LIVEMINDS AGENCY TERMS AND CONDITIONS

These terms and conditions are entered into by a client ("the Client") and Liveminds Research Ltd ("Liveminds") when an order form or some other form or order has been agreed between the Client and Liveminds and is submitted to Liveminds.

These terms and conditions are entered into between;

BETWEEN

(1)   LIVEMINDS RESEARCH LTD, a company incorporated under the laws of England and Wales having its registered office at 167-169 Great Portland Street, 5th Floor, London, W1W 5PF, UK, company registration no. 14087830 ("Liveminds"); and

(2)   The Client is the person or legal entity who engages Liveminds to provide the services as more fully defined below ("the Client").

Each can be described as a "party" and together as "the parties".

1.   Definitions

The following definitions and rules of interpretation apply in this agreement.

Authorised Users	means the End Client and Participants.
End Client	in circumstances where the Client is acting on behalf of an end client(s) means the end client(s) of the Client as specified in a Purchase Agreement.
Content	means any text, information, image, audio, visual material, software or applications uploaded to the site or otherwise supplied to Liveminds by the Client, the End Client or a Participant.
Data Sharing Agreement	means a data sharing agreement between Liveminds and the Client recording the rights and obligations of the parties as separate controllers in relation to Response Data.

Fees	means the amounts payable to Liveminds by the Client for the Services.
Participant	means those persons from whom the Client solicits Response Data in relation to Published Questions on behalf of the Client for the Project.
Project	means a discrete research project or projects as set out in the Purchase Agreement created using the Software to collect Response Data and conduct research.
Project Duration	means the period of time as defined in the Purchase Agreement, or as further agreed in writing between the Client and Liveminds during which Client may collect Response Data from Participants.
Published Questions	means queries from the Client directed at Participants for the purposes of collecting Response Data.
Purchase Agreement	means the contract between Liveminds and the Client containing the relevant Project details to which these terms and conditions apply which for the avoidance of any doubt does not need to be in any particular form and for example may be contained in more or more documents, in an exchange of emails or agreed orally between the parties.
Response Data	means feedback and responses to and from the Participants, including but not limited to text, photos, videos, analysis, analytics or other artefacts created by Participants which are collected as part of a Project.
Services	means any work performed by Liveminds for the Client ancillary to the Client's use of the Software and the Site.
Site	means the website where the Client and Authorised Users may access the Software for the Project.
Software	means the online software applications provided by Liveminds to allow Clients to conduct Projects.

Subscription Fees	means the amounts set out in the Purchase Agreement for the Client's use of the Software and billed in the frequency set out in the Purchase Agreement.
Virus	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.1. Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

1.2. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.3. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.4. Words in the singular shall include the plural and vice versa.

1.5. A reference to one gender shall include a reference to the other genders.

2. Provision of Services and the Right to use the Software

2.1. Subject to the Client paying the Subscription Fees in accordance with clause 5, the restrictions set out in this clause 2 and the other terms and conditions set out below Liveminds hereby grants to the Client a non-exclusive, non-transferable right to use the Software to enable the Client to establish and implement Projects for the Project Duration and to permit the Participants

to use the Software for the Project Duration solely for the purposes of the Project.

2.2.   The Client shall not, and shall ensure that the End Client and the Participants, shall not access, store, distribute or transmit any Viruses, or any Content during the course of its use of the Software that:

2.2.1.   Is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.2.2.   Facilitates a legal activity;

2.2.3.   Depicts sexually explicit images;

2.2.4.   Promotes unlawful violence;

2.2.5.   Is discriminatory based on race, gender, colour, religious belief, sexual orientation or disability or any other illegal activity; or

2.2.6.   Causes damage or injury to any person or property;

and Liveminds reserves the right, without liability to the Client, to disable the Client's access or the access of any End Client or Participant to any material that breaches the provisions of this clause or, in its absolute discretion to remove any Content

2.3.   The Client shall not, and shall ensure that the End Client and the Participant shall not:

2.3.1.   except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;

2.3.1.1. except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or

2.3.1.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

2.3.2. Access all or any part of the Software in order to build a product or service which competes with the Software; or

2.3.3. Use the Software to provide services to third parties other than during the course of the Project;

2.3.4. Licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software available to any third party except the End Client and the Participants; or

2.3.5. Attempt to obtain, or assist third parties in obtaining, access to the Software other than as provided under this clause 2.

2.4 The Client shall use, and shall ensure that the End Client and the Participants use, all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and, in the event of any such unauthorised access or use, promptly notify Liveminds.

2.5 Subject to the Client paying the Fees Liveminds shall perform the Services.

3. Guidelines and Regulations

3.1. The Client shall ensure that it, and where appropriate the End Client and the Participants:

3.1.1. are familiar with any applicable laws and guidelines, codes of conduct or regulations that may be applicable to Liveminds and/or the Project; and

3.1.2. comply with the provisions of such applicable laws, codes of conduct or regulations.

4.   Access to the Software

4.1.   Client shall access the Software at the Site by way of a unique URL and confidential password established for each Authorised User named by Client. Each Authorised User shall be bound by and subject to the terms and conditions of this agreement. Client shall be obligated to enforce such terms and conditions against each Authorised User and shall be liable for any breach by an Authorised User.

5.   Charges and payment

5.1.   The Client shall pay the Fees and the Subscription Fees to Liveminds for the Software and the Services (as appropriate) in accordance with this clause 5 and the Purchase Agreement.

5.2.   Liveminds shall invoice the Client prior to the commencement of the Project for the Subscription Fees.

5.3.   The Client shall pay each the invoice for the Subscription Fees within 14 days after the date of such invoice.

5.4.   If Liveminds has not received payment of any invoice within 15 days after the due date, and without prejudice to any other rights and remedies of Liveminds:

5.4.1.   Liveminds may, without liability to the Client, disable the Client's and/or Authorised Users' passwords, account and access to all or part of the Site and Liveminds shall be under no obligation to provide any or all of the Software while the invoice(s) concerned remain unpaid; and

5.4.2.   suspend the Services or any part of them; and

5.4.3.   interest shall accrue on such due amounts at an annual rate equal to 2.5% over the then current base lending rate of the Bank of England at

the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgement.

5.5. All amounts and fees stated or referred to in this agreement:

5.5.1. shall be payable in pounds sterling or such other currency as may be agreed between the parties from time to time;

5.5.2. are non-cancellable and non-refundable;

5.5.3. are exclusive of value added tax, which where applicable shall be added to Liveminds invoice(s) at the appropriate rate (if any).

6. Participant/End Client Access and General Provisions

6.1. Participants' access to and use of the Software are limited to submitting Response Data during the Project Duration. Liveminds has no obligations to Participants and grants no rights to Participants under this agreement.

6.2. End Clients may be authorised by the Client to use the Software for Projects but who shall have read-only rights and shall not be able to create Projects, input or manipulate Response Data. Liveminds has no obligations to End Clients and grants no rights to End Clients under this agreement.

6.3. Client shall, and shall ensure the Participants comply with the terms and spirit of any activity scores or participant values system which Liveminds or the Client may operate from time to time.

6.4. Liveminds shall not be responsible for the operation of any incentives program which may be run in relation to the Project. The Client shall however ensure that any such incentives program is run fairly and in such a way as does not breach these terms and conditions or otherwise bring the reputation or integrity of Liveminds or the Project into disrepute.

6.5. Liveminds reserves the right, in its absolute discretion, to moderate the submissions of a Participant or to terminate or suspend the rights of a Participant or End Client to use the Software at any time.

7. Data

7.1.   As between the Client and Liveminds the Client shall own all rights, title and interest in and to all of the Response Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Response Data, and shall be solely responsible for determining the applicability of the output generated by the Software and confirming its accuracy.

7.2.   Liveminds shall follow its archiving procedures for Response Data as may be amended by Liveminds in its sole discretion from time to time. In the event of any loss or damage to Response Data, the Client's sole and exclusive remedy shall be for Liveminds to use reasonable commercial endeavours to restore the lost or damaged Response Data from the latest back-up of such Response Data maintained by the Supplier in accordance with the archiving procedure. Liveminds shall not be responsible for any loss, destruction, alteration or disclosure of Response Data caused by any third party.

7.3.   Liveminds shall, in providing the Software, comply with its privacy and security policy relating to the privacy and security of the Response Data as such document may be amended from time to time by Liveminds in its sole discretion.

7.4.   Unless expressly stated otherwise in a Data Sharing Agreement between the parties, the parties record their intention that the Client shall be the data controller and Liveminds shall be a data processor in respect of any Response Data that constitutes personal data and in any such case:

7.4.1.   the Client acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Client and the Authorised Users are located in order to supply the Software and comply with Liveminds' other obligations under this agreement;

7.4.2.   the Client shall ensure that the Client is entitled to transfer the relevant personal data to Liveminds so that Liveminds may lawfully use,

process and transfer the personal data in accordance with this agreement on the Client's behalf;

7.4.3. the Client shall ensure that the Authorised Users and relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;

7.4.4. Liveminds shall process the personal data only in accordance with the terms of this agreement and any lawful instructions reasonably given by the Client from time to time; and

7.4.5. each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

8. No Transfer of Rights

8.1. The Client shall not acquire any intellectual property rights in the Software by virtue of this agreement, including, but not limited to, patent, copyright, trademark or trade secret. Liveminds and Client each acknowledge and agree that there are no implied rights granted to the Client under this agreement. The parties acknowledge and agree that the Software (including all copies thereof) is owned by Liveminds and is protected by English copyright and international treaty provisions.

9. Third party providers

9.1. The Client acknowledges that the Software may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Liveminds makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Client, with any such third

party. Any contract entered into and any transaction completed via any third-party website is between the Client and the relevant third party, and not Liveminds.

10. Client Equipment

10.1. Client shall be responsible for obtaining and maintaining its equipment necessary for accessing the Software and performing its obligations under a Project.

11. Software Availability

11.1. Liveminds provides access to the Software on an as-is basis. Liveminds shall make commercially reasonable efforts to maintain servers and maximise uptime; provided, however, Liveminds makes no representations or warranties regarding Software availability, nor shall Liveminds be responsible for acts outside its control that cause downtime, including, but not limited to, acts of God, strikes, power shortages and rolling blackouts, wars, natural disasters and the inability to obtain labour or materials on a timely basis. In the event the Software is unavailable or inoperative, Liveminds shall make commercially reasonable efforts to provide a back-up or alternate server. Liveminds shall maintain the Software and associated documents and user information in a secure environment and exercise a standard of care customary in the industry.

12.   Disclaimer of Warranties

12.1.   Liveminds:

12.1.1.   does not warrant that the Client's use of the Software will be uninterrupted or error-free; nor that the Software or the information obtained by the Client through the Software will meet the Client's requirements; and

12.1.2.   is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

12.2.   Liveminds specifically disclaims any responsibility or liability for:

12.2.1.   any viruses or other disabling features that affect access to or use of the software;

12.2.2.   any incompatibility between the software and other websites, services, software and hardware;

12.2.3.   any delays or failures you may experience in initiating, conducting or completing any transmissions or transactions in connection with the software and services in an accurate or timely manner; or

12.2.4.   any damages or consists of any type arising out of or in any way connected with Client's use of any software and services available from third parties through links; and

13.   Indemnification by Client

13.1. Client agrees to indemnify and hold harmless Liveminds against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) from any third party (including but without limitation the Authorised Users):

13.1.1. based on the Client's or Authorised Users' use of the Software or Site;

13.1.2. relating to or resulting from the Response Data or the processing thereof;

13.1.3. relating to Liveminds performance of the Services;

13.1.4. that the content infringes the rights of any third party or is otherwise unlawful; or

13.1.5. in relation to any breach of these terms and conditions, a Purchase Agreement or a Data Sharing Agreement by the Client, the End Client or the Participant.

14. Audit Rights

14.1. During the term of this agreement and for a period of three years after termination or expiration, Client agrees to maintain complete records regarding its use of the Software and payment of all applicable Subscription Fees. Upon reasonable notice, Liveminds may audit Client's books and records to determine Client's compliance with the terms of this agreement. All costs and expenses of any audit shall be paid by Liveminds provided that if such audit reveals that Client has underpaid any fee by five percent or more, Client shall pay all costs of expense of such audit and shall pay any and all outstanding fees along with interest at 1.5% per month on the unpaid balance.

15.   Limitation of liability

15.1.   This clause 15 sets out the entire financial liability of Liveminds (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Client in respect of:

15.1.1.   any breach of this agreement, any Purchase Agreement or any Data Sharing Agreement;

15.1.2.   any use made by the Client of the Software or any part of it; and

15.1.3.   any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement, any Purchase Agreement or any Data Sharing Agreement.

15.2.   Except as expressly and specifically provided in this agreement:

15.2.1.   the Client assumes sole responsibility for results obtained from the use of the Software by the Client, and for conclusions drawn from such use. Liveminds shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Liveminds by the Client in connection with the Software, or any actions taken by Liveminds at the Client's direction;

15.2.2.   all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and

15.2.3.   the Software is provided to the Client on an "as is" basis.

15.3.   Nothing in this agreement excludes the liability of Liveminds:

15.3.1.   for death or personal injury caused by the Liveminds' negligence; or

15.3.2.   for fraud or fraudulent misrepresentation.

15.4. Subject to clause 15.2 and clause 15.3:

    15.4.1. Liveminds shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business or opportunity, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and

    15.4.2. Liveminds' total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement, any Purchase Agreement and any Data Sharing Agreement shall be limited to the total Subscription Fees paid for a Project immediately preceding the date on which the claim arose.

16. Changes to the Service and/or Software

16.1. Liveminds reserves the right to alter the Software or delete features at any time and without reason or notice.

17. Confidential Information

17.1. Each party that receives ("**Receiving Party**") non-public business and financial information ("**Confidential Information**") from the other ("**Disclosing Party**"), whether before or after the date of this agreement shall:

    17.1.1. keep the Confidential Information confidential;

        17.1.1.1. not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with clauses 17.2, or 17.3; and

17.1.1.2. not use the Confidential Information for any purpose other than the performance of its obligations or its enjoyment of rights under this agreement ("**Permitted Purpose**").For the avoidance of doubt where the Receiving Party is the Client then Confidential Information shall include, but not be limited to, questions, blogs, diaries, journals, interviews, surveys, video-diaries, video-surveys, video-diary blogs or methodologies which the Client may receive or have access to from time to time during the course of the Project.

17.1.1.3. The Receiving Party may disclose Confidential Information to its own, or any of its affiliates, officers, directors, employees, agents and advisers who reasonably need to know for the Permitted Purpose (each a "**Permitted Third Party**"), provided that the Receiving Party shall remain liable to the Disclosing Party for the acts, omissions, and compliance with the terms of this clause 17 of such Permitted Third Party as if such Permitted Third Party was the Receiving Party. The Receiving Party shall ensure that each Permitted Third Party is made aware of and complies with all the Receiving Party's obligations of confidentiality under this clause 17. For the avoidance of any doubt where the Recipient is Liveminds it shall be entitled to disclose Confidential Information to a Participant where required as part of the Project and shall not be responsible for any Confidential Information reasonably disclosed to a Participant as part of the Project.

17.2. If required by law, the Receiving Party may disclose Confidential Information to a court or regulatory authority or agency, provided that the Receiving party shall (if legally permissible) provide advance notice to the Disclosing Party and the Receiving Party co-operates with any attempt by the Disclosing Party to obtain an order for providing for the protection in respect of such information.

17.3.   The parties agree that in the event of a breach or threatened breach by the Receiving Party, including its agents, directors or employees, of the provisions of this agreement, the innocent party may have no adequate remedy in money damages and accordingly shall be entitled to an injunction against such breach, in addition to any other legal or equitable remedies available to it.

18. Injunctive Relief

18.1. Client acknowledges that Liveminds shall suffer irreparable harm in the event that Client breaches any of its obligations under this agreement and that monetary damages shall be inadequate to compensate Liveminds for such breach. Accordingly, Client agrees that, in the event of a breach or threatened breach by Client of any of the provisions of this agreement, Liveminds, in addition to and not in limitation of any other rights, remedies or damages available to Liveminds at law or in equity, shall be entitled to a temporary restraining order, preliminary injunction and permanent injunction in order to prevent or restrain any such breach by Client.

19. Third-Party Beneficiaries

19.1. The parties acknowledge that the Software may contain software and/or materials licensed by Liveminds from third parties ("**Liveminds Licensors**"). In the event the Software does contain software and/or materials licensed by Liveminds from Liveminds Licensors, Liveminds Licensors may be direct and intended third-party beneficiaries of this agreement and may be entitled to enforce it directly against Client.

20. General Provisions.

20.1. Waiver. A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

20.2. Severance. If any part of this agreement is held unlawful or unenforceable that part shall be struck out and the remainder of this agreement shall remain in effect.

20.3. Cumulative Remedies. The rights and remedies afforded to either party pursuant to any provision of this agreement are in addition to and do not in any way limit any other rights or remedies afforded to either party by any other provision of this agreement or by law. All such rights and remedies are cumulative and may be exercised singularly or concurrently.

20.4. Assignment. Neither party may assign this agreement without the prior written consent of the other party such consent shall not be unreasonably withheld or delayed. Liveminds may assign this agreement to a holding company, subsidiary or another Company who has the same ultimate holding company as Liveminds, a successor in connection with a merger, acquisition or other consolidation, or to the purchaser in connection with the sale of all or substantially all of Liveminds' assets.

20.5. Amendment. No change, amendment or modification of any provision of this agreement shall be valid unless set out in a written instrument signed by both parties.

20.6. Survival. The following sections shall survive termination of this agreement: clause 3: (Restrictions on License); clause 7: (No Transfer of Rights); clause 7: (Data); clause 12: (Disclaimer of Warranties); clause 13: (Indemnification by Client); clause 15: (Limitation of Liability); clause 17: (Confidential Information); clause 18: (Injunctive Relief); and clause 19: (Third-Party Beneficiaries).

20.7. Compliance with Applicable Laws; Export Regulations. Client agrees to comply with all applicable laws, including export, re-export and foreign policy controls and restrictions. Client shall take all necessary actions and precautions to ensure that it does not contravene such laws or regulations.

20.8. Entire Agreement. This agreement and the Purchase Agreement supersede any prior contracts, arrangements and undertakings between the parties in relation to its subject matter and constitute the entire contract between the parties relating to the subject matter (provided that at all times each Purchase Agreement incorporates, and does not supersede, the terms of this agreement).

20.9. Pre-contractual statements. Each of the parties acknowledges and agrees that in entering into the agreement or Purchase Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement other than as expressly set out in this agreement or Purchase Agreement.

20.10. Force Majeure. Neither party shall be liable for any delay or failure in performing its duties under a Proposal caused by any circumstances beyond its reasonable control.

20.11. Notices. All notices (which include invoices and correspondence) under this agreement and a Purchase Agreement shall be in writing and in the case of this agreement shall be sent to the address of the recipient set out in this agreement or to such other address as the recipient may have notified from time to time, and in the case of a Purchase Agreement shall be sent to the address of the recipient set out in that Purchase Agreement or to such other address as the recipient may have notified from time to time. Any notice may be delivered personally, by a reputable courier service, by first-class post, by fax, or by e-mail and shall be deemed to have been served if by hand when delivered, if by courier service or first class post forty-eight (48) hours after delivery to the courier or posting (as the case may be), if by fax when confirmation of transmission is received, or if by e-mail immediately.

20.12. **Third Party Rights.** The parties exclude to the fullest extent permitted by law any rights of third parties to enforce or rely upon any of the provisions of this agreement.

20.13. **Law and Jurisdiction.** This agreement and any Purchase Agreement are governed by English law and are subject to the exclusive jurisdiction of the English courts.