

## TERMS & CONDITIONS

In the following terms and conditions document (the “Terms and Conditions”):

- ‘PMRS’ refers to Pedestrian Market Research Services Ltd, (Company No. 03196723) incorporated in the United Kingdom whose registered office is at Nicholsons, First floor, Bridge House, 25 Fiddlebridge Lane, Hatfield, Herts AL10 OSP.
- "Client" means the person named on the Specification Sheet for whom PMRS has agreed to provide the Project, in accordance with these Conditions.
- "The Project" means the market research or analysis or consultancy service provided by PMRS for the Client and referred to in the Commission.
- “Commission” means the written request for services.
- “Shopping Centre” means any privately owned land for the provision of shopping.
- "Contract" means the contract for the commission of the Project and any other contract for the provision of services howsoever made between PMRS and the Client.
- “Standard Report” means a copyright product for the provision of pedestrian footfall data, utilising PMRS standard methodology.
- “Bespoke Research” means tailored research according to Client instruction and methodology.
- "Document" includes, in addition to a document in writing, any map, plan, graph, drawing or photograph embodying visual images and any disc, or other device embodying any other data.
- "Client Material" means any Documents or other materials and any data or other information provided by the Client to PMRS relating to the Project.
- "Fees" means the fees agreed between the Client and PMRS for the provision of the Project

### Scope of these terms

1. These Conditions (together with the terms, if any, set out in the Commission) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
2. The following Terms and Conditions of business apply to all contracts between PMRS and the Client, and acceptance of the last quotation given will be taken as acceptance of these Terms and Conditions of business.

3. Acceptance of these Terms and Conditions also constitutes acknowledgement and acceptance of the Market Research Society ("MRS") Code of Conduct, and Client's responsibilities as set out therein, unless otherwise agreed in writing before commencement of the Project. Copies of the MRS Code of Conduct are available upon request from the MRS or PMRS, (note copyright for Standard Reports is retained by PMRS)

### **Commissioning**

4. PMRS shall provide the Project to the Client subject to these Conditions. Any changes or additions to the Project or these Conditions must be agreed in writing by PMRS and the Client
5. Each Commission shall be either in writing or by e-mail to PMRS e-mail address (pmrs@idnet.co.uk) and will be deemed to be an invitation by the Client for PMRS to provide the Project upon these Terms and Conditions.
6. The Contract is formed when PMRS confirm either by way of oral acknowledgement by a telephone call or in writing to the Client that they accept the Project. Acceptance by e-mail shall constitute written acceptance.
7. Any quotation by PMRS for the cost of providing the Project is valid for a period of two calendar months from the date it is sent to the Client (unless extended in writing by PMRS).
8. PMRS is reliant upon the Client to provide all relevant information, related to the Project and keep PMRS informed of any change in circumstances. PMRS are entitled to regard any information provided by the Client as complete and accurate.
9. The Client will supply at their expense, all agreed documents or other materials, and all necessary data or other information relating to the Project (and ensure the accuracy of the same), within sufficient time to enable PMRS to carry out the Project in accordance with the proposal.
10. Where Shopping Centre permission is required to undertake research and deliver a Project, this is to be obtained by the Client and confirmed to PMRS in advance of the Project commencing.
11. Where a Client does not obtain any necessary Shopping Centre permission, the Project is commissioned at risk. In such circumstances PMRS will not be held responsible for any failure to fulfil a Project, whereupon either the full Project cost, or a proportion deemed appropriate by PMRS, will be payable by the Client.

### **The Project**

12. PMRS shall use all reasonable endeavours to ensure that all PMRS personnel (whether employees or agents or contractors) who are involved in the supply of the Project are, in PMRS reasonable opinion, suitably skilled and experienced in the duties required of them and will take all reasonable steps necessary to ensure that such personnel comply with all specific procedures or policies notified by the Client to PMRS in relation to the provision of the Project.

13. If circumstances beyond PMRS control affect an element of the Project, PMRS will rectify that element at its own expense, but will not be liable to repeat the whole project.
14. If the results of the Project include data sampling and extrapolation, the estimated output data forecasts are made in good faith and intended only as an aid to the Client's judgement. PMRS does not warrant the accuracy, nor shall it be responsible for any consequences of the Client's use of these forecasts or predictions.
15. In the event of any error in reports, tabulations or presentations, PMRS will use its best endeavours to correct the error at its own expense, but will not be liable for the Client's consequential or other loss arising from the error.

## **Cancellation & Postponement**

16. Subject to the other provisions of these Conditions, the contract between the Client and PMRS shall terminate automatically on the completion of the Project
17. The Client may cancel the Contract at any time prior to completion of the Project, whereupon the terms of clause 18 shall apply.
18. In the event of cancellation of the Contract by the Client, PMRS shall be entitled to be reimbursed by the Client for all expenditure reasonably incurred in preparing the Project, purchasing materials and equipment in preparation for the provisions of the Project and to charge a cancellation fee. The following charges will apply:-
  - a. if the project is cancelled by the Client at any time prior to completion of the Project, the Client will be liable to PMRS for any and all direct and indirect expenses and costs incurred by PMRS.
    - A mandatory Project set up fee of £350
    - 10 working days or less notice; 25% of enumerator costs
    - 5 working days or less notice; 50% of enumerator costs.

such cancellation fee being a genuine pre-estimate of the loss which will be suffered by PMRS as a result of such cancellation.

19. In the event of postponement of the Contract by the Client, PMRS shall be entitled to be reimbursed by the Client for enumerator costs
  - 10 working days or less notice; 25% of enumerator costs
  - 5 working days or less notice; 50% of enumerator costs.
20. PMRS may by notice in writing served on the Client, terminate the Contract forthwith if the Client:
  - a. is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Client fails to remedy such breach within 7 days service of a written notice from PMRS, specifying the breach and requiring it to be remedied.

- b. becomes bankrupt, insolvent, makes any composition with his creditors, or has a receiver appointed;
  - c. has any distraint, execution or other process levied or enforced on any of its property;
  - d. ceases to trade or appears in the reasonable opinion of PMRS likely or is threatening to cease to trade;
21. The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Client or PMRS, accrued prior to termination.
22. PMRS will be entitled to suspend any Project otherwise due to occur following service of a notice specifying a breach under clause 16 until either the breach is remedied or the Contract terminates, whichever occurs first.

## **Fees & Invoicing**

23. The fees exclude VAT, which will be charged in addition at the current applicable rate.
24. Subject to clause 25, the party providing PMRS with written instructions for the Project is classified as the Client, and will be invoiced and considered to be fully responsible for payment of invoices.
25. In the case where a Client is representing another party ('their client'), on whose behalf they issue instructions to PMRS, the Client issuing the instructions to PMRS will be responsible for payment of invoices, should "their client" fail to settle payment.
26. Payment of each invoice is due from the Client within 30 days of the invoice date, and PMRS will be entitled to charge interest on all sums outstanding thereafter at a rate of 5% above HSBC Bank base rate, calculated on a daily basis payable from the invoice date until the date of payment of the outstanding amount in full.
27. Payment must be made in Sterling and should preferably be by BACS, account details of which to be provided by PMRS to the Client. Cheques must be made payable to 'PMRS Ltd'
28. If PMRS agrees that a Project is to be carried out in stages, with interim reports being produced, PMRS with prior agreement from the Client, be entitled to invoice for each stage upon delivery of each interim report.
29. No payment will be deemed to have been received until PMRS has received cleared funds and for all non-sterling payments an administrative charge may be made.
30. Where PMRS deems it necessary to instruct a Solicitor to recover payment, all Solicitor and Client charges are payable by the Client on an indemnity basis

## Cost assumptions

31. The fees quoted are estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the Commission. If the timescale, Project objectives, requirements, research approach, or the assumptions on which the quote is based are changed in any way by the Client, PMRS reserves the right to review the date of completion and the agreed fee, and charge for any additional work that has resulted from changes.

## Intellectual Property

32. Where Standard Reports are commissioned, the copyright and all other intellectual property rights whatsoever in any work produced by PMRS for the Client during the project shall belong to PMRS absolutely at all times. The final report may only be published, used or quoted elsewhere, with PMRS approval and provided that the findings and work are attributed to PMRS. This is in accordance with the MRS Code of Conduct and the Copyright, Designs and Patents Act 1988 sections 77 and 78".
33. Where Bespoke research is commissioned, the copyright of the final report shall belong to the Client.
34. The Client warrants that any material or information supplied by the Client for use by PMRS, will not infringe the copyright or other intellectual property rights of any third party, and the Client will indemnify PMRS against any loss, damages, costs, expenses or other claims arising from any such infringement.
35. All documents and questionnaires, etc. on which the data is recorded shall remain the property of PMRS.

## Publicity

36. PMRS reserves the right to publicise the existence of its relationship with the Client and with agreement from the client may utilise testimonials given by the Client on its website both during and after the term of the Contract. The form and content of all publicity material relating to the Client shall be agreed by PMRS and the Client prior to publication and PMRS agrees not to publish or display any such material without the Client's consent.

## General

37. PMRS undertakes to have adequate procedures in place to protect against viral infection of electronic data. PMRS will not be held liable for any infection in transit of electronic data. The Client should undertake to have adequate procedures in place to protect against possible viral infection arising from PMRS transmission of data irrespective of the media used.
38. PMRS will not be deemed to be in breach of the Contract or otherwise liable to the Client in any manner whatsoever for any loss damage failure or delay caused in performing any of its obligations under the Contract due to acts events omissions or accidents beyond PMRS reasonable control.

- 39 If any provision of these terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of these terms and the remainder of the provision in question shall not be affected.
- 40 The Contract will be governed by English law. The Contract will be subject to the exclusive jurisdiction of the courts of England. The Client and PMRS agree to submit to that jurisdiction.
- 41 In providing the research services and the Project, PMRS will comply with the Data Protection Act 1998 ("the Act") and any other relevant secondary legislation
- 42 Except in respect of death or personal injury, PMRS shall not be liable to the Client by reason of any representation (unless fraudulent), or any term (express or implied) of the Contract for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims which arise out of or in connection with the Contract or the use of the results of the Project by the Client.