



Data Collection Specialists

TERMS AND CONDITIONS

Definitions and Interpretation

In this Agreement (unless the context requires otherwise) the following terms shall have the following meanings:

"Admin Users"	It refers to employees, agents and independent contractors of the client who are authorised by the client to use the service to arrange, administer and deliver service, under clause 11.
"Agreement"	It refers to the agreement between Insurvey and the client for the provision of the service, comprising the Order Form and these Terms and Conditions.
"Authorised Users"	It refers to Admin Users and Participants.
"Business Day"	It refers to a day other than a Saturday, Sunday or public holiday in South Africa when banks are open for business.
"Confidential Information"	It refers to information that is proprietary or confidential and which is either clearly labelled as such or identified as such on disclosure or which would be understood by a reasonable business person to be confidential or commercially sensitive in nature.
"Contract Year"	It refers to each consecutive period of twelve (12) months commencing on the Start Date and each anniversary thereof.
"Customer Data"	It refers to the data and information inputted by the client, Authorised Users, or Insurvey on the client's behalf, to use the Services or facilitate the client's use of the service.
"Event"	It refers to an online event, organised, administered and/ or delivered by the client, using the service.
"Intellectual Property Rights"	It refers to patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and



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	rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world, including the right to sue for and recover damages for past infringements.
"Order Form"	It refers to the Order Form issued by Insurvey about the service which references these Terms and Conditions and/or to which these Terms and Conditions are appended.
"Participant"	It refers to an individual who attends or participates in, a session/campaign using the service.
"Start Date"	It refers to the date on which the provision of the service shall commence (or be deemed to have commenced) as detailed in the Order Form.
"Initial Subscription Term"	It refers to the initial term of this agreement as set out in the Order Form.
"Normal Business Hours"	08h00 am to 16h00 pm local (RSA)time, each business day.
"Renewal Period"	It refers to the continuation period after 12 month subscription. Clause 1.
"Service"	It refers to the subscription service provided by Insurvey which enables subscribers to prepare, administer and deliver surveys/market research.
"Software"	It refers to the online software applications or systems used by Insurvey to provide the service.
"Subscription Fees"	It refers to s the subscription fees payable by the client to Insurvey under this agreement and comprising any Fixed Fees and/ or Usage Fees detailed in the Order Form.
"Subscription Term"	It has the meaning given in clause 1.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).
"Support Services Policy"	It refers to Insurvey's policy for providing support about the service as made available at www.insurvey.co.za or such other website address as may be notified to the client from time to time.
"Usage Rights"	It refers to the usage rights purchased by the client under this agreement, as further detailed in clause 5 and defined in the Order Form.



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In this Agreement:

- a) Clause, schedule and paragraph headings shall not affect the interpretation of this agreement;
- b) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- c) A reference to a statute or statutory provision is a reference to it as it is in force at the date of this agreement; and
- d) A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.

If you will be using the services on behalf of an organization, you agree to these terms on behalf of that organization and you represent that you have the authority to do so. In such a case, "you" and "your" will refer to that organization. You agree to these terms by clicking to accept these terms.

1. Fees and Payments

1.1. Subscription Fees and Payment

- The Client shall pay the Subscription Fees to Insurvey under the Order Form and this clause 1.
- The subscription can be on a month to month/pre-paid or annual subscription.
- The Subscription Fees shall be paid on such dates and by such method, as is stipulated in the Order Form or (where no particular dates or payment method is stipulated) within thirty (30) days of the date of the Supplier's invoice therefor.
- Unless stated otherwise on the Order Form or agreed in writing by Insurvey: (a) all Fixed Fees shall be payable (and it may be invoiced) annually in advance, and (b) all Usage Fees shall payable (and maybe invoiced) at the end of each calendar month in respect of the preceding month's usage.
- Unless stated otherwise, all Subscription Fees and other amounts referred to in this Agreement: (a) shall be payable in Rand; (b) are non-cancellable and non-refundable; and (c)



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are exclusive of value-added tax, which shall be payable (and added to the Supplier's invoice(s)) at the appropriate rate.

- If the Customer fails to make payment of any sum due to be paid to the Insurvey under this Agreement by the due date for payment, then without prejudice to any other rights and remedies available to Insurvey: (a) Insurvey may, without liability to the Client disable the Client's access to and/or use of the Service (or any part of it) and Insurvey shall be under no obligation to provide any or all of the Service while the outstanding amounts concerned remain unpaid.
- Insurvey shall be entitled to increase the Subscription Fees at the start of each Renewal Period upon giving at least 30 days prior notice to the Client and this Agreement shall be deemed to have been amended accordingly. Your subscription will automatically renew at the end of each billing cycle unless you cancel auto-renewal through your online account management page, or **by contacting our Client Support Team. You may cancel your Auto-Renewal on your Subscription at any time, in which case your Subscription will continue until the end of that billing cycle before terminating.**
- A discount is applicable for annual prepayment.

1.2. Price Changes

Insurvey may change the monthly/annual fees charged to you or your organisation for the Services at any time, provided that, for Subscriptions, the change will become effective only at the end of the then-current billing cycle of your Subscription. Insurvey will provide you with 30 days' advance notice of any change in fees.

1.3. Late Fees

Any late fees sustained by you or your organisation will be billed in arrears. Late fees which remain unpaid for 30+ days after being billed are considered overdue. Failure to pay overage fees when due may result in the applicable Service being limited, suspended or terminated (subject to applicable legal requirements), which may result in a loss of your data associated with that Service subject to applicable law.



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2. Privacy

While you are using our Services, you may submit content to Insurvey (including your data and the personal data of others) or third parties may submit content to you through the Services (all of the above will be referred to as your "content"). We know that by sharing with us your content, you are trusting us to treat it appropriately. Insurvey's Privacy Notice, together with any Service-specific privacy notices or statements (collectively, "Insurvey privacy notices"), detail how we treat your content and we agree to adhere to those Insurvey privacy notices. In turn, you agree that Insurvey may use and share your content under the Insurvey privacy notices and applicable data protection laws. You also agree that you are responsible for notifying these third parties about the Insurvey privacy notices.

Our Data Processing Agreement also applies to and is supplemental to these terms. Where there is a conflict between the Data Processing Agreement and these terms, the Data Processing Agreement will prevail except for Exclusion and Limitation of Liability where these terms will prevail.

Each of the parties agrees to comply with all the applicable laws concerning data protection and privacy in connection with their activities under this agreement. In particular, the client agrees to comply with such laws in connection with any survey campaign it embarks on and delivers and in promoting any such campaign. To the extent that Insurvey processes any personal data on behalf of the client in performing its obligations under this agreement, the parties agree to comply with their respective obligations

3. Confidentiality

- ⇒ Insurvey will treat your Content as confidential information and only use and disclose it under these terms (including the Insurvey's privacy notices).
- ⇒ Each party may be given access to Confidential Information from the other party to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that: (a) is or becomes publicly known other than through any act or omission of the receiving party; (b) was in the other party's lawful possession before the disclosure; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently developed by the receiving party, which independent development can be shown by written evidence.



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- ⇒ Each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.
- ⇒ Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.
- ⇒ A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent, it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited, and it takes into account the reasonable requests of the other party with the content of such disclosure.
- ⇒ The client acknowledges that details of the Service and Software / System, constitute Insurvey's Confidential Information. Insurvey acknowledges that the Client Data is the Confidential Information the Client.
- ⇒ The above provisions of this clause 3 (confidentiality) shall survive termination of this Agreement, however, arising.

4. Security

Insurvey will store and process your content in a manner consistent with industry security standards. Insurvey has implemented appropriate technical, organizational, and administrative systems, policies, and procedures.

If Insurvey becomes aware of any unauthorized or unlawful access to, or acquisition, alteration, use, disclosure, or destruction of, personal data related to your account ("**Security Incident**"), Insurvey will take reasonable steps to notify you without undue delay, but in any event within 48 hours of becoming aware of the Security Incident impacting your account.

Insurvey will also reasonably cooperate with you concerning any investigations relating to a Security Incident, any required notices, and providing information reasonably requested by you and available to us concerning any Security Incident, where such information is not already available to you in your account or online through updates provided by Insurvey.



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5. Client Content

5.1. *You Retain Ownership of Your Content*

- You retain ownership of all of your intellectual property rights in your content.
- Insurvey does not claim ownership over any of your content.
- These terms do not grant us any licenses or rights to your content except for the limited license described in these terms.

5.2. *Limitations: License to You Content*

As the client, you give Insurvey a worldwide, royalty-free license to use, reproduce, distribute, modify, adapt, create derivative works, make publicly available, and otherwise exploit your Content, but only for the limited purposes of providing and improving the Services and as permitted by the Insurvey privacy notices.

This license for such limited purposes continues even after you stop using our services, to aggregate and de-identified data derived from your Content and any residual backup copies of your Content made in the ordinary course of Insurvey's business (subject to our retention policies). This license also extends to any trusted third parties we work with to the extent necessary to provide and improve the Services.

5.3. *Representations and Warranties*

You represent and warrant that:

- a) you own or control the appropriate rights in and to your content, including any intellectual property owned by third parties; and
- b) you will not submit, upload, or otherwise make available via the Services, any Content or materials that are in breach of our **Acceptable Uses Policy**.

5.4. *Responsibility for Your Content.*

The services may display content not owned by Insurvey but by others. The entity that makes such content available is responsible for it. You are responsible for your content, and you must ensure that you have all the rights and permissions needed to use that content



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in connection with the services. Insurvey is not responsible for any actions you take concerning your content, including sharing it publicly. Subject to applicable law, Insurvey is not liable for your content, any other third-party content or materials, or any loss or damage resulting from your use of, or reliance on, such content or other third-party content or materials.

You acknowledge that to ensure compliance with legal obligations, Insurvey may be required to review certain of your Content submitted to the services to determine whether it is illegal or whether it violates these terms (such as when unlawful content is reported to us). We may also modify, prevent access to, delete, or refuse to display your content that we believe violates the law or these terms. In the event your content includes third-party brands, logos or other source identifiers, we may require you to submit a statement of non-affiliation before you may use such content in connection with the services. However, Insurvey otherwise has no obligation to monitor or review any content submitted to the Services.

6. Obligations: Client

The Client shall:

- a) Provide Insurvey with all necessary co-operation about this Agreement and all necessary access to such information as may be required by Insurvey to provide the Services, including but not limited to Client Data, security access information and configuration services;
- b) Without affecting its other obligations under this Agreement, comply with all applicable laws and regulations concerning its activities under this agreement;
- c) Carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner;
- d) Ensure that the Authorised Users use the Service under the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
- e) Obtain and shall maintain all necessary licences, consents, and permissions necessary for Insurvey, its contractors and agents to perform their obligations under this agreement, including without limitation the Service;



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- f) Ensure that its network and systems comply with the relevant specifications provided by Insurvey from time to time; and
- g) Be, to the extent permitted by law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Insurvey's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

The Client shall own all rights, title and interest in and to all of the Client Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Client Data.

7. Acceptable: Policy Uses

7.1. Cardholder Data

Insurvey is responsible for the security of Cardholder Data that is collected, transmitted, stored, or processed by us on your behalf.

Cardholder Data: is defined as a cardholder's primary account number, and where a full unmasked card number is present, any of the cardholder name, expiration date, and/or service code. Insurvey has developed strict security features to protect Cardholder Data, and as such this data may only be used in anticipated ways and stored at appropriate places.

You acknowledge and agree that you are prohibited from collecting or entering Cardholder Data into any form or data entry fields in the services, except in those fields solely intended for that purpose.

i.e. where Insurvey explicitly enables such data to be entered into such fields) as appropriate fields are marked with labels such as 'Card number' or having a credit card icon precede them. Similarly, excluding payment forms, you must never collect or enter any **"Sensitive Authentication Data"** defined by the PCI Standards (including CVC or CVV2) into any fields in the Services, as you assume all responsibility for any Cardholder Data entered into the Services in violation of these terms.



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8. Termination and Suspension: Services

8.1. Request By Client

You can terminate your subscription and delete your account at any time on your account management page. Such termination and deletion will result in the deactivation or disablement of your account and access to it, and the deletion of content you collected through the use of the services. Terminations are confirmed immediately, and you will not be charged again for that Subscription unless you purchase a new one.

If you terminate a Subscription in the middle of a billing cycle, you will not receive a refund unless you are terminating these terms for any of the following reasons:

- a) We have materially breached these terms and failed to cure that breach within 30 days after you have so notified us in writing;
- b) A refund is required by law; or
- c) We, in our sole discretion, determine whether a refund is appropriate. For clarity, we will not grant a refund where you have used our Services, collected responses, and/or downloaded your responses unless the termination is due to our material, uncured breach or a refund is required by law.

8.2. Request By Insurvey

Insurvey may terminate your subscription effective at the end of a billing cycle by providing at least 30 days prior written notice to you without refund for any prior period. Insurvey may terminate your subscription at any time during the billing cycle by providing at least 60 days' written notice to you and will provide a pro-rata refund for any period you did not use in that billing cycle.

Insurvey may suspend performance or terminate your subscription for any of the following reasons:

- a) You have materially breached these terms and failed to cure that breach within 30 days after Insurvey has so notified you in writing;
- b) You cease your business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days; or



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- c) You fail to pay fees for 30 days past the due date. Additionally, Insurvey may limit, suspend, or terminate the services to you:
- i. If you fail to comply with these terms,
 - ii. If you use the services in a way that causes legal liability to us or disrupts others' use of the Services; or
 - iii. If we are investigating suspected misconduct by you OR YOUR organisation. Also, if we limit, suspend, or terminate the services you receive, depending upon the reason, we will endeavour to give you advance notice and an opportunity to obtain a copy of your content from that Service. However, there may be time sensitive situations where Insurvey may decide that we need to take immediate action without notice. Insurvey will use commercially reasonable efforts to narrow the scope and duration of any limitation or suspension under this Section as is needed to resolve the issue that prompted such action. Insurvey has no obligation to retain your Content upon termination of the applicable Service.

9. Changes and Updates

9.1. Changes: Terms

Insurvey may change these terms at any time for a variety of reasons, such as to reflect changes in applicable law or updates to services and to account for new services or functionality. The most current version will always be posted on the Insurvey website. If an amendment is a material, as determined in Insurvey's sole discretion, Insurvey will notify you by email.

Notice of amendments may also be posted upon your login to your account. Except as otherwise specified by us, changes will be effective no sooner than the day they are publicly posted. If you do not want to agree to any changes made to the terms for a Service, you should stop using that service, because (unless otherwise stated in law) by continuing to use the Services you indicate your agreement to be bound by the updated terms.



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9.2. Changes: Services

Insurvey constantly changes and improves the services. Insurvey may add, alter, or remove functionality from a service/system it provides to you at any time without prior notice. Insurvey may also limit, suspend, or discontinue a service provided to you at its discretion.

If Insurvey discontinues a service, we will give you reasonable advance notice to provide you with an opportunity to obtain a copy of your content from that service. Insurvey may remove content from the services it provides you at any time at our sole discretion, although we will endeavour to notify you before we do that if it materially impacts you or your organisation and if practicable under the circumstances.

9.3. Renewal: Downgrade and Upgrade

You can downgrade and upgrade your plan anytime, and it is important to note that this may cause the loss of content, features, functionality, or capacity of your account.

9.4. Consumers

While our services are most often used for business, we acknowledge that the laws of certain jurisdictions provide legal rights to consumers that may not be overridden by contract or waived by those consumers. If you are such a consumer using our services for non-business reasons, nothing in these terms limits any of those consumer rights.

10. Insurvey: IP Ownership

Neither these Terms nor your use of the Services grants you ownership in the services or the content you access through the services (other than your content).

If you submit any feedback or suggestions to us regarding our services, we may use and share them for any purpose without any compensation or obligation to you.



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11. Account Management

11.1. Password: Secure It

You are entirely responsible to keep and safeguard your account or any other credentials used to access your account.

In addition, you are entirely responsible (not Insurvey) for any activity occurring in your account whether or not you have authorized that activity.

Keeping your data secure also requires that you maintain the security of your account by using sufficiently complex passwords and storing them safely. You should also ensure that you have sufficient security on your systems.

It is entirely your responsibility to immediately notify Insurvey if you become aware that there has been any unauthorised access to your account. Accounts are or may not be shared with any party and may only be used by one individual per account.

11.2. Accurate: Account Details

It is your responsibility to ensure that your contact details, email address and payment details are updated/current and accurate.

Insurvey will monthly send your invoice statement to your registered email address.

11.3. Backup: Cloud and or Hard-drive

it is your responsibility to ensure that you protect and maintain your information/content/data by having a backup system. Insurvey will not be responsible for any loss of your content/information/data.

11.4. Account: Inactivity

if there is no activity on your account for more than 06 months, Insurvey will attempt to warn you by your registered email with an opportunity to log in and remain active. Should there still be no activity for over 12 months, we reserve the right to delete your account and which will include any content/data available on the account.



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12. Terminations: Term

This agreement shall unless otherwise terminated as provided in this clause 12, commence on the start date and shall continue for the initial subscription term, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a "**Renewal Period**"), unless:

- a) Either party notifies the other party of termination, in writing, at least fifteen (15) days before the end of the initial subscription term or any renewal period, in which case this agreement shall terminate upon the expiry of the applicable initial subscription term or renewal period; or
- b) Otherwise terminated under the provisions of this agreement, and the initial subscription term together with any subsequent renewal periods shall constitute the "**Subscription Term**".

⇒ Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- a) The other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than fifteen (15) days after being notified in writing to make such payment; or
- b) The other party commits a material breach of any other term of this Agreement and (if such breach is remediable) fails to remedy that breach within thirty (30) days after being notified in writing to do so.

⇒ Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- a) The other party suspends, or threatens to suspend, payment of its arrears or is unable to pay its debts as they fall due or admits inability to pay its arrears or is deemed unable to pay its debts
- b) The other party commences negotiations with all or any class of its creditors to reschedule any of its arrears, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;



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- c) An application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);
- d) The holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- e) A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- f) A creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
 - (i) Any event occurs, or proceeding is taken, concerning the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the preceding vents mentioned in this clause;
 - (ii) The other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

12.1. Post Termination

On termination (or expiry) of this agreement for any reason:

- a) All rights and licences granted under this Agreement shall immediately terminate and the Client shall immediately cease all use of the Service and Software;
- b) Each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party;
- c) Insurvey may destroy or otherwise dispose of or delete from its systems any of the client data in its possession unless Insurvey receives, no later than ten (10) days after the effective date of the termination of this agreement, a



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written request for the delivery of a copy of the client data. Insurvey shall use reasonable commercial endeavours to deliver a copy of the client data to the client within thirty (30) days of its receipt of such a written request, provided that the client has, at that time, paid all fees outstanding at and resulting from termination (whether or not due at the date of termination). The client shall pay all reasonable expenses incurred by Insurvey in providing a copy of the client data (if requested by the client); and

- d) Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this agreement which existed at or before the date of termination shall not be affected or prejudiced.

13. Indemnity, Limitations, Miscellaneous

13.1. Indemnity

The client shall defend, indemnify and hold harmless Insurvey against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the client's use of the service organised or delivered by the Client, provided that:

- a) The Client is given prompt notice of any such claim;
- b) Insurvey provides reasonable co-operation to the Client in the defence and settlement of such claim, at the client's expense; and
- c) The Client is given sole authority to defend or settle the claim.

Insurvey shall defend the client against any claim that the client's use of the service under this agreement infringes any South African Intellectual Property Rights owned by any third party ("**IP Claim**") and shall indemnify the client for any amounts awarded against the client in judgment or settlement of such claims, provided that:

- a) Insurvey is given prompt notice of any such claim;
- b) The client provides reasonable co-operation to Insurvey in the defence and settlement of such claim, at Insurvey's expense; and



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- c) That Insurvey is given sole authority to defend or settle the claim.

In the defence or settlement of any IP Claim, the Insurvey may:

- a) Procure the right for the Client to continue using the Service; or
- b) Replace or modify the Service so that it becomes non-infringing; or
- c) If the preceding remedies are not reasonably available, terminate this agreement on notice to the client in which event that the client shall be entitled to receive an appropriate refund in respect of any pre-paid Subscription Fees paid with the unexpired term of the agreement, but Insurvey shall have no additional liability or obligation to pay liquidated damages or other additional costs to the client.

In no event shall Insurvey, its employees, agents and sub-contractors be liable to the client to the extent that the alleged IP Claim is based on:

- a) A modification of the service by anyone other than Insurvey or
- b) The client's use of the service in a manner contrary to the instructions given to the client by the Insurvey; or
- c) The clients use of the service after notice of the alleged or actual infringement from Insurvey or any appropriate authority; or
- d) Any client data or content or materials or instructions provided by the Client.

The foregoing states the client's sole and exclusive rights and remedies, and Insurvey's (including Insurvey employees', agents' and sub-contractors) entire obligations and liability, in respect of any IP Claim.

13.2. Limitation of liability

Except as expressly and specifically provided in this agreement:

- a) The client assumes sole responsibility for results obtained from the use of the service and for any survey campaigns it organises or attempts to deliver using the Service and



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for the success thereof and Insurvey shall have no liability for any problems or disruption experienced concerning any service; and

b) All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and

c) The service is provided to the client on an "as is" basis.

Nothing in this Agreement excludes the liability of Insurvey: for fraud or fraudulent misrepresentation; or for any other liability which may not be limited or excluded under applicable law.

Insurvey shall not be liable whether, in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement.

Insurvey's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall, in respect of liabilities arising in any contract year, be limited to an amount equal to the total subscription fees paid to the supplier in respect of that contract year.

14. Miscellaneous

Insurvey shall have no liability to the client under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Insurvey or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the client is notified of such an event and its expected duration.

If there is any inconsistency between any of the provisions in the Order Form and these Terms and Conditions, the provisions in the Order Form shall prevail.



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No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

The client shall not, without the prior written consent of Insurvey, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement. Insurvey may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as an agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

This agreement does not confer any rights on any person or party (other than the parties to this agreement) according to the contracts (Rights of Third Parties)

This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Transmission of an executed counterpart of this Agreement by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed "wet-ink" counterpart of this Agreement. No counterpart shall be effective until each party has provided to the other at least one executed counterpart.



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Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email as set out in this Agreement. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 08h00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission.

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed under the law of the Republic of South Africa. Each party irrevocably agrees that the courts of South Africa shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

Insurvey may update these terms and conditions from time to time and updated copies of these terms and conditions shall be published at <http://www.insurvey.co.za>, unless expressly agreed otherwise in writing, the agreement shall be governed by the version of these terms and conditions in force as at the Start Date from the duration of the Initial subscription agreement and shall be governed by the version of these terms and conditions in force on the first day of any Renewal Period for the duration of that Renewal Period.

This is Version 1.0 of these Terms and Conditions issued on July 2022.