

Terms and Conditions of Flycatcher Internet Research BV

1. General

- 1.1 These Terms and Conditions apply to all offers and/or quotes and/or orders and/or agreements concerning research to be undertaken, in the broadest sense, hereinafter referred to as 'Order', between Flycatcher Internet Research BV, hereinafter: 'Contractor', and the client or potential client, hereinafter: 'Client'.
- 1.2 Departures from these terms and conditions may only be agreed upon in writing. Any terms and conditions of the Client shall not apply, unless their applicability or partial applicability alongside these terms and conditions is agreed upon between the parties, in writing.
- 1.3 Should one or more provisions of these terms and conditions be invalid, contrary to the law, or otherwise unenforceable, this shall not affect the validity of the other provisions. The Parties will mutually agree a new provision to replace the invalid or unenforceable provision which replicates as fully as possible the scope of the unenforceable provision.
- 1.4 Each Order is undertaken with due regard for the *Gedragscode voor Marktonderzoek en Statistiek* (Code of Conduct for Market Research and Statistics). Orders will never conflict with mandatory provisions of the international ICC/ESOMAR code.

2. Research briefing

- 2.1 The Contractor must adequately apprise itself of the Client's objectives in placing the Order.
- 2.2 Research proposals and Action Plans of the Contractor are based on the information provided by the Client. The Client warrants that, to the best of its knowledge, it provided all the essential information for the formulation and execution of the order. The Client also warrants that it is entitled to ensure that all the information supplied to the Contractor, including addresses, is used for research.

3. Research proposals and quotes

- 3.1 All research proposals and quotes by the Contractor are without obligation and are valid for 30 days, unless otherwise indicated. An Order is deemed to have been established once the Contractor, having reached agreement on the research proposal, has confirmed the Order in writing, or has begun executing the Order with the Client's knowledge.
- 3.2 The Contractor may bill costs for preparing a research proposal, provided this has been agreed beforehand with the Client.

4. Execution of the Order and liability

- 4.1 The Contractor undertakes the work involved in the Order to the best of its knowledge, expertise and capability.
- 4.2 To the extent necessary for the proper execution of the Order, the Contractor has the right to cause the work, or parts of it, to be undertaken by third parties. It shall do this in consultation with the Client and will do its utmost to fulfil the agreed commitments and quality. The Contractor accepts no liability for the work done by third parties to the extent that said third parties have themselves entered into an agreement with the Client.
- 4.3 The Contractor is not liable for damage arising due to it having based its actions on inaccurate and/or incomplete information provided by the Client, unless it ought to have been aware of the inaccuracy or incompleteness of the information.
- 4.4 If it has been agreed that the Order will be executed in phases, the Contractor may suspend the execution of those components which belong to a subsequent phase until such time as the Client has approved the results of the preceding phase, in writing.
- 4.5 The Contractor is only liable for any shortcomings in the execution of the Order insofar as they are the consequence of the Contractor's failure to observe the diligence and competence that may be relied upon. Liability for resulting damages shall be limited to the amount of the remuneration that the Contractor has received for its work in connection with the Order and shall in any case be limited to the amount of the payment made by the insurer of the Contractor in occurring case.
- 4.6 Any claims of the Client must be submitted within 2 weeks of discovery of the damages, or within 2 weeks of completion of the work, failing which the Client shall have forfeited its rights. All liability of the Contractor for any consequential loss suffered by the Client is excluded. Consequential loss includes, but is not limited to, damage caused by any form of use of research findings by the Client or third parties. The Client will indemnify the Contractor against claims in this respect by third parties.

5. Lead time and planning

- 5.1 Lead times indicated by the Contractor are an approximation only, unless it is expressly stated, in writing, that they are a firm deadline. Even if a firm deadline has been agreed, the Contractor shall not be in default until the Client has served notice of default to it. 5.2 Agreed lead times are also not binding in the event of a delay due to unforeseen circumstances related to interim changes to the Order or other circumstances which neither the Contractor nor the Client could reasonably have taken into account when the agreement was established. If the Contractor foresees a delay, it will inform the Client at once.
- 5.2 If the Client wishes to make a change to the agreed planning, the Contractor will cooperate with this provided the Client consults the Contractor in timely manner and also on condition that, depending on the circumstances in each case, such cooperation can reasonably be required of the Contractor. The Contractor shall then be entitled to bill the Client for the ensuing costs.

6. Changes/additional work

- 6.1 The Client accepts that the timings for the Order may be affected if the parties decide in the interim to change the approach, method or scope of the Order and the resulting work.
- 6.2 If interim changes are made to the execution of the Order by or on account of the Client, the Contractor shall make the necessary changes on the Client's behalf. The Contractor may bill the Client for the additional costs of changing the Order.

7. Termination/early termination of the Order/suspension and dissolution of the Order

- 7.1 If, due to a cause attributable to the Contractor, the Order cannot be executed in accordance with the underlying research proposal, the Client must notify the Contractor of default, in writing, and the Client will allow the Contractor 14 days in which to execute the Order properly.
- 7.2 The Contractor is entitled to dissolve the Order and/or suspend execution of the Order, with 14 days' notice of default, if the Client does not fulfil its obligations to the Contractor, or does not do so in timely or correct manner.

- 7.3 If the Contractor or Client goes bankrupt, requests a provisional or definitive moratorium on payment, or ceases its business operations, the other party shall have the right to terminate the Order with immediate effect.

8. Payment terms

- 8.1 Unless stated otherwise, the prices indicated in the research proposal and/or quote are exclusive of any travel and accommodation expenses. Costs which the Contractor may bill to the Client must be broadly itemized by the Contractor on request.
- 8.2 The Contractor is entitled to require payment in instalments from the Client. Unless otherwise agreed, the Contractor will bill 50% of the agreed price immediately after signature of the quote.
- 8.3 Unless otherwise agreed, payment must be made within fourteen (14) days of the date of the invoice. After this due date, the statutory commercial interest will be charged. If the Client fails in the fulfilment of one or more obligations to the Contractor, all reasonable costs involved in obtaining payment by extrajudicial methods shall be borne by the Client, subject to a minimum of 15% of the claim. The Client is not entitled to suspend and/or offset obligations to the Contractor.

9. Intellectual Property and Data

- 9.1 All intellectual property rights, including copyright to the items produced by the Contractor, including (but not limited to): software, data and data files, research proposals, research findings, cost statements, quotes, models, techniques, questionnaires, instruments, analyses, results, research reports, presentations, etc. are vested in and shall remain with the Contractor.
- 9.2 After delivery by the Contractor, the Client shall acquire the right to use the reports, analyses and results produced by the Contractor in connection with the agreement. However, the Client shall not acquire any rights to the underlying data files, unless otherwise agreed in writing.
- 9.3 The Contractor has the right to use the knowledge it has accrued by performing an agreement for other purposes, provided this does not entail divulging to third parties any strictly confidential information of the Client.
- 9.4 All rights (including copyright) to the questionnaires, instructions, specifications, data files and other information provided by the Client shall remain with the Client.
- 9.5 The Client bears sole responsibility for adequately backing up the data which the Client itself supplied or which have been made available to the Client. The Contractor may only offer data storage for a limited period, using the data storage solutions it provides. It is the Client's responsibility to arrange a long-term storage solution. After the termination of the Agreement, the Client itself will arrange adequate data storage. The Contractor will only retain these data after the termination of the Agreement to the extent required by law. The Contractor is not liable to the Client with respect to loss of or damage to data which are sent or stored by the Client or which have been placed at the Client's disposal.

10. Force majeure

- 10.1 If the Contractor is prevented by force majeure from fulfilling its obligations, the Contractor will inform the Client of this without delay, and confer with the Client. The Client will cooperate with the requested extension of the period, provided this can be reasonably required of the Client and agreement is reached on this as well as on the additional costs which can reasonably be charged, or reasonably be deducted.
- 10.2 If the force majeure delays the execution of the Order by more than three (3) months, both the Contractor and the Client shall be authorized to regard the Order as terminated. In this event, the Contractor shall only be entitled to payment of the costs it has incurred.

11. Confidentiality and exclusivity

- 11.1 The parties are obliged to maintain confidentiality vis-a-vis third parties who are not involved in the execution of the Order concerning all confidential information which they have received from each other, or another source, in connection with the Order. Information is deemed confidential if it has been notified as such by the other party or if this is apparent from the nature of the information.
- 11.2 The Client must safeguard respondents' privacy. The Client is only entitled to use the research findings obtained following research for statistical or comparative purposes, provided the findings cannot be traced back to individual respondents. Nonetheless, the Client and the individual respondents will be at liberty to mutually agree arrangements which differ from this clause.
- 11.3 The Client is not permitted to include any respondents provided by the Contractor in its own files, or to approach the respondents for any purpose whatsoever, other than via the Contractor.
- 11.4 In the event of an infringement of the provisions of this article, the Client shall owe the Contractor an immediately payable fine of ten (10) times the agreed remuneration for the Order, without prejudice to the Contractor's right to demand compensation.

12. Transfer of rights and obligations

The Client is not entitled to transfer any or all of its rights and obligations pursuant to the Order to third parties, unless it has obtained the Contractor's written permission to do so.

13. Retention periods

Unless otherwise agreed with the Client, all personal data will be deleted by the Contractor one year after the end of an Order upon archiving. Other data relating to the Order will be retained indefinitely, unless otherwise agreed with the Client.

14. Residual clauses

- 14.1 The Client is not, under any circumstances, entitled to offset any of its obligations, whether due or not, against an obligation of the Contractor towards the Client.
- 14.2 These terms and conditions have been filed with the Registry of the court in Maastricht and are also available via www.flycatcher.eu. The version most recently filed always applies.

15. Applicable law and disputes

All Orders between the Client and Contractor are governed exclusively by Dutch law. All disputes that may arise between the parties further to or in connection with the execution of an Order or Orders will be settled by the court of Limburg in Maastricht.