

TERMS AND CONDITIONS**1. ACCEPTANCE**

1.1 This Agreement is between Hinds Workforce Research Pty Ltd t/a Peoplepie Surveys (ABN 55 000 564 107) (referred to as “we”, “us” or “our”), and the client requesting our services (referred to as “you” or “your”), and collectively the Parties.

1.2 You have requested certain services set out on the Site (the services requested by you being referred to as the **Services**). You agree and accept that the Services are provided to you on these Terms and Conditions (**Terms**).

1.3 These Terms form the agreement under which we will supply the Services to you. Please read the Terms carefully. Please contact us if you have any questions. You can contact us at corporate@peoplepie.com. Your purchase from us indicates that you have had sufficient opportunity to access the Terms and contact us, that you have read, accepted and agree to comply with the Terms and that you are 18 years or older. You must not order services from us if you are under 18 years of age. If you do not agree to the Terms, do not purchase from us.

1.4 Our Website Terms of Use set out the terms and conditions for using our Site. Our Privacy Policy sets out how we collect, use and protect your personal information.

1.5 We will not commence performing the Services until you have paid the fee (**Fees**) in respect of such Services and such payment has been successfully processed. You may not cancel the Services once payment has been processed, however we may block the Services being accessed by your employees, if requested by you.

2. REGISTRATION

2.1 To begin using our Services, you are required to register your details with us including your first name, last name, email address and password you nominate. We will provide a confirmation of account registration when you register on our Site. It is your responsibility to keep your account details confidential. You are liable for all activity on your account, including purchases made using your account details.

2.2 The Service runs for the time period that you have paid the associated Fees for, when this time period has elapsed a report is generated from the system. You will be given access to an additional site ([https:// engine.peoplepie.com](https://engine.peoplepie.com)) which will be provided to you via your account to see the results and download a report.

3. SERVICES

3.1 We agree to perform the Services with due care and skill.

3.2 The information and survey results we provide to you will be based upon specific responses given by your employees. We will assume that all information provided by you is accurate, true and correct.

3.3 We reserve the right to refuse any request that we deem inappropriate, unreasonable or illegal.

3.4 You may request additional services via the Site. We have discretion as to whether we agree to perform such additional services. If we agree to perform the additional services we will issue you with a new proposal in respect of such order setting out the scope of the services and the rates for such services. You will be expected to pay the fee for such additional services before we commence performing them.

4. SUPPLIERS

4.1 Third parties who are not our employee or our direct contractor (**Third Parties**) will be your responsibility. We are not responsible for the services provided by Third Parties.

5. FEE AND PAYMENT

5.1 You agree to pay us the Fee (as applicable) for the Services upfront by credit card or as otherwise specified on the Site at the time you place your order for the Services. All amounts are stated in Australian dollars and are inclusive of GST or otherwise advised by us. Any additional fees or exchange rates will be borne by you.

5.2 Our pricing structure, payment methods and these Terms may be amended from time to time in our discretion. The pricing changes will apply to you for services provided to you after the date of the change. All other changes will apply from the date that the amended or new Terms are posted on the Site or are provided to you, whichever is earlier.

5.3 We may from time to time offer promotional discount codes, which may be applicable to Services on the Site, and must be entered at the time of submitting your order. The conditions of use relating to any discount code will be specified at the time that it is issued.

6. YOUR OBLIGATIONS AND WARRANTIES

6.1 You warrant that you will not canvass, employ, induce or attempt to employ, induce, solicit or entice away from us, any employee or contractor that was employed by or contracted to us during the term that we provide Services to you or the prior twelve (12) month period.

6.2 You warrant that throughout the term of this Agreement that:
(a) there are no legal restrictions preventing you from agreeing the Terms;

- (b) you will cooperate with us and provide us with information and comply with requirements in a timely manner, as requested by us from time to time, that are reasonably necessary to enable us to perform the Services;
- (c) the information you provide to us is true, correct and complete;
- (d) you will not infringe any third party rights in working with us and receiving the Services;
- (e) you will inform us if you have reasonable concerns relating to our provision of Services under the Terms, with the aim that we and you will use all reasonable efforts to resolve the concerns;
- (f) you shall not use the Services for any improper, immoral or unlawful purpose, or for any other purpose than that for which you inform us at the time of your request.
- (g) you are responsible for obtaining any consents, licences and permissions from other parties necessary for the Services to be provided, at your cost, and for providing us with the necessary consents, licences and permissions;
- (h) you consent to the use of your name and Intellectual Property in relation to the Services in a way which may identify you;
- (i) if applicable, you have a valid ABN which has been advised to us; and
- (j) if applicable, you are registered for GST purposes.

7. OUR INTELLECTUAL PROPERTY

- 7.1 The work and materials that we provide to you in carrying out the Services contains material which is owned by or licensed to us and is protected by Australian and international laws (**Materials**). We own the copyright which subsists in all creative and literary works incorporated into our Materials.
- 7.2 You agree that, as between you and us, we own all intellectual property rights in our Materials, and that nothing in these Terms constitutes a transfer of any intellectual property ownership rights in our Materials, except as stated in these Terms or with our written permission.
- 7.3 Your use of our Materials does not grant you a licence, or act as a right of use, any of the intellectual property in the Materials, whether registered or unregistered, except as stated in these Terms or with our written permission.
- 7.4 You must not breach our copyright or intellectual property rights by, including but not limited to:
 - (a) altering or modifying any of the Materials;
 - (b) creating derivative works from the Materials;

- (c) using our Materials for commercial purposes such as onsale to third parties;
- (d) using our Materials for purposes other than internal use; or
- (e) sharing our Materials with third parties.

7.5 We will license the results of the surveys (**Licensed Material**) to you, once the report is sent to you.

7.6 We grant you a non-perpetual, non-exclusive, revocable, worldwide and non-transferable right and licence to use the Licensed Material for internal business purposes only.

8. YOUR INTELLECTUAL PROPERTY AND MORAL RIGHTS

8.1 You agree to provide information including Intellectual Property to us to enable us to provide the Services. You:

- (a) warrant that you have all necessary rights to provide the Intellectual Property to us;
- (b) grant us a perpetual, non-exclusive, royalty-free, irrevocable, worldwide and transferable right and licence to use the Intellectual Property in any way we require to provide the Services to you; and
- (c) consent to any act or omission which would otherwise constitute an infringement of your Moral Rights.

8.2 If you (or any employee or agent) have Moral Rights in any Intellectual Property that you provide to us, you:

- (a) irrevocably consent to any amendment of the Intellectual Property in any manner by us for the purposes of providing Services to you;
- (b) irrevocably consent to us using or applying the Intellectual Property for the purposes of providing Services to you without any attribution of authorship;
- (c) agree that your consent extends to acts and omissions of any of our licensees and successors in title; and
- (d) agree that your consent is a genuine consent under the *Copyright Act 1968* (Cth) and has not been induced by duress or any false or misleading statement.

9. CONFIDENTIAL INFORMATION

9.1 We, including our employees and contractors, agree not to disclose your Confidential Information to any third party (other than, where necessary, Third Party Suppliers); to use all reasonable endeavours to protect Confidential Information from any unauthorised disclosure; and only to use the Confidential Information for the purpose for which it was disclosed by you, to provide better quality services to you and not for any other purpose.

- 9.2 You, including your employees and contractors, agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect Confidential Information from any unauthorised disclosure; and only to use the Confidential Information for the purpose for which it was disclosed or provided by us to you, and not for any other purpose.
- 9.3 These obligations do not apply to Confidential Information that:
- is authorised to be disclosed;
 - is in the public domain and/or is no longer confidential, except as a result of breach of these Terms;
 - is received from a third party, except where there has been a breach of confidence; or
 - must be disclosed by law or by a regulatory authority including under subpoena.
- 9.4 The obligations under this clause will survive termination of these Terms.
- 10. FEEDBACK AND DISPUTE RESOLUTION**
- 10.1 Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about our Services, please contact any member of our staff. We may provide you with a refund in lieu of dispute resolution, at our sole discretion.
- 10.2 If there is a dispute between the Parties in relation to these Terms, the Parties agree to the following dispute resolution procedure.
- The complainant must tell the respondent in writing, the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them (**Initial Meeting**).
 - If the Parties cannot agree how to resolve the dispute at the Initial Meeting, any Party may refer the matter to a mediator. If the parties cannot agree on who the mediator should be, the complainant will ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute.
- 10.3 Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Terms, by law or in equity.
- 11. TERMINATION**
- 11.1 Either party may terminate the Terms, if there has been a material breach of these Terms, subject to following the dispute resolution procedure.
- 11.2 We may terminate the Terms immediately, in our sole discretion, if:
- we consider that a request for a Service is inappropriate, improper or unlawful;
 - you fail to provide us with clear or timely instructions to enable us to provide the Services;
 - you provide us with incorrect credit card details or payment is not successfully processed;
 - we consider that our working relationship has broken down including a loss of confidence and trust;
 - technical issues prohibit us from providing the Services; or for any other reason outside our control which has the effect of compromising our ability to perform the work required within the required timeframe.
- 11.3 On termination of these Terms you agree that the Fee (or any instalments thereof) and any other payments made to us are not refundable to you.
- 11.4 On termination of these Terms you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property and/or documents containing or relating to our Confidential Information, and/or documents containing or relating to our Confidential Information.
- 11.5 On termination of these Terms, we agree to promptly return (where possible), or delete or destroy (where not possible to return), your Confidential Information and Intellectual Property, and/or documents containing or relating to your Confidential Information and Intellectual Property.
- 11.6 On completion of the Services, we will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to the Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on termination of these Terms.
- 11.7 The accrued rights, obligations and remedies of the Parties are not affected by the termination of these Terms.
- 12. CONSUMER LAW, LIMITATION OF LIABILITY AND DISCLAIMERS**
- 12.1 **ACL:** Certain legislation including the Australian Consumer Law (**ACL**) in the *Consumer and Competition Act 2010* (Cth), and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Services by us to you which cannot be excluded, restricted or modified (**Statutory**

- Rights).** Our liability is governed solely by the ACL and these Terms.
- 12.2 **Services:** If you are a consumer as defined in the ACL, the following applies to you: We guarantee that the Services we supply to you are rendered with due care and skill; fit for the purpose that we advertise, or that you have told us you are acquiring the Services for or for a result which you have told us you wish the Services to achieve, unless we consider and disclose that this purpose is not achievable; and will be supplied within a reasonable time. To the extent we are unable to exclude liability; our total liability for loss or damage you suffer or incur from our Services is limited to us re-supplying the Services to you, or, at our option, us refunding to you the amount you have paid us for the Services to which your claim relates.
- 12.3 **Delay:** Where the provision of Services depends on your information or response, we have no liability for a failure to perform the Services in this estimated period, which is affected by your delay in response, incomplete or incorrect information.
- 12.4 **Referral:** On request by you, we may provide you with contact details of third party specialists. This is not a recommendation by us for you to seek their advice or to use their services. We make no representation or warranty about the third party advice or provision of services, and we disclaim all responsibility and liability for the third party advice or provision of services, or failure to advise or provide services.
- 12.5 **Warranties:** To the extent permitted by law, we exclude all express and implied warranties, and all material and work is provided to you without warranties of any kind, either express or implied. We expressly disclaim all warranties including but not limited to implied warranties of merchantability and fitness for a particular purpose.
- 12.6 **Liability:** To the extent permitted by law, we exclude all express or implied representations, conditions, guarantees and terms relating to the Services and this agreement, except those set out in this agreement, including but not limited to:
- (a) implied or express guarantees, representations or conditions of any kind, which are not stated in the Terms;
 - (b) our Services being unavailable; and
 - (c) any loss, damage, costs including legal costs, or expense whether direct, indirect, incidental, special, consequential and/or incidental, including loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation, use or any indirect, remote, abnormal or unforeseeable loss, or any loss or damage relating to business interruption, or otherwise, suffered by you or claims made against you, arising out of or in connection with the inability to access or use the Services, and the late supply of Services, even if we were expressly advised of the likelihood of such loss or damage.
- 12.7 **Limitation:** Our total liability arising out of or in connection with our Services, however arising, including under contract, tort, including negligence, in equity, under statute or otherwise, will not exceed the total fees paid by you to us in the twelve (12) month period prior to the event giving rise to the liability, or one hundred dollars (AUD\$100) if no such payments have been made, as applicable.
- 12.8 **Disclaimer:** While the information and Materials provided to you as part of our Services is believed to be accurate and current, it is provided by us in good faith on an "as is" basis, and we accept no responsibility for and make no representations or warranties to you or to any other person as to the reliability, accuracy or completeness of such information and Materials. It is provided as general information only and it does not take into consideration your own circumstances. You are solely responsible for determining the suitability of any of our Services, and your reliance on any information and Materials that are provided to you through our Services are at your own risk.
- 12.9 The information provided in the Materials is not intended to be a substitute for detailed research, investigation or the exercise of professional judgement.
- 12.10 This clause will survive termination of these Terms.
- 13. INDEMNITY**
- 13.1 You are liable for and agree to indemnify, defend and hold us harmless for and against any and all claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:
- (a) any information that is not accurate, up to date or complete or is misleading or a misrepresentation;
 - (b) your reliance on reports or Materials provided by us;
 - (c) any breach of these Terms; and
 - (d) any misuse of the Services from or by you, your employees, contractors or agents.
- 13.2 You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of our Services

- including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us.
- 13.3 The obligations under this clause will survive termination of these Terms.
14. **GENERAL**
- 14.1 **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under these Terms if such delay is due to any circumstances beyond our reasonable control. If we are delayed from performing our obligations due to such a circumstance for a period of at least 2 months, we may terminate this Agreement by giving you 5 business days' notice in writing.
- 14.2 **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines.
- 14.3 **Publicity:** You consent to us using advertising or publically announcing that we have undertaken work for you.
- 14.4 **Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 14.5 **GST:** If and when applicable, GST payable on our Services will be set out on our Invoices. By accepting these Terms you agree to pay us an amount equivalent to the GST imposed on these charges.
- 14.6 **Relationship of parties:** The Terms are not intended to create a relationship between the parties of partnership, joint venture, or employer-employee.
- 14.7 **Assignment:** The Terms are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 14.8 **Severance:** If any provision (or part of it) of the Terms is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) of these Terms cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from these Terms and the remaining provisions (and remaining part of the provision) of the Terms are valid and enforceable.
- 14.9 **Notice:** Any notice required or permitted to be given by either party to the other under these conditions will be in writing addressed to you at the address you provided to us when setting up your account, as may be updated by notice in writing from time to time. Our address is set out below. Any notice may be sent by standard post or email, and notice will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission.
- 14.10 **Jurisdiction & Governing Law:** These terms are governed by the laws of New South Wales and the Commonwealth of Australia. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales.
- 14.11 **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.
15. **DEFINITIONS**
- 15.1 **Confidential Information** includes confidential information about you, your family, your credit card details, our business, structure, programs, processes, methods, operating procedures, activities, products and services, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, know-how, Intellectual Property, technology, and other information whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 15.2 **Fee** means the fee for the Services as set out on the Site.
- 15.3 **GST** means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations.
- 15.4 **Intellectual Property** includes any and all intellectual and industrial property rights throughout the world, whether subsisting now or in the future and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), registered and unregistered trademarks, designs (whether or not registered or registrable), circuit layouts, trade names, trade secrets, business names, company names or internet domain names.
- 15.5 **Moral Rights** means the right of attribution of authorship, the right not to have authorship

falsely attributed and the right of integrity of authorship, as defined in the *Copyright Act 1968* (Cth).

- 15.6 **Site** means our website available at <http://www.peoplepie.com>, other addresses or channels (including <https://engine.peoplepie.com>).

Contact details:

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