

TERMS & CONDITIONS

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in these Terms:

Client: the person or firm who purchases Services from GFB;

Contract: any agreement between GFB and the Client for the supply of Services, as set out in a contract details form or as otherwise confirmed in writing to the Client by GFB;

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation;

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426);

Fee(s): the charges for the supply of the Services payable by the Client in accordance with clause 4;

GFB: GFB (Getfeedback) Ltd registered in England and Wales with company number 03993175;

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect 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 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;

Incurred Expenses: shall have the meaning given in clause 8.1(a).

Materials: information, representations, reports, data, work or materials prepared or supplied by the Client;

Services: the services to be supplied by GFB to the Client in accordance with the Contract;

Services Commencement Date: the agreed date of the commencement of the delivery of the Services as set out in the Contract; and

Terms: these terms and conditions as amended from time to time.

UK GDPR has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

1.2 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.3 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.4 A reference to writing or written includes email.

1.5 In these Terms, the singular includes the plural and vice versa and the headings are for convenience only and shall not affect their interpretation.

1.6 a reference to days shall mean calendar days.

2. BASIS OF SUPPLY

2.1 Any Services provided to the Client by GFB are subject to these Terms to the exclusion of any other terms or conditions of the Client.

2.2 Each Contract shall commence on the start date confirmed in the Contract (if any) or the date on which GFB commences the supply of the relevant Services to the Client and shall continue, unless terminated earlier in accordance with these Terms, until the Services have been completed.

2.3 No variation to the Terms, Fees, cost schedules or other parts of any Contract will be binding unless agreed in writing by the Client and GFB.

2.4 Any typographical, clerical or other error or omission in any invoice or other information issued by GFB is subject to correction without liability on the part of GFB.

2.5 GFB will use all reasonable endeavours to deliver the Services within specific timescales; however, dates quoted for delivery are approximate only, and time for delivery is not of the essence.

2.6 GFB will not be responsible for delays beyond their reasonable control, or where the Client fails to perform its obligations under this Contract or otherwise fails to co-operate fully with GFB regarding delivery of the Services.

3. SPECIFICATIONS

3.1 The Client agrees to:

- (a) ensure that the terms of its order, the contract details form and any information it provides to GFB (whether by way of specification or otherwise) are complete and accurate; and
- (b) supply GFB with such information as GFB may require in connection with the Contract or the supply of Services within a sufficient time period to enable GFB to perform the Contract in accordance with these Terms (and in any event no later than 5 days after the request or as otherwise agreed between the parties) and ensure that all such information is complete and accurate; and
- (c) co-operate with GFB in all matters relating to the Services; and
- (d) provide, for GFB (and each of its agents, subcontractors, consultants and employees), in a timely manner and at no charge, access to the Client's data and other facilities as reasonably required for the provision of the Services; and
- (e) comply with any additional obligations or special terms set out in the Contract.

3.2 The quantity, description of and specification (if any) for the Services shall be as set out in the Contract or otherwise expressly agreed by GFB in writing as being supplemental to the Contract.

3.3 The Client warrants that:

- (a) any Materials it provides are its original work and have not been copied wholly or in part from any other source, and
- (b) use of the Materials by GFB (and each of its agents, subcontractors, consultants and employees) will not infringe the Intellectual Property Rights of any party.

3.4 The Client shall indemnify GFB against all liabilities, costs, losses, damages, liabilities, costs and expenses (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by GFB in connection with or

paid or agreed to be paid by GFB in settlement of any claim for infringement of any Intellectual Property Rights of any other person which results from GFB's use of Materials provided by the Client or any breach of the warranties in clause 3.3.

4. FEES AND PAYMENT TERMS

4.1 All Fees quoted are exclusive of VAT and expenses. Fees quoted do not cover the cost of travel, accommodation (unless specified), or other out of pocket expenses incurred in connection with the provision of the Services e.g. meals, printing, hiring of equipment and the costs of support services. These costs will therefore be charged in addition to any fee rate(s), cost schedule(s) or quotation(s).

4.2 Where consultant day rates are quoted these are based upon standard hours of work from 9am to 5.30pm with a lunch break for a minimum of 60 minutes.

4.3 Any quotation shall remain open for a maximum period of 60 days from the date of the quotation. GFB reserves the right, by giving notice to the Client at any time before the actual supply of Services, to increase the price of the Services to reflect:

1. any increase in the cost to GFB which is due to any factor beyond the control of GFB (such as, without limitation, any foreign exchange fluctuation, alteration of duty rates, significant increase in the costs of labour, materials or other costs of supply);
2. any change in supply dates or specifications for the Services which are requested by the Client; or
3. any delay caused by any instructions of the Client or failure of the Client to give GFB adequate information or instructions.

4.4 The Supplier also reserves the right to increase the price of the Services on an annual basis with effect from each anniversary of when the Services commenced in line with the percentage increase in the Retail Price Index in the preceding 12 month period.

4.5 Invoicing is monthly in arrears unless a specific fee schedule is agreed by GFB in advance.

4.6 The Client shall pay invoices in full, without set off and in cleared funds within 30 days of the date of the invoice. Please ask your accounts department to adhere to this. The Client shall pay invoices by electronic bank transfer or credit card. Details of the account nominated by GFB are provided on the invoice and/or are available from GFB on request. Any remittances should be addressed to The Accounts Department, GFB, c/o Work.Life – Reading, 33 Kings Rd, Reading RG1 3AR.

4.7 Any invoicing queries must be raised by the Client within 30 days of the invoice date.

4.8 Interest at the rate of 5% above the base lending rate from time to time of HSBC Bank Plc will be payable on any overdue sum. This right is without prejudice to any other rights and remedies of GFB, which shall include but not be limited to suspending the provision of all or any Services for the period of default or terminating any Contract.

4.9 Any credits for Services provided by GFB which are purchased by the Client in advance will be valid for a maximum of 12 months from the date of invoice unless otherwise agreed in writing by GFB.

5. WARRANTY

5.1 GFB warrants that it will perform the Services with reasonable skill and care.

5.2 GFB shall have no liability under the above warranty if the Client has not paid the Fees by the due date for payment in accordance with clause 4.

5.3 Subject as expressly provided in these Terms, all other warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

5.4 Where any valid warranty claim is made in respect of any of the Services, GFB shall be entitled to re-supply the Services (or the part in question) free of charge or, at GFB's sole discretion, refund to the Client a proportionate part of the Fee, but GFB shall have no further liability to the Client.

6. LIMITATION OF LIABILITY

6.1 Subject to clause 6.2, GFB's total liability to the Client of all losses arising under the Contract, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to an amount equal to ten times the amount of the Client spend with GFB in contract year during which the liability arises, subject always to an aggregate limit of £1 million.

6.2 Nothing in these Terms shall exclude GFB's liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) any other matter in respect of which it would be unlawful for GFB to exclude or restrict liability.

6.3 Subject to clause 6.2, the following types of loss, costs or expenses are wholly excluded:

- (a) Loss of profits;
- (b) Loss of sales or business;
- (c) Loss of agreements or contracts;
- (d) Loss of anticipated savings;

(e) Loss of use or corruption of software, data or information;

(f) Loss of or damage to goodwill; and

(g) Indirect or consequential loss.

6.4 This clause 6 shall survive termination of the Contract.

6.5 GFB shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any Services or any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control.

7. INSOLVENCY OF CLIENT

7.1 This clause applies if the Client makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or a receiver is appointed over any of the property or assets of the Client; or the Client ceases, or threatens to cease, to carry on business; or anything analogous to any of the foregoing occurs in relation to the Client under the law of any jurisdiction; or GFB reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.

7.2 If this clause applies then, without prejudice to any other right or remedy available to GFB, GFB shall be entitled to cancel the Contract or suspend its further performance without any liability to the Client, and if the Services have been supplied but not paid for the Fees shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

8. CANCELLATION

8.1 Once GFB has agreed to provide Services to the Client, the Client may re-schedule or cancel the Contract by giving notice in accordance with clause 8.1 and where dates for delivery of Services have been confirmed by the Client, the following shall apply:

- (a) where notice to cancel or reschedule is received more than 28 days (excluding the date of the notice and the Services Commencement Date) prior to the Services Commencement Date, the Client will pay any expenses already incurred by GFB (Incurred Expenses);
- (b) where notice to cancel or reschedule is received more than 14 days but less than 28 days (excluding the date of the notice and the Services Commencement Date) prior to the Services Commencement Date, the Client will pay 50% of the agreed Fee for the Services plus any Incurred Expenses; and
- (c) where notice to cancel or reschedule is received 14 days or less (excluding the date of the notice and the Services Commencement Date) prior to the Services Commencement Date, the Client will pay the full agreed fee for the Services plus any Incurred Expenses.

8.2 On cancellation, the Client shall immediately pay to GFB all of GFB's outstanding unpaid invoices and interest and, in respect of any Incurred Expenses for which no invoice has been submitted, GFB shall submit an invoice, which shall be payable by the Client on demand.

9. SERVICE LEVELS

9.1 GFB will endeavour to provide the services as set out in <https://www.gfbgroup.com/service-levels>

10. DATA PROTECTION

10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

10.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the controller and GFB is the processor. Details of the scope, nature and purpose of processing by GFB, the duration of the processing and the types of personal data and categories of data subject are as follows:

(a) Scope and duration: The subject matter of and duration of the processing is as described in this Contract.

(b) Nature and Purpose: Providing the Services listed above to the Client. The purpose of GFB processing the personal data is the performance of the Services pursuant to this Contract and GFB needs to have access to the personal data in order to provide the Services.

(c) Types of personal data: Individual contact details (such as full name, contact details (telephone, email, work and or home address), date of birth, gender, and other identifying numbers and test and survey results (including, but not limited to, the opinions and characteristics of the concerned individuals).

(d) Categories of data subject: The categories of data subjects are individuals and other data subjects of the personal data processed in connection with the provision of the Services for the Client.

10.3 Without prejudice to the generality of clause 11.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to GFB for the duration and purposes of the Contract.

10.4 Without prejudice to the generality of clause 11.1, GFB shall, in relation to any personal data processed in connection with the performance by GFB of its obligations under the Contract:

(a) process that personal data only on documented instructions from the Client, including with regard to transfers of personal data to a third country or an international organisation, unless GFB is required to otherwise process that personal data by any Data Protection Legislation to which GFB is subject; in such a case, GFB shall inform the Client of that legal requirement before processing, unless that Data Protection Legislation prohibits GFB from notifying the Client;

(b) take all measures required pursuant to Article 32 of the UK GDPR and any other Data Protection Legislation, including without limitation ensuring that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

(d) notify the Client if any personal data is transferred outside of the UK (and for this purpose the Client acknowledges that personal data will be transferred outside the UK for the purpose of undertaking any psychometric tests which may be included in the Services);

(e) assist the Client, at the Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify the Client without undue delay on becoming aware of a personal data breach;

(g) at the Client's choice (as notified to GFB in writing), delete or return all the personal data to the Client after the end of the provision of services relating to processing, and delete existing copies, unless the Data Protection Legislation requires GFB to store the personal data; and

(h) maintain records and information to demonstrate its compliance with this clause 10 (including the obligations laid down in Article 28 of the GDPR) and allow audits and inspection of these records and information to be conducted by the Client or another auditor mandated by the Client. GFB shall immediately inform the Client if, in its opinion, an instruction infringes the Data Protection Legislation.

10.5 The Client consents to GFB appointing third party processors of personal data under the Contract on the basis that (i) GFB shall inform the Client of any intended changes concerning the addition or replacement of other processors, thereby giving the Client the opportunity to object to such changes; and (ii) the same data protection obligations as set out in this Contract shall be imposed on such other processors, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the UK GDPR (and any other Data Protection Legislation).

11. CONFIDENTIALITY

11.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.

11.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12. MISCELLANEOUS

12.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Materials provided by the Client) shall be owned by GFB, unless specifically agreed otherwise within the Order. An additional fee is payable for any assignment of Intellectual Property Rights.

12.2 Subject to payment of all Fees, the Client shall have a non-exclusive, non-assignable licence to use works created and delivered by GFB as a product of the Services for its own internal business purposes, but not otherwise and shall not license, lend, exchange, give or otherwise dispose of these materials to third parties, and shall indemnify GFB fully in the event that GFB or GFB's licensors suffer any losses, claims, liabilities, damages, expenses or costs as a result (whether direct or indirect) of any breach by the Client of such undertakings.

12.3 Nothing in these Terms or, in any document referred to in it or any arrangement contemplated by it shall be taken to imply that either party is a partner of the other nor shall the execution, completion and implementation of this Contract confer on either party any power to bind or impose any obligations to any third parties on the other party or to pledge the credit of the other party.

12.4 Any notice required or permitted to be given by either party to the other under these Terms shall be in writing and delivered or sent by first class post to the registered office or such other address of the other party as may at the relevant time have been notified, or by email to GFB addressed to legal@gfbgroup.com, or to the Client at any email address set out in the Contract or from which it has previously sent email correspondence to GFB. Hand delivered notices shall take effect immediately, postal notices two working days after posting and email notices at 0900 in the place of receipt on the first working day after transmission.

12.5 No waiver by GFB of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.6 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

12.7 If any provision of these Terms is held by any competent court or authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected thereby.

12.8 The Client shall not assign this Contract or any of its rights under it without the prior written consent of GFB.

12.9 This Contract shall not give rise to any rights under the Contracts (Rights of Third parties) Act 1999 to enforce any term of the Contract.

12.10 Except as set out in this Contract, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

12.11 The Contract shall be governed by the Laws of England and Wales. If any dispute arises in connection with these Terms or any Contract, the parties will attempt in good faith to resolve the dispute between them first by informal discussion, and if the parties fail to agree within 30 days, by the process of mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. The mediator shall be nominated by CEDR.

12.12 If for any reason, the dispute is not resolved within 90 days of commencement of the mediation, the dispute shall be referred to and finally resolved by the Court of England and Wales.