in accordance with our original quote), together with interest at the rate of five (5) percent above the Base Rate of the Bank of England, from the date of such unauthorised use.

### 9. Limitation of Liability

The Company shall not be liable for any claim arising out of the performance, non-performance, delay in delivery of or defect in the Goods or Services nor for any special, indirect, economic or consequential loss or damage howsoever arising or howsoever caused (including loss of profit or loss of revenue) whether from negligence or otherwise in connection with the supply, functioning or use of the Goods or Services.

Any liability of the Company shall in any event be limited to the licence fees paid by the Client in respect of this agreement. Nothing herein shall limit either party's liability for death or personal injury arising from the proven negligence by itself or its employees or agents.

The Client shall fully indemnify the Company against any liability to third parties arising out of the Client's use of the Goods and Services.

### 10. Copyright

The Client acknowledges that the rights to the Goods and Services are owned by the Company and that the Goods, Services and supporting materials are protected by United Kingdom copyright laws, international treaty provisions and all other applicable national laws.

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### 11. Confidentiality

Both parties shall maintain strict confidence and shall not disclose to any third party any information or material relating to the other or the other's business which comes into that party's possession and shall not use such information and material without written permission by the other party.

The Company and the Client agree to take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information. This provision shall not, however, apply to information or material which is, or becomes, public knowledge by means other than by breach by a party to this clause.

### 12. Force Majeure

The Company will not be liable to the Client for any loss or damage suffered by the Client as a direct result of the Company, its sub-contractors or the list-owner from whom the sample or other service or material is derived being unable to perform the agreement in the way agreed by reason of cause beyond its control including Act of God, accident, war, riot, lockout, strike, flood, fire, power failure, breakdown of plant or machinery, delay in transit, postal delay, or any other unexpected or exceptional cause or circumstance.

### 13. Contract Waiver

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

### 14. Rights and Remedy

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

### 15. Notices

All written notices to be served on or given to the Client shall be sent or delivered to the Client's principle place of business and shall be treated as having been given upon receipt.

### 16. Entire Agreement

Subject to any variation which is agreed in writing, this contract comprises the entire agreement between the parties and any other understandings, promises or conditions, express or implied are superseded by this agreement.

### 17. Invalidity

If any term of this agreement shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision shall to that extent be deemed not to form part of the agreement but the enforceability of the remainder of the agreement shall not be affected.

### 18. No Partnership or Agency

Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Company and the Client, constitute either of us the agent of the other, or authorise either of us to make or enter into any commitments for or on behalf of any other.

The Client confirms that it is acting on its own behalf and not for the benefit of any other person.

### 19. Third Party Rights

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

### 20. Governing Law

These Terms of Trading shall be subject to and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts.