



Governing Services Agreement

 These terms apply to services available through SurveyMonkey’s enterprise sales team. For services purchased on SurveyMonkey’s websites please see our Terms of Use (<https://www.surveymonkey.com/mp/legal/terms-of-use/>).

Previous versions:

LAST UPDATED: NOVEMBER 2, 2020

Main Terms

 *These are the terms that will apply to your use of our Services. You should read these terms thoroughly.*

1. DEFINITIONS.

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by or is under common control with an entity. “Control” for purposes of the preceding sentence means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Control**” for purposes of the preceding sentence means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Article 28**” means article 28 of the General Data Protection Regulation (Regulation (EU) 2016/679).

“**Customer**” or “**you**” means the customer accepting this Agreement and identified on the cover

page of this Agreement.

“Customer Data” means all data (including Personal Data and End User data) that is provided to SurveyMonkey by, or on behalf of, Customer through Customer’s use of the Services, and any data that third parties submit to Customer through the Services.

“Data Protection Impact Assessment” means a data protection impact assessment as referred to in article 35 of the General Data Protection Regulation (Regulation (EU) 2016/679).


“End Users” means Customer’s employees, agents, independent contractors, and other individuals authorized by Customer to access and use the Services.

“Intellectual Property Rights” means current and future worldwide rights under patent, copyright, design rights, trademark, trade secrets, domain names and other similar rights, whether registered or unregistered.

“Order Form” means an order form, sales order, sales quote, or similar document referencing and made under this Agreement and signed by the parties.

“Personal Data” means information relating to a living individual who is, or can be, reasonably identified from information, either alone or in conjunction with other information (a "Data Subject"), (https://www.surveymonkey.com/?ut_source=legal&ut_source2=gsa&ut_source3=inline) within Customer’s control and which is stored, collected or processed within one of Customer’s SurveyMonkey End User accounts.

“Services” means the products and services offered by SurveyMonkey and ordered by Customer on an Order Form.

 *Some of our services may also have additional terms that apply. You should read all those applicable terms as well.*

“SSTs” means service-specific terms that apply to specific Services located here (https://www.surveymonkey.com/mp/legal/which-terms-apply/?ut_source=legal&ut_source2=gsa&ut_source3=inline) and that are incorporated into and form a part of this Agreement.

“Standard Contractual Clauses” means the “Standard Contractual Clauses” annexed to the

European Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council (as amended or replaced by the European Commission from time to time).

“**SurveyMonkey**” means the SurveyMonkey entity defined in Section 14 (SurveyMonkey Contracting Entity).

2 SERVICES.

2.1 Provision of Services. SurveyMonkey will provide the Services to Customer in accordance with this Agreement, including any Order Forms and any applicable SSTs.

2.2 Order Forms. The parties may enter into Order Forms under this Agreement. Customer’s Affiliates may enter into Order Forms under this Agreement. Any such Order Form may be signed by SurveyMonkey or a SurveyMonkey Affiliate pursuant to the requirements under Section 14. Any reference in the Agreement to “Customer” will refer to the Customer entity signing the Order Form and any reference in the Agreement to “SurveyMonkey” will refer to the SurveyMonkey contracting entity signing the Order Form. Each Order Form will incorporate the terms and conditions of this Agreement and will be a separate contract between the entities entering into the Order Form.

2.3 Third-Party Services. If Customer integrates the Services with any non-SurveyMonkey-provided third-party service (such as a third party’s service that uses an application programming interface (API)), Customer acknowledges that such third-party service might access or use Customer Data and Customer permits the third-party service provider to access Customer Data as required for the interoperation of that third-party service with the Services. Customer is solely responsible for the use of such third-party services and any data loss or other losses it may suffer as a result of using any such services.

3 SaaS SERVICES.


3.1 License and Term.

(a) License. Subject to the terms and conditions of this Agreement, SurveyMonkey grants

Customer a non-exclusive, non-transferable worldwide right to access and use the Services during the subscription term.

(b) Subscription Term. The initial term of each subscription is specified on the Order Form. Subscriptions will automatically renew at the end of each subscription term for additional periods equal to one year, unless either party gives the other written notice of non-renewal at least 30 days before the end of the then-current subscription term.

(c) Subscription Units Added Mid-subscription. An Order Form may be used to add more subscription units (e.g. seats or packages) to a subscription during a subscription term. The per unit pricing for those additional subscription units will be as specified on the Order Form of the underlying subscription (or, absent such specification, at the same per unit pricing as the underlying subscription pricing), prorated for the portion of that subscription term remaining at the time the subscription units are added. Any such additional subscription units will renew or terminate on the same date as the underlying subscription. Subscription units relating to a Service cannot be decreased during a subscription term for that Service.

 *We are always looking to innovate and make our Services better, so they may change. If that happens, we will send written notice to let you know before making the change.*


4. SERVICE FEATURES.

4.1 Changes to Services. SurveyMonkey continually changes and improves the Services. SurveyMonkey will provide Customer with prior written notice if SurveyMonkey makes a change to the Service(s) resulting in a material decrease in core functionality used by SurveyMonkey's general customer base. In such event, the parties agree to work together to minimize the impact of such change to Customer.

5 FEES.


5.1 Fees. Customer will pay to SurveyMonkey all applicable fees for the Services specified in each Order Form. Except as otherwise specified in this Agreement or prohibited by applicable law, payment obligations are non-cancelable, and fees paid are not refundable.

5.2 Invoicing and Payment Terms. Payment terms shall be specified in each Order Form. An invoice will be issued upon execution of the Order Form. Multi-year orders and renewals will be invoiced on an annual basis.

 *Taxes are your responsibility. If you are exempt from paying taxes, please let us know and send us proof.*

5.3 Taxes. All amounts payable by Customer under this Agreement are exclusive of any applicable taxes, levies, duties, or similar governmental assessments of any nature (including value-added, sales, and use taxes, but excluding withholding taxes and taxes based on SurveyMonkey's income, property, or employees) ("**Taxes**") that may arise in connection with Customer's purchases under this Agreement. If any such Taxes arise, Customer will pay such Taxes in addition to all other amounts payable under this Agreement, unless Customer provides SurveyMonkey with a valid tax exemption certificate or other documentary proof, issued by an appropriate taxing authority, that no tax should be charged. If Customer is required by law to withhold any Taxes from its payments to SurveyMonkey, Customer must provide SurveyMonkey with an official tax receipt or other appropriate documentation to support such payments.

5.4 Currency. All monetary amounts in this Agreement are denominated in the currency stated on the Order Form. Fee payments by Customer must be received by SurveyMonkey in the same currency as such fees were billed.


 *Please pay us on time. If you are 30 days late, then we will charge interest and may suspend the services.*

5.5 Overdue Fees. SurveyMonkey may charge Customer interest on overdue fees (excluding amounts disputed reasonably and in good faith) at the rate of 1.5% per month (or the highest rate permitted by law, if less) on the amount overdue. If any good faith, undisputed amount owed by Customer is overdue by thirty (30) days or more, SurveyMonkey may limit functionality or suspend provision of Services to Customer until such amounts are paid in full.


5.6 Overage Fees. Any overage fees incurred by Customer will be billed in arrears at the rate listed on the Order Form. The additional units will be charged at the per unit pricing for those additional units as specified on the Order Form for the underlying subscription (or, absent such specification, at the same per unit pricing as the underlying subscription pricing), prorated for the portion of that subscription term remaining at the time the subscription units are added.

6 CUSTOMER OBLIGATIONS.

6.1 Customer Responsibilities


 *You need to create a customer account with a secure password to use our Services. Don't share passwords.*

(a) Account Security. Customer is responsible for maintaining the confidentiality of its own passwords and any other credentials used by it and its End Users to access the Services. Customer will use commercially reasonable efforts to prevent unauthorized use of the Services and will terminate any unauthorized use of which it becomes aware. Customer will notify SurveyMonkey promptly if Customer becomes aware of any unauthorized access to its accounts.

 *You are responsible for anything that happens under your accounts. If someone fraudulently uses your account, you are responsible for their actions.*

(b) End User Activities. Customer is responsible for ensuring that its End Users comply with this Agreement. Customer is responsible for the acts of its End Users and any activity occurring in its End User accounts (other than activity that SurveyMonkey is directly responsible for which is not performed in accordance with Customer's instructions).

(c) One Individual per Account. End User accounts and passwords may not be shared and may only be used by one individual per account.

 *Please read our Acceptable Uses Policy to understand what you can and cannot do when using our Services. In a nutshell, no reverse engineering our software, no spamming, no phishing, no hate speech, no pornography, no bullying, and no harassment.*

6.2 Acceptable Uses by Customer. Customer agrees to comply with the Acceptable Uses Policy located here (https://www.surveymonkey.com/mp/legal/acceptable-uses-policy/?ut_source=legal&ut_source2=gsa&ut_source3=inline).


6.3 Third Party Requests. The parties may from time to time receive a request from a third party for records related to Customer's use of the Services, including information in a Customer End User account or identifying information about a Customer End User, excluding Data Subject

access requests as provided for under the GDPR (“**Third Party Request**”). Third Party Requests include search warrants, subpoenas, and other forms of legal process.


Customer is responsible for responding to Third Party Requests via its own access to the information, and will only contact SurveyMonkey if Customer is unable to obtain such information after diligent efforts. If SurveyMonkey receives a valid Third Party Request then, to the extent permitted by law, SurveyMonkey:


(a) may inform the third party issuing such request that it should pursue the request directly with Customer; and

(b) will: (i) promptly notify Customer of the Third Party Request; (ii) cooperate, at Customer’s expense, with Customer’s reasonable requests regarding Customer’s efforts to oppose a Third Party Request; and (iii) after providing Customer with an opportunity to respond to or oppose the Third Party Request, SurveyMonkey may fulfill that request if SurveyMonkey determines that it is required or permitted by law to do so.

 *We both agree to follow export and economic sanctions laws. You promise that you and your Affiliates are not on any of the lists that the U.S. government publishes of people and organizations that U.S. companies are not allowed to do business with.*


6.4 Embargoes. Customer represents and warrants that it is not barred by any applicable laws from being supplied with the Services. The Services may not be used in any country that is subject to an embargo by the United States or European Union applicable to the Services. Customer will ensure that: (a) its End Users do not use the Services in violation of any export restriction or embargo by the United States; and (b) it does not provide access to the Services to persons on the U.S. Department of Commerce’s Denied Persons List or Entity List, or the U.S. Treasury Department’s list of Specially Designated Nationals.

 *We can suspend our services for several reasons:*
a) performing scheduled maintenance;
b) you violate our Acceptable Uses Policy;
c) to prevent material harm to you, our other customers or to SurveyMonkey; or
d) it is required by law.


 *We will try to let you know if we need to suspend your account(s) in advance if we can, but we cannot guarantee this.*

6.5 Suspension of Services. SurveyMonkey may limit or suspend the Services from time to time to perform scheduled maintenance or to stop a violation of Section 6.2 (Acceptable Uses by Customer), to prevent material harm to SurveyMonkey or its customers or as required by applicable law. SurveyMonkey will use reasonable endeavors to give Customer reasonable advance notice of any limitation or suspension so that Customer can plan around it or address the issue that has prompted SurveyMonkey to take such action. There may be some situations, such as security emergencies, where it is not practicable for SurveyMonkey to give such advance notice. SurveyMonkey will use commercially reasonable efforts to narrow the scope and duration of the limitation or suspension as is needed to resolve the issue that prompted such action.

7 SECURITY AND PRIVACY.

 *The security of the data processed by SurveyMonkey is a top priority. This Section reflects the security obligations set out in Article 24 of the GDPR.*

7.1 Security. SurveyMonkey has, considering the state of the art, cost of implementation, the nature, scope, context and purposes of the Services, and the level of risk, implemented appropriate technical and organizational measures to enable a level of security appropriate to the risk of unauthorized or unlawful processing, accidental loss of and/or damage to Customer Data. At reasonable intervals, SurveyMonkey tests and evaluates the effectiveness of these technical and organizational measures for enabling the security of the processing.

 *Section 7.2 outlines what we are doing with your data. Please read this section carefully. The obligations in this Section reflect the requirements of a 'data processor' under Article 28 of the GDPR.*

7.2 Data Protection. Where SurveyMonkey is processing Personal Data for Customer, SurveyMonkey will:

(a) only do so on documented Customer instructions and in accordance with applicable law, including with regard to transfers of personal data to other jurisdictions or an international organization, and the parties agree that this Agreement constitutes such documented instructions of the Customer to SurveyMonkey to process Customer Data;

(b) to the extent applicable, for data transfers from the European Economic Area (EEA) to outside the EEA, SurveyMonkey Europe UC relies upon: (i) the European Commission's Standard Contractual Clauses and/or consent for personal data transfers to countries outside the EEA that do not have adequate levels of data protection as determined by the European Commission; and/or (ii) SurveyMonkey Inc.'s Privacy Shield certification where applicable, or any subsequent or replacement programme;

(c) with respect to any transfers of Personal Data out of the EEA that may be required in relation to or in connection with the Agreement and the provision of the Services hereunder, the parties shall comply with and be subject to all obligations imposed on a 'data importer' or 'data exporter' (as appropriate) as set out under the Standard Contractual Clauses;

(d) ensure that all SurveyMonkey personnel involved in the processing of Personal Data are party to confidentiality obligations in respect of the Personal Data;

(e) make available information necessary for Customer to demonstrate compliance with its Article 28 obligations (if applicable to the Customer) where such information is held by SurveyMonkey and is not otherwise available to Customer through its account and user areas or on SurveyMonkey websites, provided that Customer provides SurveyMonkey with at least 14 days' written notice of such an information request;


(f) cooperate as reasonably requested by Customer to enable Customer to comply with any exercise of rights by a Data Subject under the General Data Protection Regulation (EU) 2016/679 in respect of personal data processed by SurveyMonkey in providing the Services;

(g) provide assistance with all requests received directly from a Data Subject in respect of that Data Subject's Personal Data submitted through the Services;

(h) cooperate with the Office of the Data Protection Commissioner or any replacement or successor body from time to time (or, to the extent required by the Customer, any other data protection or privacy regulator) in the performance of such regulator's tasks where required;

(i) not store Personal Data (in a format that permits identification of relevant Data Subjects) for longer than is necessary for the purposes for which the data is processed save to the extent such retention is required for legitimate business purposes (with respect to, for example, security and billing), in order to comply with applicable laws and regulations and as may otherwise be kept in routine backup copies made for disaster recovery and business continuity purposes; and

(j) assist Customer as reasonably required where Customer conducts a Data Protection Impact Assessment involving the Services.

 *We are responsible for our sub-processors' actions. SurveyMonkey engages only trusted service providers to process personal data on our behalf. Sections 7.3, 7.4 and 7.5 reflect our obligations under Article 28 (2) and (4) of the GDPR.*

7.3 Sub-processing. Customer provides a general authorization to SurveyMonkey to engage onward sub-processors, subject to compliance with the requirements in this Section 7.


7.4 Sub-processor List. SurveyMonkey will, subject to any confidentiality provisions under this Agreement or otherwise imposed by SurveyMonkey:

(a) make available to Customer a list of the SurveyMonkey sub-processors (“**Sub-processors**”) who are involved in processing or sub-processing Personal Data in connection with the provision of the Services, together with a description of the nature of services provided by each Sub-processor (“**Sub-processor List**”). A copy of this Sub-processor List may be accessed here (<https://smprivacy.wufoo.com/forms/q1khls351392il3/>).


(b) ensure that all Sub-processors on the Sub-processor List are bound by contractual terms that are in all material respects no less onerous than those contained in this Agreement; and

(c) be liable for the acts and omissions of its Sub-processors to the same extent SurveyMonkey would be liable if performing the services of each of those Sub-processors directly under the terms of this Agreement, except as otherwise set forth in this Agreement.

7.5 New / Replacement Sub-processors. SurveyMonkey will provide Customer with written notice of the addition of any new Sub-processor or replacement of an existing Sub-processor at any time during the term of the Agreement (“**New Sub-processor Notice**”), Customer agrees to sign up to a mailing list made available by SurveyMonkey through which such notices will be delivered by e-mail. If Customer has a reasonable basis to object to SurveyMonkey’s use of a new or replacement Sub-processor, Customer will notify SurveyMonkey promptly in writing and in any event within 30 days after receipt of a New Sub-processor Notice. In the event of such reasonable objection, either Customer or SurveyMonkey may terminate the portion of any Agreement relating to the Services that cannot be reasonably provided without the objected-to new Sub-processor (which may involve termination of the entire Agreement) with immediate effect by providing written notice to the other party.

 *SurveyMonkey will provide notice of any Security Incidents that may arise and cooperate with any investigations required by the Customer. This Section reflects our obligations as a ‘data processor’ under Article 33 (2) of the GDPR and Article 28 (f).*

7.6 Security Incident. If SurveyMonkey becomes aware of any unauthorized or unlawful access to, or acquisition, alteration, use, disclosure, or destruction of, Personal Data (“**Security Incident**”), SurveyMonkey will promptly, and in any event, as soon as reasonably practicable, notify Customer without undue delay. Such notification shall not be interpreted or construed as an admission of fault or liability by SurveyMonkey. SurveyMonkey will also reasonably cooperate with Customer with respect to any investigations relating to a Security Incident with preparing any required notices, and provide any information reasonably requested by Customer in relation to any Security Incident.

 *SurveyMonkey agrees to support the customer on an annual basis with an audit, if requested - as required under Article 28 (h) of the GDPR. This Section sets out the framework around any such audit.*

7.7 Audits. Customer will provide SurveyMonkey with at least one month’s prior written notice of any audit, which may be conducted by Customer or an independent auditor appointed by Customer (provided that no person conducting the audit shall be, or shall act on behalf of, a competitor of SurveyMonkey) (“**Auditor**”). The scope of an audit will be as follows:

(a) Customer will only be entitled to conduct an audit once per year (during the course of a 12 month subscription) unless otherwise legally compelled or required by a regulator with established authority over the Customer to perform or facilitate the performance of more than 1 audit in that same year.


(b) SurveyMonkey agrees, subject to any appropriate and reasonable confidentiality restrictions, to provide evidence of any certifications and compliance standards it maintains and will, on request, make available to Customer an executive summary of SurveyMonkey’s most recent annual penetration tests, which summary shall include remedial actions taken by SurveyMonkey resulting from such penetration tests.

(c) The scope of an audit will be limited to SurveyMonkey systems, processes, and documentation relevant to the processing and protection of Personal Data, and Auditors will conduct audits subject to any appropriate and reasonable confidentiality restrictions requested by SurveyMonkey.

(d) Customer will promptly notify and provide SurveyMonkey with full details regarding any perceived non-compliance or security concerns discovered during the course of an audit.

(e) SurveyMonkey will inform Customer if it comes to its attention that any instructions received in respect of this Section 7.7 infringe the provisions of the General Data Protection Regulation or other applicable EU or EU Member State data protection law. Notwithstanding the foregoing, SurveyMonkey shall have no obligation to review the lawfulness of any instruction received from the Customer.


The parties agree that, except as otherwise required by order or other binding decree of a regulator with authority over the Customer, this Section 7.7 sets out the entire scope of the Customer's audit rights as against SurveyMonkey.

 *It is important that the Customer (as the 'data controller' under the GDPR and in line with Article 24 of the GDPR) has appropriately and lawfully collected any personal data so that SurveyMonkey can process it accordingly.*

7.8 Customer Privacy Obligations. Customer shall ensure and hereby warrants and represents that it is entitled to transfer the Customer Data to SurveyMonkey so that SurveyMonkey may on behalf of Customer, lawfully process and transfer the Personal Data in accordance with this Agreement. Customer shall ensure that relevant Data Subjects have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation.

7.9 Types Data Processing. The parties agree that the purpose and nature of the processing of Personal Data, the types of Personal Data and categories of Data Subjects are as set out in Appendix A.


8 INTELLECTUAL PROPERTY.

 *What's yours is yours.*

8.1 Customer IP. As between the parties, the Customer retains ownership of all Intellectual Property Rights in the Customer Data. This Agreement does not grant SurveyMonkey any

licenses or rights to the Customer Data except for the following:


(a) Customer grants SurveyMonkey and its affiliates a worldwide, royalty-free, non-exclusive, limited license to use, host, copy, transmit, modify, display, and distribute Customer Data only for the limited purposes of providing the Services to Customer and improving the Services.

 *We are constantly improving our services. Please let us know what you think about our Services. If you send us feedback, we can use it, and we don't owe you anything for it, except our appreciation and gratitude.*

(b) If Customer provides SurveyMonkey with feedback about the Services, SurveyMonkey may use that feedback and incorporate it into its products and services without any obligation to Customer.


 *What's ours is ours.*

8.2 SurveyMonkey IP. As between the parties, SurveyMonkey retains ownership of the Services and all related Intellectual Property Rights. No licenses or rights are granted to Customer by SurveyMonkey other than as expressly provided for in this Agreement. Except as permitted by SurveyMonkey's brand and trademark use policies, this Agreement does not grant the Customer any right to use SurveyMonkey's trademarks or other brand elements.


 *We can use your company's name, logo, and description of how you use our services on our website, in earnings calls, and in marketing & promotional materials.*

8.3 Customer Lists. SurveyMonkey may identify Customer by name and logo as a SurveyMonkey customer on SurveyMonkey's website and on other promotional materials. Any goodwill arising from the use of Customer's name and logo will inure to the benefit of Customer.

9 CONFIDENTIALITY.

 *While providing the Services to you, we both may need to share information that we do not want anyone else to know about. We both agree to follow these rules.*

9.1 Definition. “**Confidential Information**” means information disclosed by a party (“**Discloser**”) to the other party (“**Recipient**”) in connection with the use or provision of the Services that is either marked as confidential or would reasonably be considered as confidential under the circumstances. Customer’s Confidential Information includes Customer Data. SurveyMonkey’s Confidential Information includes the terms of this Agreement and any security information about the Services. Despite the foregoing, Confidential Information does not include information that: (a) is or becomes public through no fault of the Recipient; (b) the Recipient already lawfully knew; (c) was rightfully given to the Recipient by an unaffiliated third party without restriction on disclosure; or (d) was independently developed by the Recipient without reference to the Discloser’s Confidential Information.

 *If we get a subpoena or other legal order, we may have to disclose confidential info. We will try to give you prior notice.*

9.2 Confidentiality. The Recipient will: (a) protect the Discloser’s Confidential Information using commercially reasonable efforts; (b) use the Discloser’s Confidential Information only as permitted by this Agreement, including to exercise the Recipient’s rights and fulfill the Recipient’s obligations under this Agreement; and (c) not disclose the Discloser’s Confidential Information without the Discloser’s prior consent, except to affiliates, contractors, agents, and professional advisors who need to know it and have agreed in writing (or, in the case of professional advisors, are otherwise bound) to keep it confidential on terms comparable to those under this Section. The Recipient may disclose the Discloser’s Confidential Information when and to the extent required by law or legal process, but only after the Recipient, if permitted by law, uses reasonable efforts to notify the other party.

9.3 Return or Destruction of Confidential Information. Upon the termination or expiration of the Agreement and all Order Forms under the Agreement, each party will promptly return to the other party or destroy all Confidential Information of the other party in its possession or control within a reasonable amount of time in accordance with the Recipient’s data destruction practices.

10 WARRANTIES.


 *Our Services will perform and function as described in this GSA.*

10.1 Warranties. Each party represents and warrants that: (a) it has full power and authority to


enter into this Agreement; and (b) it will comply with all laws and regulations applicable to its provision or use of the Services.

10.2 Disclaimers. SURVEYMONKEY MAKES NO REPRESENTATION OR WARRANTY ABOUT THE SERVICES. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, SURVEYMONKEY DISCLAIMS ANY IMPLIED OR STATUTORY WARRANTY, INCLUDING ANY WARRANTY OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

11 INDEMNIFICATION.

 *If you get sued because our Services violate someone else's intellectual property rights (IP Rights), just let us know and we will step into your shoes to defend that lawsuit and pay any damages awarded by the Court.*


11.1 By SurveyMonkey. If a third party claims that the Services SurveyMonkey provides to you infringe or misappropriate that party's Intellectual Property Rights, SurveyMonkey will defend you against that claim at its expense and pay all costs, damages and attorney's fees that a court finally awards or that are included in a settlement approved by SurveyMonkey. However, in no event will SurveyMonkey have any obligation or liability under this Section arising from: (a) use of any Services in a modified form or in combination with software, technologies, products, or devices not provided by SurveyMonkey; or (b) any content or data provided by Customer, End Users, or third parties; or (c) Services for which there is no fee or charge.

 *If we get sued because you violate someone else's IP Rights or you violate the Acceptable Use Policy, we expect you to step into our shoes to defend that lawsuit and pay any damages awarded by the Court.*


11.2 By Customer. If a third party claims (including any claim made or investigation conducted by a data protection or privacy regulator) that Customer Data infringes or misappropriates that third party's Intellectual Property Rights) or if Customer's use of the Services violates the SurveyMonkey Acceptable Use Policy, Customer will defend SurveyMonkey against that claim or investigation at Customer's expense and pay all costs, damages and attorney's fees that a court finally awards or that are included in a settlement approved by Customer.

 *If we think our Services are infringing someone's IP Rights, then we may: 1) get you the*

right to continue to use our Services; or 2) replace with a non- infringing equivalent; or 3) modify our Services so they are no longer infringing.

 *If we can't do any of the options above, then we may suspend or terminate your use of the infringing Service and issue a pro rata refund of fees.*

11.3 Potential Infringement. If SurveyMonkey believes the technology used to provide the Services may infringe or may be alleged to infringe a third party's Intellectual Property Rights, then SurveyMonkey may: (a) obtain the right for Customer, at SurveyMonkey's expense, to continue using the Services; (b) provide a non-infringing functionally equivalent replacement; or (c) modify the Services so that they no longer infringe. If SurveyMonkey does not believe that the foregoing options are commercially reasonable, then SurveyMonkey may suspend or terminate Customer's use of the impacted Services and provide a pro rata refund of any fees prepaid by Customer applicable to the period following the termination of such Services.

 *If you want to be indemnified, you must tell us about the lawsuit, cooperate, and let us handle the defense or settlement of the claim. If the terms of the settlement require you to pay money or admit fault, we won't settle the claim without getting your consent.*


11.4 Indemnity Procedures. A party seeking indemnification will promptly notify the other party of the claim and reasonably cooperate with the other party (to the extent applicable) in defending the claim. The indemnifying party will have full control and authority over the defense, except that: (a) any settlement requiring the indemnified party to admit liability, perform any act or to pay any money will require that indemnified party's prior written consent (such consent not to be unreasonably withheld or delayed) and (b) the indemnified party may join in the defense with its own counsel at its own expense. The provisions of this Section 11 state each party's entire liability and constitute the other party's sole and exclusive financial remedy for any indemnification claims. Notwithstanding the foregoing, nothing in this Agreement will prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction.


12 LIABILITY.

 *Neither of us owes the other any money for bad things that might indirectly result from*


our Services not working as intended.

12.1 Consequential Damages Waiver. TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR: (A) ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, UNDER ANY THEORY OF LAW, INCLUDING TORT OR (B) LOSS OF OR DAMAGE TO: (i) DATA, (ii) BUSINESS, (iii) REVENUES, OR (iv) PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

 *In the event of a dispute, neither party will owe more than the amount you've paid or should have paid in the previous 12 months for the Services.*


 *We understand that you are especially concerned about breaches of confidentiality as well as security and privacy issues so we give you double the protection.*

12.2 Liability Cap. TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT FOR ALL CLAIMS OF ANY KIND WILL NOT EXCEED THE AMOUNTS PAID OR PAYABLE BY CUSTOMER TO SURVEYMONKEY UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY ("GENERAL CAP"). NOTWITHSTANDING THE FOREGOING, EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT FOR ALL CLAIMS RELATED TO A PARTY'S BREACH OF ITS OBLIGATIONS UNDER SECTION 7 ("SECURITY AND PRIVACY") AND SECTION 9 ("CONFIDENTIALITY") ABOVE SHALL NOT EXCEED TWO (2) TIMES THE AMOUNT OF FEES ACTUALLY PAID BY THE CUSTOMER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY ("ENHANCED CAP").


 *In these limited situations, we'll cover all your damages if we really mess things up while providing the Services.*

12.3 Excluded Claims. SECTIONS 12.1 AND 12.2 SHALL NOT APPLY TO CLAIMS RELATED TO: (A) A PARTY'S INDEMNIFICATION OBLIGATIONS, (B) FRAUD OR WILFUL MISCONDUCT, (C) DEATH OR PERSONAL INJURY, OR (D) CUSTOMER'S OBLIGATION TO PAY ANY UNDISPUTED FEES OR INVOICES.

13 TERM AND TERMINATION.

 *Either of us may terminate this GSA for any reason 30 days after one of us tells the other in writing.*


13.1 Term of Agreement. The term of this Agreement starts on the Effective Date and shall remain in effect until either party terminates upon 30 days' written notice to the other party.

 *If either of us commits a serious violation of this contract and does not fix it within 30 days, the innocent party may terminate this GSA and all Order Forms.*

13.2 Termination for Cause. A party may terminate this Agreement (including all related Order Forms):


(a) upon 30 days' written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or

(b) if the other party ceases its business operations or becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, administration, liquidation, or assignment for the benefit of creditors.


 *If there are any Order Forms still in effect, then this GSA won't terminate until all Order Forms have expired or been terminated.*

13.3 Consequences of Termination of Agreement. If this Agreement terminates, any Order Forms in effect will remain in effect in accordance with their terms (including the terms of this Agreement that are incorporated by reference), but no new Order Forms may be entered into under this Agreement.


13.4 Consequences of Termination of Order Form.

 *If SurveyMonkey commits a serious violation of this contract, does not fix it within 30 days and you decide to terminate, we will give you a pro rata refund of fees paid.*

(a) If an Order Form is terminated by Customer due to SurveyMonkey's material breach, SurveyMonkey will provide Customer with a pro rata refund of any fees prepaid by Customer applicable to the period following the effective date of termination of that Order Form.

 *If you commit a serious violation of this contract, don't fix it within 30 days and we decide to terminate, you will still owe and must pay any unbilled and unpaid fees.*

(b) If an Order Form is terminated by SurveyMonkey due to Customer's material breach, Customer will remain liable to pay the full subscription fee outstanding on the effective date of termination of that Order Form. SurveyMonkey will invoice, and Customer will pay, any accrued but unbilled fees and any unpaid fees covering the remainder of the term of that Order Form had it not been terminated.


 *You can choose to end this contract for no reason at all, whenever you like. However, you will still owe and must pay any unbilled and unpaid fees.*

(c) If an Order Form is terminated for convenience by Customer, Customer will remain liable to pay the full subscription fee outstanding on the effective date of termination of that Order Form. SurveyMonkey will invoice, and Customer will pay, any unbilled fees and any unpaid fees covering the remainder of the term of that Order Form had it not been terminated.

 *Some terms live on even after this GSA ends.*

13.5 Survival. The following Sections will survive any expiration or termination of this Agreement: 5 and 9 to 15.

14 SURVEYMONKEY CONTRACTING ENTITY.


 *If you are in the USA, you are contracting with SurveyMonkey Inc. If you are located outside the USA, you are contracting with SurveyMonkey Europe.*

14.1 SurveyMonkey Contracting Entity Table. In the table below, "Customer Location" refers to where Customer is located (as determined by Customer's business address on the Order Form, if

specified) and determines which table row applies to Customer:

Customer Location	Contracting Entity	Governing Law	Venue
United States	SurveyMonkey Inc. , a Delaware corporation with Tax ID 37-1581003 located at One Curiosity Way, San Mateo, CA 94403, United States of America	California	San Francisco
Anywhere other than the United States	SurveyMonkey Europe UC , an Irish company with registered number 532327, located at. 2 Shelbourne Buildings, Second Floor, Shelbourne Rd, Dublin 4, Ireland	Ireland	Dublin


(a) Contracting Entity. References to “**SurveyMonkey**” are references to the applicable Contracting Entity specified in SurveyMonkey Contracting Entity Table. The Services are provided by that contracting entity.

 *If there is a dispute that cannot be resolved amicably, let’s meet in court in beautiful San Francisco, California, USA or amazing Dublin, Ireland.*

(b) Governing Law and Venue. This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the applicable governing law above, without giving effect to any of its conflicts of laws rules or principles. The courts located in the applicable venue above will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement or its formation, interpretation, or enforcement. Each party hereby consents and submits to the exclusive jurisdiction of such courts.


15 GENERAL.

15.1 Amendments. This Agreement may only be amended if authorized representatives of each party agree in a signed writing.

 *Neither of us can transfer these obligations to someone else without the other party's permission. However, if we get acquired or sell this business, we can transfer these terms or our obligations under these terms without your permission.*


15.2 Assignment. This Agreement may not be assigned or otherwise transferred by either party in whole or in part without the express prior written consent of the other party; provided, however, that the sale of substantially all of the assets of a party (or any of its subsidiaries) or its acquisition by or merger into another company, shall not be deemed an assignment of this Agreement by such party. This Agreement shall benefit and be binding upon the successors and assigns of the parties hereto.

15.3 Counterparts. This Agreement may be signed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will comprise a single instrument.

 *This GSA is the only set of terms that govern our relationship. Any additional terms (like those in tiny font attached to the bottom of a Purchase Order) that you provide will not be binding or valid.*

15.4 Entire Agreement. This Agreement (including any documents incorporated herein by reference to a URL or otherwise, and any Order Form), constitutes the entire agreement between Customer and SurveyMonkey and it supersedes any other prior or contemporaneous agreements or terms and conditions, written or oral, concerning its subject matter. Any terms and conditions appearing on a purchase order or similar document issued by Customer, or in Customer's


procurement, invoicing, or vendor onboarding portal do not apply to the Services, do not override or form a part of this Agreement, and are void.

 *Things happen beyond a party's control. In that case, we both have bigger issues to deal with and worry about. So, we both get a pass for not keeping our promises.*

15.5 Force Majeure. Neither SurveyMonkey nor Customer will be liable for any delay, inadequate performance or failure to perform any obligations under this Agreement (except for a failure to pay fees) to the extent caused by a condition (including, but not limited to, natural disaster, act of war or terrorism, earthquake, pandemic or health crisis, riot, governmental order, action or inaction, denial of service attack or utility or internet service provider failure, delay or disturbance) that was beyond the party's reasonable control.

 *These terms don't create any special relationship between us, like employer- employee, joint venture, or a partnership.*


15.6 Independent Contractors. The relationship between SurveyMonkey and Customer is that of independent contractors, and not legal partners, employees, joint venturers, or agents of each other.

 *Just because we don't enforce some part of this GSA against you now doesn't mean we can't at a later date.*


15.7 No Waiver. A party's failure or delay to enforce a provision under this Agreement is not a waiver of its right to do so later.

15.8 Notices.


(a) Providing Notice. All notices must be in writing and will be deemed given when: (i) personally delivered, (ii) verified by written receipt, if sent by postal mail with verification of receipt service or courier, (iii) received, if sent by postal mail without verification of receipt, or (iv) verified by automated receipt or electronic logs if sent by email.

 *If you need to notify us, use our headquarters' address for mail and send a copy to legalnotices@surveymonkey.com.*


(b) Notices to SurveyMonkey. Notices to SurveyMonkey must be sent to SurveyMonkey, One Curiosity Way, San Mateo, CA 94403, USA, marked to the attention of the Legal Department, with a copy to legalnotices@surveymonkey.com. Email is insufficient for providing non-routine legal notices (including indemnification claims, breach notices, and termination notices) (“**Non-Routine Legal Notices**”) to SurveyMonkey. Customer may grant approvals, permission, extensions, and consents by email.

 *If we need to notify you, we'll send an email to your Primary Admin or your billing contact. For important legal notice, we can notify you by mail to the address you provide for your legal representative.*

(c) Notices to Customer. Notices to Customer may be sent to the email address associated with Customer’s designated primary administrator for the relevant Service (“**Primary Admin**”). Billing- related notices (including notices of overdue payments) may be sent to the relevant billing contact designated by Customer. If Customer has provided contact details for legal notices on the cover page of this Agreement, any Non-Routine Legal Notices will be provided to such contact instead, with a copy to the email address associated with Customer’s Primary Admin.

 *When you sign this GSA, you'll need to give us some info about your company. The info you provide must be accurate and kept up to date.*

(d) Keep Contact Details Current. Customer and its End Users must keep the contact details associated with their user accounts and billing contacts current and accurate and notify SurveyMonkey in writing of any changes to such details.

 *There are lots of documents referenced in this GSA. If there is a conflict, Section 15.9 tells you the order of importance of the documents.*

15.9 Precedence. If any conflict exists among the following documents, the order of precedence will be: (1) the applicable Order Form, (2) this Agreement, and (3) the applicable SSTs. Any terms set forth under a “Special Terms” heading in any of the foregoing documents will take precedence over any other terms to the contrary in that document.

 *If any part of these terms is not enforceable, the rest of the terms will still be*

enforceable.

15.10 Severability. If any provision of this Agreement is determined to be unenforceable by a court of competent jurisdiction, that provision will be severed, and the remainder of terms will remain in full effect.

15.11 Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement. Customer's End Users are not third-party beneficiaries to Customer's rights under this Agreement.

15.12 Language. This Agreement was prepared and written in English. Any non-English translations of this Agreement which may be made available are provided for convenience only and are not valid or legally binding.

16 GOVERNMENT TERMS.


 *If you're a government entity, these additional terms apply to your use of our Services.*

16.1 U.S. Government Terms.

(a) Federal Government Agencies. If Customer is a United States Federal Government Agency, the Amendment Applicable to U.S. Government Users and Subscribers located here (https://www.surveymonkey.com/mp/legal/terms-of-use-federal-government/?ut_source=legal&ut_source2=gsa&ut_source3=inline) applies to Customer, except that references to the "Agreement" in that Amendment are to be read as references to this Agreement, and references to "Content" will refer to Customer Data.

(b) Other U.S. Governmental Entities. If Customer is a different type of governmental entity in the United States, the Amendment Applicable to Other Government Entities in the U.S. located here (https://www.surveymonkey.com/mp/legal/terms-of-use-state-government/?ut_source=legal&ut_source2=gsa&ut_source3=inline) applies to Customer, except that references to the "TOU" and "Terms" in that Amendment are to be read as references to this Agreement.

17 CALIFORNIA CONSUMER PRIVACY ACT.

 *First off, we do not sell your personal information. If you are a California resident, you get additional privacy rights. You may ask SurveyMonkey to: 1) disclose the personal information we have about you; 2) delete personal information we have about you; or 3) opt you out of any sale of personal information about you.*

17.1 CCPA. Where SurveyMonkey is processing “Personal Information” for Customer as defined under the California Consumer Privacy Act of 2018 (Cal. Civ. Code §§ 1798.100 - 1798.199) (“CCPA”) and in connection with California consumers, the parties hereby agree that SurveyMonkey is a “Service Provider” and Customer is the “Business”. As your Service Provider, SurveyMonkey will:

(a) collect, retain, use, disclose and otherwise process Personal Information solely to fulfill its obligations to Customer under this Agreement, on the Customer’s behalf, for the Customer’s operational purposes, for SurveyMonkey’s own operational purposes, for other notified purposes and for no other operational purposes;

(b) cooperate as reasonably requested by Customer (at Customer's expense) to enable Customer to comply with obligations under the CCPA to respond to verifiable consumer requests to delete or access Personal Information processed by SurveyMonkey in providing the Services;

(c) not sell Personal Information or otherwise disclose Personal Information for a commercial purpose; and

(d) hereby certify that it understands the restrictions and obligations set forth in Cal. Civ. Code § 1798.140(w)(2) and will comply with them

* * *

APPENDIX A

PURPOSES AND NATURE OF PERSONAL DATA PROCESSING, CATEGORIES OF PERSONAL DATA, DATA SUBJECTS

Purposes and Nature of Processing

SurveyMonkey may Process Personal Data as necessary to technically perform the Services, including where applicable:

- Hosting and storage;
- Backup and disaster recovery;
- Technically improve the service;
- Service change management;
- Issue resolution;
- Providing secure, encrypted Services;
- Applying new product or system versions, patches, updates, and upgrades;
- Monitoring and testing system use and performance;
- Proactively detect and remove bugs;
- IT security purposes including incident management;
- Maintenance and performance of technical support systems and IT infrastructure;
- Migration, implementation, configuration and performance testing;
- Making product recommendations;
- Providing customer support; transferring data, and
- Assisting with Data Subject requests (as necessary).

Categories of Personal Data

The Customer may submit personal data to the Services, and may request for the Customer's respondents to submit personal data to the Services, the extent of which is determined and controlled by the Customer in its sole discretion, and which may include, without limitation:

- Personal data of all types that may be submitted by the Customer's respondents to the Customer via user of the Services (such as via surveys or other feedback tools). For example: name, geographic location, age, contact details, IP address, profession, gender, financial status, personal preferences, personal shopping or consumer habits, and other preferences and other personal details that the Customer solicits or desires to collect from its respondents.
- Personal data of all types that may be included in forms and surveys hosted on the Services for the Customer (such as may be included in survey questions).
- Contact and billing details of the Customer's employees, authorized end users, and other business contacts. For example: name, title, employer, contact information, (company, email, phone, address, etc.), payment information, and other account related data.
- The Customer's respondents may submit special categories of personal data to the Customer via the Services, the extent of which is determined and controlled by the Customer. For clarity, these special categories of Personal Data may include information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life.

Data Subjects

Data subjects include:

- Natural persons who submit personal

data to SurveyMonkey via use of the Services (including via online surveys and forms hosted by SurveyMonkey on behalf of the Customer);

- Natural persons whose personal data may be submitted to the Customer by Respondents via use of the Services
- Natural persons who are employees, representatives, or other business contacts of the Customer;
- The Customer's users who are authorized by the Customer to access and use the Services.

