

Snap Surveys G-Cloud 9 Supplier Terms

This Agreement is between (i) Snap Surveys Limited, registered in England with company number 01672722 (“**Snap Surveys**”) and (ii) the UK public sector body, or contracting authority identified as the Buyer on the Order Form (the “**Customer**”) and, together with the Call-Off Contract, governs the use of the Services that Snap Surveys has agreed to make available to the Customer, as set out in the Order Form.

In the event of any conflict between the terms of this Agreement and the terms of the Call-Off Contract, the terms of the Call-Off Contract shall prevail.

Snap Surveys and the Customer agree as follows:

1. DEFINITIONS

- 1.1 In this Agreement, the following words and phrases shall have the following meanings:

Agreement: these G-Cloud 9 Supplier Terms, together with the Call-Off Contract.

Acceptable Use Policy: the Snap Surveys Acceptable Use Policy, annexed as Schedule 1 to this Agreement.

Activation Email: the email sent to the Customer confirming that the Customer’s WebHost Account has been activated and providing account access details, and/or providing a download link to and installation code for the relevant Software.

Associate User: an individual who has been given access by a Researcher to input Survey Data into and/or to view or analyse Survey Data held in their WebHost Account.

Call-Off Contract: the G-Cloud 9 Call-Off Contract between Snap Surveys and the Customer for the supply of the Services.

Charges: the charges payable by the Customer to Snap Surveys for the use of the Services, which for the Initial Term are (subject to clause 8.4) set out in the Order Form.

Confidential Information: information disclosed by one party to the other, whether before or after the Effective Date, that the recipient should reasonably understand to be confidential, including information identified as Confidential Information in clause 9.

Customer’s System: the computer system and network used by the Customer in connection with the Services.

Data Protection Laws: the Data Protection Act 1988, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all other applicable laws and regulations relating to the processing of personal data, privacy and/or electronic communications.

Documentation: the documentation, help files, user manuals, handbooks and information made generally available by Snap Surveys to its Customers from time to time which describes the Services, but excluding marketing literature.

Effective Date: the date on which Snap Surveys sends the Activation Email to the Customer.

Hosting Provider: the third party server hosting and network infrastructure provider selected by Snap Surveys from time to time, who at the date of this Agreement is UKFast.Net Limited (Company Registration Number 03845616).

Initial Term: 12 months from the Effective Date, unless a different Initial Term is set out in the Order Form.

Intellectual Property Rights: all patents, copyrights, rights in designs, trade marks, trade secrets, rights in confidential information and know-how, database rights and all other rights in the nature of intellectual property rights (whether registered or unregistered) and all rights to apply for and applications for the registration of any of these anywhere in the world.

Order Form: the order form contained in the Call-Off Contract, or where relevant for renewals, an order form setting out details of any renewal.

Renewal Period: the period described in clause 13.1.

Researchers: employees of the Customer who are authorised by the Customer to use the Services.

Respondents: those individuals responding to surveys.

Results: the data and reports generated through the use of the Services to carry out surveys.

Server: the multitenant server environment located at a data centre in the UK, managed by the Hosting Provider on behalf of Snap Surveys, where Snap Surveys hosts Snap WebHost.

Services: the G-Cloud 9 Services described on the Order Form, which include access to and use of Snap WebHost, the relevant Software and Updates, the Documentation and the Support Services.

Snap Mobile Anywhere: Snap Surveys' proprietary Snap Mobile Anywhere software application, including any Updates provided to the Customer, which enables the collection of survey responses using devices and kiosks.

Snap Plus Service Level Agreement: Snap Surveys' Snap Plus Service Level Agreement for providing support and maintenance, annexed as Schedule 3 to this Agreement.

Snap Professional: Snap Surveys' proprietary Snap Professional software as further described in the Documentation, including any Updates provided to the Customer.

Snap Unit: a survey response or 1Mb (or part thereof) of attachment uploaded with a survey response.

Snap WebHost: Snap Surveys' proprietary Snap WebHost online software application, hosted on the Server, including any Updates installed on the Server, which enables users to manage surveys and to collect, store and analyse the responses online.

Software: the software provided by Snap Surveys (either by download or access through the internet) that allows Researchers or Associate Users to use any functionality within the Services, and which may include Snap Professional, Snap Mobile Anywhere and any other proprietary software of Snap Surveys.

Support Services: the maintenance and support services described in the Snap Plus Service Level Agreement.

Survey Data: the data (including data contained in file attachments) input by the Customer, Researchers, Associate Users, Respondents or any party on their behalf in the course of using the Services.

Term: the Initial Term together with any Renewal Periods.

Update: any update or upgrade of any relevant Software available on general commercial release.

WebHost Account: the Snap WebHost accounts accessible at <https://www.snapsurveys.com/login/> which enable Researchers to access the Services.

WebHost User Terms: the Snap Surveys WebHost User Terms, annexed as Schedule 2 to this Agreement.

Website: the website operated by Snap Surveys at <https://www.snapsurveys.com/>.

2. COMMENCEMENT OF THE SERVICES

- 2.1 Delivery of the Services shall commence when Snap Surveys sends an Activation Email to the Customer.
- 2.2 On receipt of the Activation Email the Customer will be able to access its WebHost Account(s) and download and install the relevant Software onto the Customer's System.
- 2.3 If the Customer decides within 30 days of receiving the Activation Email that it is not satisfied with the Services, the Customer may be able to claim a refund of the Charges. Further details of the Customer's rights are set out in clause 6.2.

3. USE OF THE SERVICES

- 3.1 Snap Surveys hereby grants to the Customer a non-exclusive, non-transferable right to access and use the Services during the Term for its internal business purposes only and subject to the terms and conditions of this Agreement.
- 3.2 All use of the Services is subject to the terms of the Acceptable Use Policy. The Customer agrees to comply with, and shall ensure that all users of the Services comply with, the Acceptable Use Policy.
- 3.3 All Researchers will be provided with access to a WebHost Account and must agree to the WebHost User Terms in order to access and use Snap WebHost.
- 3.4 The Researcher may grant access to Associate Users to enable them to input Survey Data into and/or to view or analyse Survey Data held in that Researcher's WebHost Account, by providing them with an Associate User username and password. The rights of the Associate User do not extend to any other rights to use the Services. Each Associate User must agree to any applicable WebHost User Terms required for their use of the Services.
- 3.5 The Customer is responsible for all activity occurring in its WebHost Accounts. The Customer shall ensure that:
 - (a) each Researcher keeps the username and password for their use of Snap WebHost confidential;
 - (b) each Associate User keeps the username and password allocated to them confidential;
 - (c) it maintains an up to date list of current Researchers and Associate Users and shall provide the list to Snap Surveys within 7 days of Snap Surveys' request; and
 - (d) the Researchers and the Associate Users use the Services in accordance with the terms of this Agreement and the Customer shall be responsible for any Researcher's or Associate User's breach of this Agreement (including any breach of the Acceptable Use Policy).
- 3.6 The Customer shall not:

- (a) use the Services, Software or Documentation to provide services to third parties (save that the Customer may perform data collection and reporting activities on behalf of its clients);
 - (b) misuse the Services by interfering with their normal operation, or attempting to access them other than through the interfaces and instructions provided by Snap Surveys;
 - (c) access or use all or any part of the Services, Software or Documentation in order to build a product or service which competes with the Services, Software or Documentation;
 - (d) except as permitted by law:
 - (i) attempt to copy, adapt, alter, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any part of the Software and/or the Documentation in any form or media or by any means; or
 - (ii) attempt to decompile, disassemble, reverse engineer or otherwise reduce to human perceivable form all or any part of the Software; or
 - (iii) combine the Software with other software;
 - (e) license, sublicense, sell, rent, lease, transfer, assign, distribute, disclose or otherwise dispose of or grant rights in the whole or part of the Services, Software and/or Documentation to any third party;
 - (f) remove any copyright or proprietary notice from the Software or the Documentation; or
 - (g) allow the use of the Software, Services or Documentation by any person other than the Customer's employees.
- 3.7 The Customer shall be responsible for arranging and maintaining its network connections and telecommunications links from its systems to the Server, and shall be responsible for all problems, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet. The Customer shall ensure that the Customer's System complies with the relevant specifications provided by Snap Surveys from time to time.
- 3.8 The Customer acknowledges that while Snap Surveys will endeavour to provide the best possible level of performance to all users of the Services at all times, its use of the Services may be slowed or delayed at times of high demand.
- 3.9 Snap Surveys shall use commercially reasonable endeavours to ensure that the Services are available 24 hours per day and 7 days per week, (except for planned maintenance), but Snap Surveys makes no guarantees as to availability and shall have the right to restrict access to the Services at any time where Snap Surveys believes that this is necessary.
- 3.10 Snap Surveys shall make reasonable efforts to provide the Customer with advance notice of any planned maintenance by email and/or by means of notification on the Snap Surveys Website and the Snap WebHost login page.
- 3.11 The Order Form contains details of the number of Snap Units purchased. The Customer may purchase additional Snap Units in blocks of 100,000 on request. Should the Customer exceed the number of Snap Units purchased Snap Surveys will contact the Customer to agree the number of blocks of additional Snap Units to be purchased to cover the additional Snap Units used and any further anticipated use by

the Customer and/or will immediately issue an invoice to the Customer for the additional Snap Units used.

- 3.12 The Customer is able, at any time during the Term, to download the Survey Data from its WebHost Account(s), and the Customer is encouraged to do so on a regular basis.
- 3.13 Attachments uploaded using the file attachment feature in Snap WebHost will, unless deleted by the Customer, be stored in a WebHost Account for 12 months, following which Snap Surveys reserves the right to delete such attachments from the Server. If the Customer is likely to require continued access to the attachments after that time period, Snap Surveys recommends that the Customer downloads them and stores them on the Customer's System before the 12 months expires.

4. SUPPORT SERVICES

- 4.1 During the Term, and subject to the Customer having installed all relevant Updates, Snap Surveys shall provide the Customer with the Support Services described in the Order Form in accordance with the Snap Plus Service Level Agreement.

5. DATA

- 5.1 All rights, title and interest in and to the Survey Data shall be owned by the Customer. The Customer shall be solely responsible for the legality, reliability, integrity, accuracy and quality of the Survey Data, and shall ensure that it has all rights and permissions required to use the Survey Data in connection with the Software and the Services.
- 5.2 The Customer acknowledges that Snap Surveys may store, back-up, view, and archive the Survey Data with, and disclose the Survey Data to, the Hosting Provider under this Agreement.
- 5.3 Snap Surveys does not have knowledge of the content of the Survey Data, including its quantity, value or use. Save for the back-up services described at clause 5.6, the Customer is responsible for taking all reasonable steps to mitigate the risks inherent in the provision of the Services, including data loss. Snap Surveys encourages the Customer to download the Survey Data from its WebHost Account at regular intervals.
- 5.4 The Survey Data on the Servers shall be backed up at least every 24 hours. In the event of any loss or damage to the Survey Data, the Customer's sole and exclusive remedy shall be for Snap Surveys to use reasonable commercial endeavours to restore the lost or damaged Survey Data from the latest successful back-up of such Survey Data. Snap Surveys shall not be responsible for any loss, destruction, alteration or disclosure of Survey Data caused by any third party. The Customer is responsible for backing up all Survey Data that it has exported from the Server.
- 5.5 The Survey Data may from time to time include personal data. The parties acknowledge and agree that if Snap Surveys processes any personal data on the Customer's behalf when performing its obligations under this Agreement, the Customer shall be the data controller and Snap Surveys shall be a data processor.
- 5.6 Snap Surveys shall and shall ensure that the Hosting Provider shall process any personal data contained within the Survey Data solely in accordance with the terms of

this Agreement and any lawful instructions reasonably given by the Customer from time to time.

5.7 Snap Surveys shall not transfer the Survey Data outside of the European Economic Area without the prior written consent of the Customer.

5.8 The Customer will ensure that:

- (a) it complies with all applicable Data Protection Laws (including without limitation in relation to the sending of emails to Respondents) and Section 4 of the Acceptable Use Policy;
- (b) it is entitled to transfer the relevant personal data as envisaged under this Agreement so that Snap Surveys and the Hosting Provider may lawfully use, process, store and transfer the personal data in accordance with this Agreement on the Customer's behalf; and
- (c) all relevant third parties (including Respondents) whose personal data may be contained in the Survey Data have been informed of, and where applicable have given their consent to, such use, processing, storage and transfer as required by all applicable Data Protection Laws;

and the Customer shall reimburse Snap Surveys for any losses, damages, costs (including legal costs) and expenses incurred by it, or awarded against it, as a result of or in connection with any breach of this clause by the Customer.

5.9 Each party shall (having regard to the state of technological development and the cost of implementing any measures) take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

5.10 The Customer consents to:

- (a) Snap Surveys collecting and using technical information about any devices on which the Software is installed (and how often the Software is opened on those devices) and related software, hardware and peripherals for the Services which are internet based; and
- (b) Snap Surveys' transmission, collection, maintenance, processing and use of location data sent from any devices on which the Software is installed

in order to improve Snap Surveys' products and to provide the Services.

5.11 The Customer acknowledges and agrees that the Survey Data and the Results will be transmitted over the internet, which by its nature is, even when encrypted, never completely secure.

6. SNAP SURVEYS' OBLIGATIONS

6.1 Snap Surveys undertakes that the Services will be performed with reasonable skill and care.

6.2 If, at any time within 30 days of the Effective Date, the Customer is not satisfied with the Services, Snap Surveys shall refund the Charges paid to it, less the cost of used Snap Units, provided that the Customer:

- (a) notifies Snap Surveys in writing that it wishes to claim a refund; and
- (b) returns any items delivered to it to Snap Surveys' offices

and this Agreement shall terminate.

6.3 Notwithstanding the foregoing, Snap Surveys:

- (a) does not warrant that the Customer's use of the Services will be uninterrupted, error-free or completely secure;
- (b) does not give any assurance that any aspect of the Services is designed to operate with, or be compatible with, any hardware or software; and
- (c) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.4 The Services are subject to continual improvement and development. In the majority of cases such changes add increased features and functionality to the Services, however Snap Surveys may also alter or remove features or functionality from the Services. Where such a change will materially impact the Customer's use of the Services, Snap Surveys shall endeavour to give the Customer prior notice of the change (by email or by posting a notice on the Website and the Snap WebHost login page) and the Customer may terminate this Agreement on giving written notice.

7. THE CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) supervise and control the use of the Services and be responsible for all acts and omissions of the Researchers, Associate Users and Respondents;
- (b) prevent any unauthorised access to, or use of, the Services and immediately notify Snap Surveys in the event of of any unauthorised access or use. The Customer shall be responsible for the consequences of any such unauthorised access or use; and
- (c) provide Snap Surveys with all necessary access to such information as may be required by it in order to provide the Services.

7.2 The Customer shall comply with all applicable laws and regulations with respect to its use of the Services. Where industry-specific regulations apply to the Customer's use of the Services:

- (a) the Customer will be solely responsible for such compliance, and shall not use the Services in any manner which would subject Snap Surveys to such industry-specific regulations without obtaining Snap Surveys' prior written agreement, which may be given in its absolute discretion; and
- (b) Snap Surveys may from time to time designate categories of information (in the Acceptable Use Policy or elsewhere) that may not be used in conjunction with the Services owing to the industry-specific regulations engaged by the handling of such information. For example, the Customer may not use the Services to handle 'protected health information' as described under the U.S. Health Insurance Portability and Accountability Act of 1996 (also known as HIPAA).

7.3 The Customer shall not access, store, distribute or transmit any viruses or other contaminating code, or any material during the course of its use of the Services that Snap Surveys reasonably believes is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, offensive or which is otherwise malicious fraudulent or

morally unacceptable, or facilitates illegal activity, depicts sexually explicit images, exploits minors or promotes unlawful violence, or is discriminatory based on race, ethnicity, gender, colour, age, religious belief, sexual orientation or disability, and Snap Surveys reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

- 7.4 The Customer shall not use the Services in any manner which would cause Snap Surveys to breach any applicable export or import control laws, rules or regulations of any jurisdiction.
- 7.5 The Customer acknowledges that:
- (a) it is its responsibility to ensure that the Services meet its requirements; and
 - (b) the Results are based on information provided by the Customer, its Researchers, Associate Users and Respondents and that Snap Surveys will not undertake any direct verification of the information provided or the Results generated. The Customer assumes sole responsibility for the Results obtained and for any conclusions drawn and actions taken on the basis of the Results.

8. CHARGES

- 8.1 The Customer shall pay all applicable Charges to Snap Surveys for the use of the Services.
- 8.2 Subject to clause 8.4, the Charges for the Initial Term are the charges set out in the Order Form. Snap Surveys shall issue an invoice for the Charges on or prior to the Effective Date and the Charges for the Initial Term shall be due within 30 days of the Effective Date.
- 8.3 For any Renewal Period, Snap Surveys shall invoice the Customer at least 30 days prior to each anniversary of the Effective Date for the Charges payable in respect of the next Renewal Period. Charges for any Renewal Period shall be due on the first day of the Renewal Period.
- 8.4 If the Customer incurs additional Charges during the Initial Term or any Renewal Period, for example as a result of use of additional Snap Units beyond the agreed limit, Snap Surveys shall be entitled to issue an invoice for those Charges as soon as they are incurred and the Customer shall pay such invoice within 30 days of the invoice date.
- 8.5 If Snap Surveys has not received payment by the due date, has provided the Customer with a further 5 working days to make payment, and the Customer has still failed to make payment, then, without prejudice to any other rights and remedies available to it, Snap Surveys may, without liability to the Customer, suspend or disable the Customer's WebHost Account(s) and access to all or part of the Services and Snap Surveys shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid.
- 8.6 Further, where a Customer has exceeded the number of Snap Units purchased and has not responded to any communication by Snap Surveys pursuant to clause 3.11 regarding the purchase of additional Snap Units, Snap Surveys may, without liability to the Customer, suspend or disable the Customer's WebHost Account(s) and access

to all or part of the Services and Snap Surveys shall be under no obligation to provide any or all of the Services until the purchase of further Snap Units is agreed.

- 8.7 Snap Surveys shall be entitled, at its expense, to audit the Customer's use of the Services to confirm the Customer's compliance with this Agreement. If any audit reveals that the Customer has underpaid any Charges to Snap Surveys the Customer shall pay to Snap Surveys an amount equal to such underpayment within 10 days of the date of the relevant audit.
- 8.8 All amounts and Charges stated or referred to in this Agreement shall be payable in pounds sterling and are exclusive of value added tax (and any other taxes associated with the sale of the Services), which shall be added to Snap Surveys' invoice(s) at the appropriate rate.

9. CONFIDENTIALITY

- 9.1 Each party may be given access to Confidential Information from the other party in order 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;
 - (d) is independently developed by the receiving party; or
 - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 9.2 Each party shall, and shall ensure that its employees, agents and (in the case of the Customer) Researchers and Associate Users shall, hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party (other than, in the case of Snap Surveys, the Hosting Provider), or use the other's Confidential Information for any purpose other than as permitted by this Agreement.
- 9.3 The Customer acknowledges that details of the Services, the Software and the Documentation constitute Snap Surveys' Confidential Information.
- 9.4 Snap Surveys acknowledges that the Survey Data is the Confidential Information of the Customer.
- 9.5 This clause 9 shall survive termination of this Agreement, however arising.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All Intellectual Property Rights in the Services, the Software and the Documentation and any developments made to them belong to Snap Surveys and/or its licensors. The Customer does not acquire any right or interest in or to these and shall only use the Services, the Software and the Documentation in accordance with the terms of this Agreement.

- 10.2 All Intellectual Property Rights in the Survey Data are owned by the Customer and the Customer authorises Snap Surveys to use the Survey Data for the purposes of performing its obligations under this Agreement.

11. INDEMNITY

- 11.1 The Customer shall defend, indemnify and hold harmless Snap Surveys against any 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 use of the Services by or on behalf of the Customer (including without limitation by the Researchers, Associate Users and Respondents), provided that:

- (a) the Customer is given prompt notice of any such claim;
- (b) Snap Surveys provides reasonable co-operation to the Customer in the defence and settlement of any such claim, at the Customer's expense; and
- (c) the Customer is given sole authority to defend or settle the claim (provided that no settlement may be made which involves an admission of liability on the part of Snap Surveys without its prior written consent (not to be unreasonably withheld or delayed)).

- 11.2 Snap Surveys shall defend the Customer against any claim that the Services infringes any United Kingdom Intellectual Property Right, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) Snap Surveys is given prompt notice of any such claim;
- (b) the Customer provides reasonable co-operation to Snap Surveys in the defence and settlement of any such claim, at Snap Surveys' expense; and
- (c) Snap Surveys is given sole authority to defend or settle the claim (provided that no settlement may be made which involves an admission of liability on the part of the Customer without its prior written consent (not to be unreasonably withheld or delayed)).

- 11.3 If at any time a claim of infringement of third party Intellectual Property Rights is made, or in Snap Surveys' opinion is likely to be made, in relation to the Services, Snap Surveys may, at its sole discretion, procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or terminate this Agreement (or any part of it) on 5 days' notice to the Customer without any additional liability or obligation to pay additional costs to the Customer.

- 11.4 In no event shall Snap Surveys, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Services by anyone other than Snap Surveys;
- (b) the Survey Data;
- (c) the Customer's use of the Services in a manner contrary to the instructions given to the Customer by Snap Surveys;
- (d) use by the Customer of anything other than the most recent version of the Software and/or Services made available to it by Snap Surveys, including all relevant Updates; or
- (e) the Customer's use of the Services after receiving notice of the alleged or actual infringement from Snap Surveys or any appropriate authority.

12. LIMITATION OF LIABILITY

12.1 This clause 12 sets out the entire financial liability of Snap Surveys (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

- (a) arising under or in connection with this Agreement;
- (b) in respect of any use made by the Customer of the Software, Services and Documentation or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

12.2 Except as expressly and specifically provided in this Agreement and/or the Call-Off Contract:

- (a) all warranties, representations, conditions and all other terms of any kind whatsoever (including without limitation as to merchantability, satisfactory quality, fitness for a particular purpose or non-infringement) implied by statute or common law or otherwise are, to the fullest extent permitted by applicable law, excluded from this Agreement;
- (b) the Software, the Services and the Documentation are provided to the Customer on an "as is" basis; and
- (c) Snap Surveys shall have no liability for:
 - (i) any damage caused by errors or omissions in any information, instructions or scripts provided to it by the Customer in connection with the Services, or any actions taken by Snap Surveys at the Customer's direction; or
 - (ii) any loss or damage which results from use by the Customer of anything other than the most recent version of the Software and/or Services made available to it by Snap Surveys, including all relevant Updates.

12.3 Nothing in this Agreement excludes the liability of Snap Surveys for:

- (a) death or personal injury caused by Snap Surveys' negligence; or
- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability that cannot be excluded or limited by law.

12.4 Subject to clause 12.2 and clause 12.3:

- (a) Snap Surveys shall not be liable whether in contract, misrepresentation (whether innocent or negligent), tort (including negligence or breach of statutory duty), restitution or otherwise for any:
 - (i) loss of profits;
 - (ii) loss of business;
 - (iii) damage to goodwill and/or similar losses;
 - (iv) loss of anticipated savings;
 - (v) loss of use of systems;
 - (vi) costs of procuring or migrating to substitute software or services; or
 - (vii) any special, indirect or consequential or pure economic loss, costs, damages, or expenses

however arising under this Agreement; and

- (b) Snap Surveys' total yearly liability in contract (including under any indemnity), misrepresentation (whether innocent or negligent), tort (including negligence or breach of statutory duty), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall, unless a different limit appears on the Order Form, be limited to the total Charges due to Snap Surveys during the 12 months immediately preceding the date on which the claim arose.

13. TERM AND TERMINATION

- 13.1 This Agreement shall commence on the Effective Date and shall continue for the Initial Term and may, to the extent permitted in the Call-Off Contract, be renewed by the parties for two successive periods of 12 months each (each a "**Renewal Period**").

- 13.2 Without affecting any other right or remedy available to it, including any rights of termination under the Call-Off Contract, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of this Agreement (or additionally, in the case of the Customer, the Acceptable Use Policy) which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 15 working days after being notified in writing to do so;
- (b) the other party is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or becomes insolvent or bankrupt; or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction); or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets; or enters into, or proposes, any composition or arrangement with its creditors generally, or any person seeks a moratorium in respect of it under Schedule A1 of the Insolvency Act 2000, or is subject to any analogous event or proceeding in any applicable jurisdiction; or
- (c) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

- 13.3 On termination of this Agreement for any reason:

- (a) all payments due under this Agreement shall become payable immediately;
- (b) the Customer shall immediately cease all use of the Software, Services and the Documentation and uninstall all copies of the Software from the Customer's System. The Customer shall provide a certificate of de-installation to Snap Surveys on request;
- (c) 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; and
- (d) Snap Surveys may destroy or otherwise dispose of any of the Survey Data remaining in the Customer's WebHost Account(s) unless Snap Surveys receives, no later than 15 days after the date of the termination of this Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Survey Data. Snap Surveys shall deliver the back-up to the Customer in a data format supported by the Software within

30 days of its receipt of the written request, provided that the Customer has, at that time, paid all Charges outstanding at and resulting from termination.

14. GENERAL

- 14.1 Any notice required to be given under this Agreement will be in writing, and be delivered to the address of the parties set out in the Order Form, or such other address as a party may designate. Notice may be delivered by personal delivery, courier, registered mail or email. Notices given by email shall be sent to Snap Surveys at legal@snapsurveys.com. The delivery of a notice will be deemed effective upon receipt, if delivered personally or by courier, or 5 business days from sending, if delivered by registered mail, or on successful transmission, if sending by email.
- 14.2 Any failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not be construed as a waiver of that or any other right or remedy. Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 14.3 If any provision of this Agreement is found by any court or similar body to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 14.4 The Customer shall not, without the prior written consent of Snap Surveys, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement. Snap Surveys 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.
- 14.5 Nothing in this Agreement is intended to or shall operate to create a partnership between the parties. Neither party is the agent for the other, and neither party has the authority to bind the other to any agreement with a third party.
- 14.6 A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 14.7 This Agreement, any documents referred to in it (including any documents incorporated herein by reference to a URL or otherwise), the Order Form and the Call-Off Contract constitute the whole Agreement between the parties in relation to the Services and supersede any previous arrangement, understanding or agreement between them on this subject. Any terms and conditions appearing on a purchase order or similar document issued by the Customer do not apply to the Services, do not override or form a part of this Agreement, and are void.
- 14.8 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

15. GOVERNING LAW AND JURISDICTION

- 15.1 Subject to clause 15.2, 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 in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.
- 15.2 Snap Surveys may apply to any court anywhere in the world for an order restraining the Customer's use of the Services in breach of this Agreement and may enforce any such order.

Schedule 1 – Snap Surveys Acceptable Use Policy

This Acceptable Use Policy (“**AUP**”) relates to the use of the Snap Surveys’ online survey services, such as Snap WebHost (“**Online Survey Services**”) and in particular describes certain uses of the Online Survey Services that are not permitted.

For terms of use relating to the Snap Surveys Website, see <https://www.snapsurveys.com/survey-software/website-terms-of-use-uk/>

References in this AUP to “you” are to a customer who is a party to an agreement with Snap Surveys, researchers and all other users to whom a customer has granted access to all or part of the Online Survey Services or any survey, survey reports or results under that agreement, including associate users and survey respondents.

You are responsible for any breaches of this AUP by anyone using the Online Survey Services or participating in a survey with your permission or on an unauthorised basis as a result of you failing to use reasonable security precautions.

In this AUP, “**Survey Data**” means the data (including data contained in file attachments) input by a customer, researchers, associate users, survey respondents or any party on their behalf in the course of using the Online Survey Services or the software that we have licensed to you.

1 PROHIBITED USES

You may use the Online Survey Services only for lawful purposes. You may not use the Online Survey Services to engage in or promote illegal, abusive or irresponsible behaviour, including:

- in any way that breaches any applicable local, national or international law, code or regulation, including data protection and privacy laws and laws relating to unsolicited commercial electronic messages;
- in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- using an internet account or computer without the owner’s authorisation;
- to gain unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without the express authorisation of the owner of the system or network;
- to introduce intentionally, knowingly or recklessly any virus or other contaminating code into the Online Survey Services;
- to collect or use information, including email addresses or other identifiers, by deceit (for example phishing, internet scamming and password robbery);
- to publish a person’s sensitive identifying information against their wishes;
- to use any false, misleading, or deceptive TCP-IP packet header information in an email etc.;
- to use the Online Survey Services to distribute or link to software that covertly gathers or transmits information about a user, advertisement delivery software, malware, viruses or other contaminating code;

- for any conduct that is likely to result in retaliation against the Online Survey Services or Snap Surveys;
- to interfere with service to any user of the Online Survey Services or any other network including mail bombing, flooding and deliberate attempts to overload a system;
- for action which directly or indirectly results in any of Snap Surveys' or its affiliates IP space being listed on any abuse database (e.g. Spamhaus).

You agree that we may quarantine or delete any Survey Data stored on the Online Survey Services if the Survey Data is infected with a virus, or is otherwise corrupted, and has the potential to infect or corrupt the Online Survey Services systems or other data stored on the Online Survey Services systems.

2 OFFENSIVE CONTENT

You may not publish, transmit or store on or via the Online Survey Services any content or links to content that we reasonably believe is unlawful, harmful, threatening, obscene, harassing, offensive or which is otherwise malicious, fraudulent or morally unacceptable, including any content which:

- facilitates illegal activity;
- depicts sexually explicit images;
- exploits minors;
- is excessively violent, incites or threatens violence, or contains harassing content or hate speech;
- creates a risk to a person's safety or health, or public safety or health, compromises national security or interferes with an investigation by law enforcement authorities;
- is discriminatory in any way, including discrimination based on race, ethnicity, gender, colour, age, religious belief, sexual orientation or disability;
- is unfair or deceptive under the consumer protection laws of any applicable jurisdiction;
- is defamatory or violates a person's privacy.

3 INTELLECTUAL PROPERTY RIGHTS

You must ensure that you have the right to use all content in your surveys.

You may not use the Online Survey Services:

- in any manner which infringes any copyright, patent, trade mark, design or other intellectual property right;
- to publish content intended to assist others in defeating technical copyright protections;
- to publish another person's trade secrets, or other proprietary or confidential information.

4 EMAIL REQUIREMENTS, PRIVACY AND COOKIES

You may only use the Online Survey Services to send the following categories of email:

- emails inviting survey respondents to participate in surveys hosted on the Online Survey Services and reminder emails;
- emails that are automatically generated on completion of a survey by a respondent;
- emails notifying authorised individuals that survey reports or results are available to view or which deliver the survey reports or results to those individuals.

You must comply with all laws relating to the sending of unsolicited emails (for example the UK Privacy and Electronic Communications (EC Directive) Regulations 2003 and the US CAN-SPAM Act of 2003) that are applicable to your use of the Online Survey Services.

All emails that you send using the Online Survey Services must:

- clearly identify you as the sender of the email and contain a valid reply-to email address;
- be sent only to recipients who have consented to receiving emails from you;
- where applicable, contain an 'opt-out' or unsubscribe link which allow recipients to cease receiving emails from you. You must process all unsubscribe requests promptly and not send further emails to any recipient who has unsubscribed.

As data controller for the Survey Data, you are responsible for ensuring that survey respondents understand how their personal data will be used and who it will be shared with. We recommend that you include a link to your privacy policy either at the beginning of your survey or in the invitation email to your survey. We also encourage you to include a link to the Snap Surveys' Privacy Policy, available at <https://www.snapsurveys.com/privacy-policy-uk/>, as your data processor.

The Online Survey Services may contain notifications regarding the use of cookies. You may not override such notifications if your use of the Online Survey Services involves use of the relevant cookies.

5 EXCESSIVE USE

You may not use the Online Survey Services in a manner which unnecessarily interferes with the normal operation of the Online Survey Services, or consumes a disproportionate share of the resources of the Online Survey Services systems. Such usage may affect the speed, responsiveness, stability, availability or functionality of the Online Survey Services for other users.

We will attempt to notify you of any such excessive use to provide you with the opportunity to reduce it to a level which is acceptable to us.

6 NO HIGH RISK USE

You may not use the Online Survey Services in any situation where failure or fault of the Online Survey Services could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, you may not use, or permit any other person to use, the Online Survey Services in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical life support devices.

7 PROTECTED HEALTH INFORMATION

You may not use the Online Survey Services to handle 'protected health information' as described under the U.S. Health Insurance Portability and Accountability Act of 1996 (also known as HIPAA), or any other local, national or international law, code or regulation which imposes any additional obligations on us as a result of the handling of such information. If you are in any doubt, please check with us first.

8 VULNERABILITY TESTING

You may not attempt to probe, scan, penetrate or test the vulnerability of Snap Surveys' systems or networks, or the systems and networks of its hosting provider(s), or to breach their security or authentication measures, whether by passive or intrusive techniques.

9 SUSPENSION AND TERMINATION

Although we do not intend to actively monitor your use of the Online Survey Services, we may take such actions as we deem appropriate if we become aware of a breach of this AUP.

If you breach the AUP we may suspend or terminate your use of the Online Survey Services or any software that we have licensed to you. We may block any content or traffic and disable your access to any material that breaches this AUP. We may also disclose such information to law enforcement authorities as we reasonably feel is necessary in the circumstances.

Schedule 2 - Snap Surveys WebHost User Terms

These terms (“**User Terms**”) relate to your use of Snap WebHost, and by using Snap WebHost, or otherwise inputting Survey Data into and/or viewing or analysing Survey Data held in a WebHost Account, you confirm that you have read and understood and agree to these User Terms.

You have been given access to Snap WebHost by or at the request of the Customer, who has entered into an agreement with Snap Surveys (the “**Agreement**”) under which the Customer and its permitted users may use certain of Snap Surveys’ Services.

The terms of the Agreement are available on the Digital Marketplace. Any capitalised terms that are not defined in these User Terms shall have the meaning given to them in the Agreement.

1. COMPLIANCE WITH THE AGREEMENT

In consideration for Snap Surveys providing you with access to Snap WebHost you agree to comply with the terms of the Agreement to the extent that they relate to your use of the Services. In particular, but without limitation, you agree to comply with the following:

- 1.1 You will use the Services for the Customer’s internal business purposes only and in accordance with the terms of the Agreement.
- 1.2 You shall comply with and shall ensure that everyone to whom you grant access to the Services complies with the Acceptable Use Policy, which is incorporated into these User Terms by reference.
- 1.3 You shall not:
 - (a) use the Services, Software or Documentation to provide services to third parties (save that you may perform data collection and reporting activities on behalf of the Customer’s clients);
 - (b) misuse the Services by interfering with their normal operation, or attempting to access them other than through the interfaces and instructions provided by Snap Surveys;
 - (c) access or use all or any part of the Services, Software or Documentation in order to build a product or service which competes with the Services, Software or Documentation;
 - (d) except as permitted by law:
 - (i) attempt to copy, adapt, alter, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any part of the Software and/or the Documentation in any form or media or by any means; or
 - (ii) attempt to decompile, disassemble, reverse engineer or otherwise reduce to human perceivable form all or any part of the Software; or
 - (iii) combine the Software with other software;
 - (e) license, sublicense, sell, rent, lease, transfer, assign, distribute, disclose or otherwise dispose of or grant rights in the whole or part of the Services, Software and/or Documentation to any third party;
 - (f) remove any copyright or proprietary notice from the Software or the Documentation; or

- (g) allow the use of the Software, Services or Documentation by any person other than the Customer's employees.
- 1.4 If you are a Researcher, the Customer may permit you to grant access to Associate Users to enable them to input Survey Data into and/or to view or analyse Survey Data held in your WebHost Account, by providing them with an Associate User username and password. The rights of the Associate User do not extend to any other rights to use the Services.
- 1.5 If you are a Researcher, you are responsible for all activity occurring in your WebHost Account (including without limitation the activities of any Associate Users). You shall ensure that:
- (a) you keep the username and password for your use of Snap WebHost confidential;
 - (b) each of your Associate Users keeps the username and password allocated to them confidential;
 - (c) each of your Associate Users agrees to any applicable WebHost User Terms required for their use of the Services;
 - (d) you maintain an up to date list of current Associate Users and shall provide the list to Snap Surveys within 7 days of Snap Surveys' request; and
 - (e) your Associate Users use the Services and the Software in accordance with the terms of the Agreement and you shall be responsible for any of your Associate User's breach of the Agreement (including any breach of the Acceptable Use Policy).
- 1.6 You acknowledge that:
- (a) your use of the Services may be slowed or delayed at times of high demand; and
 - (b) Snap Surveys makes no guarantees as to availability of the Services and has the right to restrict access to the Services at any time where Snap Surveys believes that this is necessary.
- 1.7 You are responsible for the legality, reliability, integrity, accuracy and quality of the Survey Data input by you or on your behalf, and shall ensure that you have all rights and permissions required to use the Survey Data in connection with the Software and the Services.
- 1.8 You will ensure that:
- (a) you comply with all applicable Data Protection Laws (including without limitation in relation to the sending of emails to Respondents) and Section 4 of the Acceptable Use Policy;
 - (b) you are entitled to transfer the relevant personal data as envisaged under this Agreement so that Snap Surveys and the Hosting Provider may lawfully use, process, store and transfer the personal data in accordance with the Agreement on the Customer's behalf; and
 - (c) all relevant third parties (including Respondents) whose personal data may be contained in the Survey Data have been informed of, and where applicable have given their consent to, such use, processing, storage and transfer as required by all applicable Data Protection Laws.

- 1.9 You shall, and if you are a Researcher, you shall ensure that your Associate Users shall, hold Snap Surveys' Confidential Information in confidence and, unless required by law, not make Snap Surveys' Confidential Information available to any third party or use it for any purpose other than as permitted by the Agreement.
- 1.10 You acknowledge that details of the Services, the Software and the Documentation constitute Snap Surveys' Confidential Information.
- 1.11 All Intellectual Property Rights in the Services, the Software and the Documentation and any developments made to them belong to Snap Surveys and/or its licensors. You do not acquire any right or interest in or to these and shall only use the Services, the Software and the Documentation in accordance with the terms of the Agreement.

2. LIMITATION OF LIABILITY

- 2.1 Nothing in these User Terms excludes the liability of Snap Surveys for:
- (a) death or personal injury caused by Snap Surveys' negligence; or
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability that cannot be excluded or limited by law.
- 2.2 Subject to clause 2.1, Snap Surveys' total aggregate liability to you whether in contract (including under any indemnity), misrepresentation (whether innocent or negligent), tort (including negligence or breach of statutory duty), restitution or otherwise, arising in connection with these User Terms, the Agreement or otherwise in respect of your use of the Software, the Services or the Documentation, shall be limited to £50.

3. SUSPENSION AND TERMINATION

- 3.1 Any rights that you have to use the Software, Services or Documentation are subject to there being a valid Agreement in place with the Customer. You must cease all use of the Software, Services and Documentation:
- (a) on expiry or termination of that Agreement; or
 - (b) if the Customer closes your WebHost Account or otherwise notifies you to stop using the Software, Services or Documentation.
- 3.2 In addition, if Snap Surveys considers that you are in breach of these End User Terms, Snap Surveys may, without liability to you, suspend or terminate your access to all or part of the Services.

4. GOVERNING LAW AND JURISDICTION

- 4.1 Subject to clause 4.2, these User Terms and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales and Snap Surveys and you submit to the exclusive jurisdiction of the courts of England and Wales.

- 4.2 Snap Surveys may apply to any court anywhere in the world for an order restraining your use of the Services in breach of these User Terms and may enforce any such order.

Schedule 3 – Snap Plus Service Level Agreement

1.SERVICES TO BE PROVIDED

During the Term, Snap Surveys agrees, in relation to the Services, to:

- 1.1 provide support to the Customer;
- 1.2 provide maintenance services for the Customer

in accordance with this Schedule.

2. SUPPORT

2.1 During the Term, Snap Surveys shall provide the Customer with all or any of the following support services:

2.1.1 Helpdesk support. The Customer can telephone, fax or e-mail Snap Surveys' Helpdesk, which is available 0900 to 1700 Monday to Thursday and 0900 to 1630 on Friday, excluding Public Holidays and the Christmas period. Snap Surveys' Helpdesk aims to respond to all calls, faxes and e-mails within one hour, and will respond to all communications within one business day.

2.1.2 At Snap Surveys' sole discretion, should the Customer's enquiry be best resolved with a training course then Snap Surveys will provide the Customer with a training recommendation.

2.1.3 At Snap Surveys' sole discretion, should the Customer's enquiry be best resolved by consultancy services then Snap Surveys will provide the Customer with a consultancy recommendation.

2.1.4 Access to Snap Surveys' online forum.

2.2 The Customer shall supply verbally or in writing to Snap Surveys a detailed description of any fault requiring Helpdesk support and the circumstances in which it arose, and shall submit sufficient material and information to enable Snap Surveys' support staff to duplicate the problem.

2.3 When appropriate, Snap Surveys will endeavour to give an estimate of how long a problem may take to resolve. Snap Surveys will keep the Customer informed of the progress of problem resolution. Snap Surveys' support staff will attempt to solve a problem immediately, or as soon thereafter as possible.

3. MAINTENANCE

During the Term, Snap Surveys shall provide the Customer with the following maintenance services:

3.1 Error Correction

3.1.1 If the Customer discovers that the Services are failing to perform in accordance with the Documentation then the Customer shall notify Snap Surveys of the defect or error in question and provide Snap Surveys (so far as the Customer is able) with a documented example of such defect or error.

3.1.2 Snap Surveys shall use its reasonable endeavours to correct promptly such defect or error. Snap Surveys shall provide the Customer with all assistance reasonably required by the Customer to enable the Customer to implement the use of the corrected version of the Services.

3.2 Updates

3.2.1 From time to time Snap Surveys may notify the Customer that an Update to the Software is available and the Customer shall install the relevant Update.

4. EXCLUDED SUPPORT AND MAINTENANCE

4.1 Snap Surveys shall be under no obligation to provide Support and Maintenance in respect of:

4.1.1 problems resulting from any modifications or customisation of the Services not authorised in writing by Snap Surveys;

4.1.2 incorrect or unauthorised use of the Services;

4.1.3 any fault in the Customer's System;

4.1.4 defects or errors caused by the use of the Services with any software other than the Software;

4.1.5 use of the elements of Services in any combination other than those intended by Snap Surveys;

4.1.6 the Customer's failure to install and use any Update.

4.2 Snap Surveys shall not be obliged to make modifications or provide support in relation to the Customer's System, operating system software, or third party application software or any data feeds or external data.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

5.1.1 operate the Services in accordance with Snap Surveys' instructions;

5.1.2 provide Snap Surveys with such reasonable assistance as Snap Surveys may request, including, but not limited to, providing sample output and other diagnostic information.