



## Dipsticks Research Ltd - Project Terms & Conditions of Business

In the following terms and conditions document (the "Terms and Conditions"), 'Dipsticks' refers to Dipsticks Research Limited, (Company No. 03752827) incorporated in the United Kingdom whose registered office is at The Mill, Hexham Business Park, Burn Lane, Hexham, Northumberland, NE46 3RU, and 'the Client' refers to the person who agrees to commission research ("the Project") by Dipsticks.

### **Formation**

1. The contract to provide the Project ("the Contract") will be upon these Terms and Conditions to the exclusion of all other terms and conditions and all previous oral or written representations.
2. The following Terms and Conditions of business apply to all contracts between Dipsticks and the Client, and acceptance of the last quotation given will be taken as acceptance of these Terms and Conditions of business. 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 Dipsticks.
3. Each request for research by the Client shall be either in writing or by e-mail to Dipsticks e-mail address (info@dipsticksresearch.com) and will be deemed to be an invitation by the Client for Dipsticks to provide the Project upon these Terms and Conditions. The Contract is formed when Dipsticks 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.
  - 3.1 Any quotation by Dipsticks 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 Dipsticks).

### **Cancellation & Termination**

4. Either Dipsticks or the Client may cancel the Contract at any time prior to completion of the research, save that where the Project will be conducted over a period of six months or more the Client may only terminate the Contract on giving to Dipsticks not less than three months prior written notice of cancellation whereupon the terms of clause 5 shall apply.
5. In the event of cancellation of the Contract by the Client, the following charges will apply: -
  - 5.1 if the project is cancelled by the Client at any time prior to completion of the Project the Client will be liable to Dipsticks for any and all direct and indirect expenses and costs incurred by Dipsticks, its officers, agents or employees and any loss of earnings or any other loss whatsoever. A handling charge of 20% will be added on top of any and all direct and indirect expenses.

- 5.2 if the Client cancels a Project that is conducted throughout a period of six months or more at any time during the Research, the Client will still be required to pay the first 60% of the agreed fee for the Project. The Client will also be liable to Dipsticks for any and all direct and indirect expenses and costs incurred by Dipsticks, its officers, agents or employees and any loss of earnings or any other loss whatsoever. A handling charge of 20% will be added on top of any and all direct and indirect expenses.
6. Dipsticks may by notice in writing served on the Client terminate the Contract forthwith if the Client:
  - 6.1 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 Dipsticks, specifying the breach and requiring it to be remedied provided any such notice is served within six months of the breach occurring or Dipsticks becoming aware of such breach, whichever occurs later. Failure to pay any sums due in accordance with clauses 5,17,18,19,20 and 21 is a material breach of the terms of the Contract which is not capable of remedy;
  - 6.2 becomes bankrupt, insolvent, makes any composition with his creditors, has a receiver appointed under the Mental Health Act 1983 or dies;
  - 6.3 has any distraint, execution or other process levied or enforced on any of its property;
  - 6.4 ceases to trade or appears in the reasonable opinion of Dipsticks likely or is threatening to cease to trade;
7. The termination of the Contact howsoever arising is without prejudice to the rights, duties and liabilities of either the Client or Dipsticks accrued prior to termination.
8. Dipsticks will be entitled to suspend any performance otherwise due to occur following service of a notice specifying a breach under clause 6.1, until either the breach is remedied or the Contract terminates, whichever occurs first.

### **Working practice**

9. Dipsticks is reliant upon the Client to provide all relevant information, related to the Project and keep Dipsticks informed of any change in circumstances. Dipsticks are entitled to regard any information provided by the Client as complete and accurate. 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 Dipsticks to carry out the Project in accordance with the proposal.

10. Dipsticks observes the Code of Practice of the Market Research Society ("the Code"), which is deemed to be included in these terms. A copy of the Code can be made available to the Client upon request. In circumstances where the Code of Practice and these terms and conditions conflict, the terms and conditions shall prevail.
11. In providing the research services and the Project, Dipsticks will comply with the Data Protection Act 1998 ("the Act") and any other relevant secondary legislation. Dipsticks 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. As the Data Controller, Dipsticks will respond to any written Subject Access Requests (SARs) in accordance with the Act.
12. Except in respect of death or personal injury, Dipsticks 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.
13. Upon commencement of the Project, the Client will be responsible for the insurance of any product samples or stimulus material used in the production of the Project against accidental loss or damage, until the date of their disposal or return to the Client in accordance with this clause. Dipsticks may dispose of all materials supplied by the Client after six months following completion of a Project, unless the Client requests in writing their return, which shall be at the Client's expense.
14. Dipsticks will keep key documents (including, without limitation, electronic copies of the research proposal, sample details, and debrief documentation) for three years from the Project completion (the date of the debrief presentation or documentation) after which they will be destroyed securely. The recruitment questionnaire will be retained for three years as required by the Market Research Society, before being destroyed. Audio/video recordings and any paper, projects and materials relating to the products will be destroyed securely after six months.
15. All documents and electronic media including questionnaires, card, tapes, disks etc. on which the data is recorded is and shall remain, the property of Dipsticks.

### **Ownership**

16. Ownership of the Project will not pass to the Client until Dipsticks has received payment in full in accordance with clause 17, of all sums due to it in respect of all and any invoices issued to the Client and no part of the Project will be delivered to the Client until the Initial Invoice has been received by Dipsticks (in cash or cleared funds).

## Fees & Invoicing

17. The first 60% of the agreed fee for the Project will be invoiced upon commissioning of the Project ("the Initial Invoice"). The balance of 40% of the agreed fee will be invoiced on completion of the Project and presentation of the results of the Project ("the Final Invoice"). Any additional costs outstanding will either be included in the Final Invoice or will be invoiced separately, as and when they arise.
18. If it is the first time that Dipsticks has conducted research or a Project for the Client then Dipsticks shall be entitled to 100% of the agreed fee for the Project which will be invoiced upon commissioning of the Project.
19. The fees exclude VAT, which will be charged in addition at the current applicable rate.
20. Dipsticks will pass on charges for supplementary expenses such as hotel, travel, viewing facilities, and subsistence costs. A handling charge of 20% will be added to all expenses. Dipsticks shall endeavour to ensure such charges will be included on the Final Invoice but shall be entitled to raise additional invoices if necessary.
21. Payment of each invoice is due from the Client within 14 days of the invoice date, and Dipsticks will be entitled to charge interest on all sums outstanding thereafter at a rate of 5% above Barclays Bank base rate, calculated on a daily basis payable from the invoice date until the date of payment of the outstanding amount in full. Where Dipsticks deems it necessary to instruct a Solicitor to recover payment, all Solicitor and Client charges are payable by the Client on an indemnity basis.
22. If Dipsticks agrees that a Project is to be carried out in stages, with interim reports being produced, Dipsticks will be entitled to invoice for each stage upon delivery of each interim report.
23. Time for payment is of the essence and all payments must be made in Sterling unless otherwise agreed by Dipsticks. Cheques must be made payable to 'Dipsticks Research Ltd'. BACS payments should be transferred into Dipstick's bank account, details of which to be provided by Dipsticks to the Client. No payment will be deemed to have been received until Dipsticks has received cleared funds and for all non-sterling payments an administrative charge may be made.
24. The party providing Dipsticks 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. In the case where a Client is representing another party ('their client'), on whose behalf they issue instructions to Dipsticks, the Client issuing the instructions to Dipsticks will still be responsible for payment of invoices. This is regardless of any payment arrangements they may have with their client.

### **Cost assumptions**

25. The fees quoted are estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the proposal. If the timescale, Project objectives, requirements, research approach, or the assumptions on which the quote is based change in any way by the Client, Dipsticks reserves the right to review the date of completion and the agreed fee, and charge for any additional work that has resulted from changes. This includes all amendments made to research quotas, and analysis parameters (e.g. profiling of research participants) after the quote has been accepted by the Client and the Contract commences.

In addition, if the disbursement costs (which shall include but not be limited to: fees for publications, data lists, documents) on any Project increase from those estimated by Dipsticks, Dipsticks shall as soon as reasonably practicable inform the Client of the increase and the Client agrees to reimburse the total costs of obtaining the said disbursements at the rates charged to Dipsticks.

### **Intellectual Property**

26. The copyright and all other intellectual property rights whatsoever in any work produced by Dipsticks for the Client during the project including (without limitation) Dipsticks's proposal, debrief documentation and any other materials whether (without limitation) vested, contingent or future shall belong to Dipsticks absolutely at all times.
27. The findings from Dipsticks's research and contained within the Project may only be published, used or quoted elsewhere, with our prior written approval and provided that the findings and work are attributed to Dipsticks. This is in accordance with the MRS Code of Conduct (in particular clauses B27 and B28), whereby Dipsticks must authorise the final proof of such material before it can be used by the Client. Dipsticks reserves the right to withhold approval until such time as the requirements of the MRS Code of Conduct have been met in full.
28. The Client warrants that any material or information supplied by the Client and its use by Dipsticks, will not infringe the copyright or other intellectual property rights of any third party, and the Client will indemnify Dipsticks against any loss, damages, costs, expenses or other claims arising from any such infringement.

### **Confidentiality**

29. Dipsticks undertakes to keep confidential and not disclose to any other person (except in the proper performance of duties) either during or after the termination of the Contract any information whatsoever relating the Client's business or any trade secrets or make use of the same in any manner which might be prejudicial to the Client's interests.

30. The Client undertakes to keep and procure that its officers and employees keep confidential and do not disclose to any other person either during or after the termination of this contract any information whatsoever relating to Dipsticks's business, including but not limited to any proposals, methodologies and debrief documentation, know-how, trade secrets or other information supplied by Dipsticks during or before the project, or information concerning Dipsticks relationships with actual or potential clients, customers and suppliers and any other information which if disclosed might be prejudicial to or liable to cause harm to Dipsticks.

### **Publicity**

31. Dipsticks reserves the right to publicise the existence of its relationship with the Client and shall utilise testimonials given by the Client on its website ([www.dipsticksresearch.com](http://www.dipsticksresearch.com)), 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 Dipsticks and the Client prior to publication and Dipsticks agrees not to publish or display any such material without the Client's approval (such approval not to be unreasonably withheld or delayed).
32. Dipsticks reserves the right, subject to the approval of the Client (such approval not to be unreasonably withheld or delayed) to use Project information as examples of case studies and as PR material.

### **General**

33. Any preliminary plan or quotation submitted before contract is done so on the understanding it is for the consideration of the Client, and will not be shown to any third party. In the case where a Client acts as an agent commissioning the research on behalf of a third party, it may only be shown to the Client's principal for the Project.
34. Dipsticks undertakes to have adequate procedures in place to protect against viral infection of electronic data. Dipsticks 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 Dipsticks transmission of data. The transmission of data relates to any data passed between Dipsticks and the Client in an electronic format irrespective of the media used.
35. Dipsticks 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 Dipsticks reasonable contemplation and control, including without limitation, industrial disputes, acts of God, war, or national emergency, acts of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order or rule, regulation or direction, accident breakdown of plant or machinery, fire, explosion, flood, storm, or epidemic.
36. The Client and Dipsticks do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

37. Nothing within this document requires Dipsticks or the Client to do anything contrary to law or other public policy.
38. These terms, together with the proposal and proposal confirmation, constitute the entire agreement between Dipsticks and the Client, supersede any previous agreements or understandings and all other terms, express or implied by statute or otherwise are excluded to the fullest extent permitted by law.
39. No failure or delay by Dipsticks to exercise any of its rights under the agreement shall be deemed to be a waiver of that right, and no waiver of any breach of the agreement shall be considered as a waiver of any subsequent breach of the same or any other provision.
40. 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.

#### **Jurisdiction**

41. 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 Dipsticks agree to submit to that jurisdiction.

#### **Notices**

42. Any notice, demand or communication in connection with the Contract shall be in writing addressed to the other at its principal place of business or such other address as may have been notified to the party giving not less than [7] days notice pursuant to this term. Such notice, demand or communication will be deemed to have been duly served, if delivered by first class post or Special Delivery post, 48 hours after being posted (excluding Saturdays Sundays and public holidays).