

## Terms & Conditions

These Terms and Conditions (“T&Cs”) apply to any services (“Services”) performed for GfK Research Dynamics, Inc. d/b/a GfK Canada (“GfK”) by the vendor (“Vendor”) identified in the purchaser order to which these T&Cs are attached (the “PO”). Vendor’s performance of the PO shall be deemed to include acceptance of these T&Cs. Notwithstanding the foregoing, in the event of any conflict between these T&Cs and any executed written service agreement to which GfK and Vendor are party, the terms in the written agreement executed by the parties shall prevail to the extent of any inconsistency.

**Services.** GfK hereby engages Vendor to perform, and Vendor hereby agrees to perform, the Services in compliance with these T&Cs.

**Representations, Warranties and Covenants.** Vendor hereby represents and warrants that (i) it has all authorizations and licenses required to perform the Services; (ii) its performance of the Services will be in compliance with law and will not conflict with any order or agreement to which it is a party or by which it is bound; (iii) it will perform the Services consistent with the highest professional standards of Vendor’s industry; and (iv) its performance of the Services and GfK’s use of the same will not infringe any third party’s intellectual property rights.

**Terms of Payment.** GfK shall pay vendor the fees and expenses set forth in the applicable PO. All pricing and payments are and shall be in U.S. dollars. Vendor shall invoice GfK on or after the first day of each month for the Services provided during the preceding month, unless the parties agree to a different payment schedule in the applicable PO. GfK shall pay undisputed amounts within sixty (60) days of receipt of invoice. In the event that GfK disputes any invoice, whether in whole or in part, GfK will provide Vendor with notice of such dispute and the parties shall work together in good-faith to resolve any such dispute.

**Indemnification.** Vendor will indemnify, defend and hold harmless GfK from and against any and all third party claims, losses, liabilities, damages and costs (including without limitation reasonable attorneys’ fees and other costs of litigation) that may arise out of or in connection with (a) any breach of these T&Cs by Vendor, and/or (b) any negligence or intentional wrongdoing by Vendor.

**Independent Contractor.** Vendor acknowledges that it is an independent contractor, and will be responsible for the direction of Vendor’s own work. Vendor will therefore be responsible for payment and/or withholding of all income, social security and other employment related taxes pertaining to Vendor and its employees, and GfK will have no such responsibilities. Vendor will indemnify, defend and hold harmless GfK from and against any and all claims, losses, liabilities, damages and costs (including reasonable attorneys’ fees and other costs of litigation) that may arise out of or in connection with any such taxes and related items.

**Confidentiality.** Each party acknowledges that, from time to time, it may be exposed to certain information which is the other party’s confidential and proprietary information and not generally known to the public (“Confidential Information”). The party receiving any Confidential Information (a “Receiving Party”) will protect the confidentiality and security of the Confidential Information of the other party (the “Disclosing Party”) with the same level of care that it protects its own Confidential Information of comparable importance, but not less than a commercially reasonable level of care; will share the Confidential Information with employees and vendors only if they sign appropriate confidentiality agreements and even then only on a need-to-know basis; will secure all physical and electronic data against theft, intrusion, corruption or eavesdropping to the best standards of similarly situated enterprises; and will promptly inform the Disclosing Party of any actual or threatened breach of confidentiality or data security, and will promptly take all appropriate steps to mitigate the breach or the injury it may cause. The confidentiality obligations of the parties will survive during the term of performance of the Services and will remain perpetual solely with respect to any trade secrets of the parties (until and unless they become publicly known), and as to all personally identifiable information indefinitely.

**Data Security.** Vendor hereby represents, warrants and covenants to GfK that all of its electronic platforms on which any Confidential Information may reside, or on which Vendor may host or provide Services for or to GfK, and all related software, physical and electronic facilities and operational systems, are designed and operated in accordance with best practices standards in Vendor's industry pertaining to data security, including, without limitation, that (1) the systems are protected by robust firewalls, (2) the systems are protected by robust intruder detection systems, and (3) the logs from the firewalls and user IDs are reviewed regularly. GfK or its agents may audit Vendor's systems from time to time, at reasonable times and upon reasonable advance notice, to verify compliance with the provisions of the preceding sentence, provided that in so doing GfK (i) does not unreasonably disrupt Vendor's operations, (ii) limits its audit to need-to-know information, and (iii) keeps its audit findings confidential except as may be necessary to enforce these T&Cs. Vendor will promptly notify GfK if it learns of or suspects any actual or threatened breach of data security that might affect or does affect GfK's Confidential Information, and Vendor will take all measures necessary to control, limit and remedy that actual or threatened breach and the injury that it may cause.

**Intellectual Property.** GfK will own all intellectual property that Vendor generates expressly for GfK, including without limitation concepts, ideas, analyses, reports, bids, proposals, promotional documents (including on Web sites), and the copyrights therein (collectively, the "GfK IP"). Vendor may not use the GfK IP except to perform the Services. Vendor, on behalf of itself and its employees, does and will affirmatively assign to GfK any rights in the GfK IP which may otherwise accrue to any of them.

**Force Majeure.** Neither party shall be responsible for delays or failure of performance (other than the failure to make any payment when due) resulting from acts beyond the reasonable control of such party, including but not limited to, acts of God, strikes, walkouts, riots, acts of war, acts of terrorism, epidemics, failure of suppliers to perform, flight cancellations or delays, governmental regulations, power failure(s), earthquakes and other natural disasters.

**Assignment.** Vendor may not assign the PO (including by way of asset sale, merger or other corporate reorganization) or subcontract any of the Services without GfK's prior written consent.

**General Provisions.** These T&Cs contain the entire understanding of the parties on the subject matter hereof, and its provisions may not be amended, modified or waived except in a writing signed by both parties. The failure of either party to take action as a result of a breach of these T&Cs or any other failure to perform by the other party shall constitute neither a waiver of the particular breach involved nor a waiver of either party's right to enforce any or all provisions of these T&Cs through any remedy granted by law or these T&Cs. The obligations of the parties under these T&Cs, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive termination, cancellation or expiration of this Agreement. These T&Cs will be binding upon and will inure to the benefit of the parties and their respective permitted successors and assigns. The prevailing party in any action brought to enforce the terms of these T&Cs shall be entitled to recover its expenses, including reasonable attorneys' fees, from the non-prevailing party. These T&Cs shall be interpreted under the laws of the Province of Ontario and Canada, and each party hereby irrevocably submits to the nonexclusive jurisdiction of the provincial and federal courts located in the Province of Ontario and waives any objection based on forum non conveniens or any other objection to venue.

The parties confirm that it is their intention that these T&Cs, as well as any other documents relating hereto, including notices, have been and shall be drawn up in English only. Les parties au présent contrat confirment leur intention que cette convention de même que tous les documents, y compris tous les avis qui s'y rattachent, soient rédigés en anglais seulement.