

**BEAM FIELDWORK LIMITED –
TERMS AND CONDITIONS
FOR MARKET RESEARCH SERVICES**



1. Basis of agreement

- 1.1. The Conditions and the Proposal together constitute the entire agreement between the parties and supersedes and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 1.2. The Proposal constitutes an offer by the Customer to purchase Services in accordance with these Conditions which shall come into effect on the point at which BEAM Fieldwork accepts the Proposal.
- 1.3. Once accepted, the Proposal together with these Conditions shall form the Contract.
- 1.4. Any samples, drawings, descriptive matter or advertising issued by BEAM Fieldwork, and any descriptions or illustrations contained in BEAM Fieldwork's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Proposal or have any contractual force.
- 1.5. These Conditions apply to the Proposal to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.6. Any quotation given by BEAM Fieldwork shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

2. Supply of Services

- 2.1. BEAM Fieldwork shall supply the Services to the Customer in accordance with the Proposal in all material respects.
- 2.2. BEAM Fieldwork shall use all reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 2.3. BEAM Fieldwork shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and BEAM Fieldwork shall notify the Customer in any such event.

3. Customer's obligations

- 3.1. The Customer shall:
 - 3.1.1. ensure that the terms of the Proposal and any information provided in the Proposal are complete and accurate;
 - 3.1.2. co-operate with BEAM Fieldwork in all matters relating to the Services;
 - 3.1.3. provide BEAM Fieldwork, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as

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reasonably required by BEAM Fieldwork to provide the Services;

- 3.1.4. provide BEAM Fieldwork with such information and materials as BEAM Fieldwork may reasonably require in order to supply the Services (**Customer Materials**) within sufficient time to complete the Services under the Proposal, and ensure that such information is accurate in all material respects;
- 3.1.5. obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- 3.1.6. keep and maintain all materials, equipment, documents and other property of BEAM Fieldwork (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to BEAM Fieldwork, and not dispose of or use the Supplier Materials other than in accordance with BEAM Fieldwork's written instructions or authorisation;
- 3.1.7. where the Customer is responsible for programming and hosting an online survey, ensure that an autostop is in place to prevent the commissioned quota being exceeded; additional completes will be charged on a pro rata basis;
- 3.1.8. comply with any additional obligations as set out in the Proposal.
- 3.2. If BEAM Fieldwork's performance of any of its obligations under the Proposal is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
 - 3.2.1. BEAM Fieldwork shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays BEAM Fieldwork's performance of any of its obligations;
 - 3.2.2. BEAM Fieldwork shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from BEAM Fieldwork's failure or delay to perform any of its obligations as set out in this Clause 3.2; and
 - 3.2.3. the Customer shall reimburse BEAM Fieldwork on written demand for any costs or losses sustained or incurred by BEAM Fieldwork arising directly or indirectly from the Customer Default.

4. Charges and payment

- 4.1. Subject to any special terms agreed, the Customer shall pay the Charges and any additional sums which are agreed between BEAM Fieldwork and the Customer for the provision of the Services or which are required as a result of the instructions of the Customer or lack thereof, the inaccuracy of information provided by the Customer or any other cause attributable to the Customer.
- 4.2. In addition to the Charges, BEAM Fieldwork shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom BEAM Fieldwork engages in connection with the Services including, but not limited to, travelling expenses, hotel

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costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by BEAM Fieldwork for the performance of the Services, and for the cost of any materials.

- 4.3. All amounts payable by the Customer under the Proposal are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Proposal by BEAM Fieldwork to the Customer, the Customer shall, on receipt of a valid VAT invoice from BEAM Fieldwork, pay to BEAM Fieldwork such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 4.4. BEAM Fieldwork shall invoice the Customer:
 - 4.4.1. on commission of the Services under the Proposal for an amount equal to 50% of the Charges to be paid within 7 days of issue of the invoice; and
 - 4.4.2. on completion of the Services under the Proposal for an amount equal to the remaining 50% of the Charges to be paid within 30 days of issue of the invoice.
- 4.5. The Customer shall pay each invoice submitted by BEAM Fieldwork in full and in cleared funds to a bank account nominated in writing by BEAM Fieldwork, and time for payment shall be of the essence of the Proposal.
- 4.6. If the Customer fails to make any payment due to BEAM Fieldwork under the Proposal by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per cent per annum above Barclays plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 4.7. The Customer shall pay all amounts due under the Proposal in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). BEAM Fieldwork may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by BEAM Fieldwork to the Customer.
- 4.8. In the event of the Services being postponed or cancelled after commissioning cancellation fees will be charged at the following rates:
 - 4.8.1. 20% of the full project fees if the services are cancelled after the project is set up but more than 7 days before the commencement of fieldwork;
 - 4.8.2. 50% of the full project fees 6 to 7 Business Days before the commencement of fieldwork;
 - 4.8.3. 100% of the full project fees 5 Business Days before the commencement of fieldwork.
- 4.9. The above cancellation fees do not include cancellation fees that may become due to recruiters, interviewers and / or participants.
- 4.10. Changes to the questionnaire once programming and / or translations have begun may be

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subject to further charges.

- 4.1.1. Late delivery of materials or any action or decision made by the client which causes delay or cancels the fieldwork may be subject to further charges.
- 4.1.2. The rearrangement or cancellation of any appointment will be charged in full.

5. Recruitment of Participants

- 5.1. Where Participants are recruited by BEAM Fieldwork and those Participants fail to attend Customer meetings or focus groups, the following charges shall be applied, subject to Clause 5.2:
 - 5.1.1. Where Participants arrive to a scheduled meeting up to 15 minutes late the full charge will be applied,
 - 5.1.2. Where less than or equal to 25% of the sample of Participants fail to attend the full charge will be applied,
 - 5.1.3. Where more than 25% of the sample of Participants fail to attend the Customer will be charged on a pro rata basis for those participants who are in attendance.
- 5.2. BEAM Fieldwork shall not be held responsible for the late arrival of Participants to Customer meetings or focus groups due to weather, traffic or public transport problems, terrorism or threat of terrorism or any other incident beyond its reasonable control.

6. Data protection and working practice

- 6.1. BEAM Fieldwork adheres to the Code of Practice of the Market Research Society, which is deemed to be included in the Conditions, and is registered with the Office of the Information Commissioner. A copy of the Code of Practice can be provided to the Customer upon the Customer's request. In situations where the Code of Practice and the Conditions conflict, the Conditions will prevail.
- 6.2. In providing the Services under the Proposal, BEAM Fieldwork will comply with the Data Protection Act 1998 and any other relevant secondary legislation. BEAM Fieldwork gains respondents' permission to use recording of data for research purposes only, not for use in external promotions or in the public domain. The identity of personal records and data pertaining to persons who take part in projects are confidential information and will not be revealed to clients or any third party.
- 6.3. With regard to personal data supplied by the Customer, BEAM Fieldwork shall process such data only for the purposes of providing the Services.
- 6.4. Where personal data is to be supplied to third parties by the Customer, BEAM Fieldwork must be notified of this in advance and in writing.
- 6.5. Where the provision of the Services involves the testing or use of Customer or third party products, samples or test materials, including consumable products (**Test Materials**) provided by the Customer, the Customer warrants and undertakes that the Customer shall

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be responsible for:

- 6.5.1. providing any respondent disclaimer or waiver which may be required for the Test Materials;
- 6.5.2. ensuring all necessary chemical, pharmaceutical or other tests, studies or analyses of the Test Materials and ensuring all hygiene and safety requirements are met;
- 6.5.3. the suitability of the Test Materials and, to the extent that examination was necessary and has taken place as described in Clause 6.5.2, that any results gave no indication that the Test Materials could cause any harm;
- 6.5.4. the pre-placement handling of Test Materials, including where special care or treatment is required;
- 6.5.5. any loss, damage sickness or injury caused by the Test Materials pre or post placement; and
- 6.5.6. ensuring that all information prescribed and necessary for the use of the Test Materials is made available to BEAM Fieldwork so that it may be passed on to any participants during the provision of the Services.

7. Intellectual property rights

- 7.1. All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by BEAM Fieldwork.
- 7.2. The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on BEAM Fieldwork obtaining a written licence from the relevant licensor on such terms as will entitle BEAM Fieldwork to license such rights to the Customer.
- 7.3. All Supplier Materials are the exclusive property of BEAM Fieldwork.

8. Warranties and limitation of liability

- 8.1. BEAM Fieldwork warrants to the Customer that the Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Proposal.
- 8.2. Where BEAM Fieldwork supplies in connection with the provision of the Services any goods supplied by a third party, BEAM Fieldwork does not give any warranty, guarantee, or other term as to their safety, quality, fitness for purpose or otherwise.
- 8.3. BEAM Fieldwork will bear no liability for any damage to, theft or loss of Customer Materials by Participants or any damage to the Customer's office.
- 8.4. Nothing in the Proposal shall limit or exclude BEAM Fieldwork's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors, fraud or fraudulent misrepresentation or breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any

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other liability which cannot be limited or excluded by applicable law.

- 8.5. The Customer shall indemnify BEAM Fieldwork from and against any and all claims arising from any personal injury or death of Participants, clients or their agents, affiliates, sub-contractors or any other persons in transit to or at the location of any part of the Services.
- 8.6. Subject to Clause 8.1,
 - 8.6.1. BEAM Fieldwork shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Proposal; and
 - 8.6.2. BEAM Fieldwork's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Proposal shall be limited to the total Charges paid under the Proposal.
- 8.7. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Proposal.
- 8.8. BEAM Fieldwork shall not be held liable for any failure or defective working of audio or visual equipment or for any subsequent cost incurred.
- 8.9. BEAM Fieldwork accepts no liability or responsibility for the quality of note takers supplied by any third party.
- 8.10. BEAM Fieldwork cannot guarantee the security of emails or when they will arrive and will not be responsible for any loss or damage caused by email security being broken or arriving late.
- 8.11. BEAM Fieldwork will not be liable for any damages or loss arising from the Customer's use of results or any subsequent use of results thereafter; data derived from survey research is subject to the limits of statistical error and predictions of sales, market share or consumer behavior derived from market research are intended only as an aid to the Customer's judgement.
- 8.12. This Clause 8 shall survive termination of the Proposal.

9. Termination

- 9.1. Without limiting its other rights or remedies, either party may terminate the Proposal by giving the other party one months' written notice.
- 9.2. Without limiting its other rights or remedies, either party may terminate the Proposal with immediate effect by giving written notice to the other party if:
 - 9.2.1. the other party commits a material breach of any term of the Proposal and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;

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- 9.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- 9.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 9.2.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Proposal has been placed in jeopardy.
- 9.3. Without limiting its other rights or remedies, BEAM Fieldwork may terminate the Proposal with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Proposal on the due date for payment and remains in default not less than 7 days after being notified to make such payment; or
- 9.4. Without limiting its other rights or remedies, BEAM Fieldwork may suspend provision of the Services under the Proposal or any other contract between the Customer and BEAM Fieldwork if the Customer becomes subject to any of the events listed in Clause 8.2.2 to Clause 8.2.4 or BEAM Fieldwork reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Proposal on the due date for payment.

10. Consequences of termination

- 10.1. On termination of the Proposal for any reason:
 - 10.1.1. the Customer shall immediately pay to BEAM Fieldwork all of BEAM Fieldwork's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, BEAM Fieldwork shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 10.1.2. the Customer shall return all of the Supplier Materials which have not been fully paid for. If the Customer fails to do so, then BEAM Fieldwork may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Proposal;
 - 10.1.3. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Proposal which existed at or before the date of termination or expiry; and
 - 10.1.4. clauses which expressly or by implication survive termination shall continue in full force and effect.

11. Confidentiality

- 11.1. Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other

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party, except as permitted by Clause 11.2.

11.2. Clause 11.1 shall not apply to any documents, information, data or other materials which are public knowledge at the time when they are so provided by either the Customer or BEAM Fieldwork, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

11.3. Each party may disclose the other party's confidential information:

11.3.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Proposal. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 11.3; and

11.3.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.4. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Proposal.

12. Waiver

12.1. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

12.1.1. waive that or any other right or remedy; or

12.1.2. prevent or restrict the further exercise of that or any other right or remedy.

13. Notices

13.1. Any notice or other communication given to a party under or in connection with the Proposal shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.

13.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 12.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

14. Governing Law and jurisdiction

14.2. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

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14.3. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

15. General

15.1. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

15.2. The Customer shall not, without the prior written consent of BEAM Fieldwork, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

15.3. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Proposal. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

15.4. No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

15.5. No one other than a party to the Contract shall have any right to enforce any of its terms.

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

Definitions and interpretation

In these Conditions the terms defined in bold below shall have the meanings described:

BEAM Fieldwork: the supplier of the Services, more particularly known as BEAM Fieldwork Limited registered in England and Wales with company number 10347524 whose registered office is at 21 Dalston Drive, Bramhall, Stockport, Cheshire, England, SK7 1DW.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with Clause 4.

Conditions: these terms and conditions as amended from time to time in accordance with Clause 15.4.

Contract: together, the accepted Proposal and these Conditions, being the agreement between the Customer and Beam Fieldwork for the purchase and supply of the Services.

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Customer: the person or firm who purchases Services from BEAM Fieldwork and as specified in the Proposal.

Customer Default: has the meaning set out in Clause 3.2.

Customer Materials: has the meaning set out in Clause 3.1.4.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Participants: individuals who have consented to their involvement in a survey, focus group, study or other research medium carried out by the Customer.

Proposal: the final proposal document setting out the agreement between BEAM Fieldwork and the Customer for the supply of Services subject to and in accordance with these Conditions.

Services: the services supplied by BEAM Fieldwork to the Customer as set out in the Proposal.

Supplier Materials: has the meaning set out in Clause 3.1.6.

Test Materials: has the meaning set out in Clause 6.5.

Interpretation:

- A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- Any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- A reference to **writing** or **written** includes email.