

CELLO mruk research limited Terms & Conditions

1. Introduction

1.1 In these terms and conditions CELLO mruk research limited are referred to throughout as "We" or "Us" and the Client or *Commissioning Organisation* is referred to as "You" or "Your".

2. Contract and Services

- 2.1 We agree to provide the market research services You have requested ("the Services") which are set out in the Proposal ("the Project") subject to these terms and conditions and the terms of the Proposal.
- 2.2 We may provide the Services in one or more stages as detailed in the relevant Proposal.
- 2.3 We will provide the Services and conduct the Project in accordance with the Market Research Society's Code of Conduct which includes a commitment to respondent confidentiality. We will also comply with the requirements of the Data Protection Act 1998.
- 2.4 The terms and conditions contained within the relevant Proposal together with these terms and conditions shall form the contract for the Project ("the Contract"). If you operate a Purchase Order system we require a Purchase Order before commencement of any work.

3. Fees and Expenses

- 3.1 You shall pay our fees for carrying out the Project which are set out in the attached Proposal or have otherwise been confirmed to You in writing by Us ("the Agreed Fees").
- 3.2 In addition to the Agreed Fees We shall *with Your agreement* charge You all reasonable out of pocket costs incurred by Us in carrying out the Project, which shall include without limitation, travel, car mileage, accommodation, subsistence, respondent incentives or participation fees and the purchase of any samples ("the Expenses"). We reserve the right to charge an additional 5% on Expenses incurred by Us on Your behalf to cover our administration costs.
- 3.3 *Unless agreed in writing prior to commissioning the project*, our Agreed Fees and Expenses shall be invoiced as follows: 70% of the Agreed Fees and our estimated Expenses *upon commissioning*, and 30% of our Agreed Fees and the balance of our actual Expenses *upon Delivery of our final output*.
- 3.4 All invoices are payable within 30 days of the date of the invoice and all payments due under the terms of this Contract shall be made by You without deduction, set-off or counter-claim. We reserve the right to charge interest at the rate of 1% per month on any overdue invoices. Payments to Us are not dependant upon any payments which may be due to You from a third party.
- 3.5 All sums due under this Contract will be subject to VAT at the rate applicable on the due date.

4. Exclusion of Liability

- 4.1 Save as expressly set out in this Contract no term, condition or warranty of any kind whatsoever (express or implied and whether statutory, collateral hereto to otherwise) is given by Us in relation to the Project or the Services and all such terms, conditions and warranties are hereby expressly excluded to the fullest extent permitted by law.
- 4.2 Notwithstanding anything else contained in this Contract, We shall not be liable to You for loss of profits or contracts or other indirect or consequential loss or damage, including (but without limitation) business interruption and/or loss of profits whether arising from negligence, breach of contract or any other cause of action arising out of the subject matter of the Contract.
- 4.3 We do not exclude liability for death or personal injury caused by our negligence.

5. Specification

- 5.1 Where the specification of a Project changes from that detailed in the Proposal, We will notify You and submit revised cost estimates in writing.
- 5.2 If You require changes to be made which require action to be taken by Us before our written revised cost estimate can reasonably be supplied, We reserve the right to increase our Agreed Fees and Expenses in line with our normal rates to reflect the changes required and submit a further interim invoice to reflect the increased fees and Expenses.
- 5.3 We undertake to use our best endeavours at all times to fulfil the specification; however we will not be liable for non-fulfilment of the specification due to reasons or factors beyond our control.

6. Intellectual Property Rights

All property, copyright, and other intellectual property rights contained in any of the work undertaken, documents, results, reports or data produced or any other material arising from the Project shall be vested in Us unless otherwise agreed in writing between You and Us, subject only to Your right to use such items for the purposes of utilising the Project. This copyright and permission for use may be withdrawn if our fees are not paid in line with these terms and conditions.

7. Postponement of Fieldwork

If You postpone the dates of any fieldwork planned for the Project without giving Us at least 7 days written notice, You hereby indemnify Us for any liabilities, costs or expenses arising as a result of Your postponement of such fieldwork including, without limitation, any costs associated with commitments made on Your behalf, including interviewer costs and expenses.

8. **Cancellation and Termination**

- 8.1 You may cancel the Project at any time upon giving to Us 7 days written notice of such cancellation. Upon such cancellation the Contract will terminate and Clause 8.3 will apply.
- 8.2 We may terminate the Contract forthwith by notice in writing if: (A) You are in default or commit any breach of the terms of the Contract (including non payment of fees); (B) You commit an act of bankruptcy or enter into any voluntary arrangements with Your creditors or become subject to an administration order or (being an individual or a firm) become bankrupt or (being a company) have a receiver, administrator or administrative receiver appointed over Your assets or go into insolvent liquidation (otherwise than for the purposes of amalgamation or reconstruction); (C) You fail to provide any information or support which is set out in the Proposal or reasonably requested by Us in writing and, which is necessary for the completion of the Project; (D) You materially change the specification of the Project.
- 8.3 Upon cancellation or termination of the Contract in accordance with Clause 8.1 or 8.2 then, without prejudice to any other right or remedy available to Us, You shall be liable to pay to Us immediately all fees and Expenses incurred up to the date of cancellation and You hereby indemnify Us for any liabilities, costs or expenses arising as a result of the cancellation or termination of the Contract, including without limitation, any costs associated with commitments made on Your behalf, including interviewer payments.

9. **Confidentiality**

- 9.1 Each of Us hereby undertakes to the other not to disclose to any third party and keep confidential all information (written or oral) data or trade secrets concerning the business and affairs of the other supplied or received prior to, during or after the completion of this contract.
- 9.2 The provisions of Clause 9.1 shall not apply to the extent that the information is already in the other's possession or in the public domain other than as a result of a breach of Clause 9.1.

10. **Completion**

- 10.1 A Project will be deemed to be completed when we have delivered the final output to You. Our fees must now be paid in accordance with Clause 3.4. You are required to notify Us within 7 days if the output is not satisfactory, detailing any specific points or requests for revision. We undertake to use our best endeavours to satisfactorily respond to all comments within 7 days, however should substantive work be required a time plan will be provided to You within 7 days.
- 10.2 We shall endeavour to meet any Project completion dates specified in the relevant Proposal. However, these dates are estimates only and shall not be conditions of the Contract. We shall not be responsible for any losses or damages arising as a result of a failure to meet any such dates. Where You have not fulfilled agreed action by a specified date, this may have a disproportionate input on the Project time plan and completion date, and may lead to cancellation or delay fees being added to Project costs.

11. **General**

- 11.1 Any notice required to be given hereunder shall be delivered by hand or sent by first class post by either party to this Contract to the other at the address of the other set out in the attached Proposal (or such other address as may have been notified to the other party in writing) and any such notice shall be deemed to have been served (if delivered by hand) at the time of delivery or (if sent by post) upon the expiration of 48 hours after posting.
- 11.2 Any variation, waiver or consent by Us relating to this Contract shall only be effective if in writing and no failure or delay on our part shall operate as a waiver of our rights.
- 11.3 These terms and conditions and any terms contained in the attached Proposal shall be the only terms of this Contract and no alteration or variation of the Contract shall be void unless previously agreed in writing between Us. For the avoidance of doubt, Your terms and conditions of business shall not form part of the Contract.
- 11.4 No representations, agreements, statements or undertakings made prior to the date of this Contract shall be incorporated in or form part of this Agreement. You irrevocably and unconditionally waive any rights You may have to claim damages to any misrepresentation whether or not contained in this Contract, or breach of any warranties not contained in this Contract unless such misrepresentation or warranty was made fraudulently.
- 11.5 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and remainder of the provision (if any) in question shall not be affected.

12. **Disputes**

- 12.1 Any disputes would follow our dispute resolution process, as set out in our procedures manual.

13. **Governing Law**

- 13.1 If this Contract is between You and CELLO mruk research limited, this Contract shall be governed and construed in accordance with the laws of England and Wales, and You agree that the Courts of England and Wales shall have jurisdiction to settle any dispute that may arise in connection with this Contract.