

FeedbackNow General Terms and Conditions of Business

Effective November 15, 2018

I. General Provisions

1. Scope of Validity

1.1 These Terms and Conditions ("Terms") shall govern the purchase of Goods and Services (as defined below) by a client ("Client") and are applicable to all orders ("Orders") for Goods and Services that reference these Terms. The Client represents that it has the legal capacity and authority to enter into these Terms. No Client terms or conditions will modify, deviate from, or contradict, these Terms unless the parties have expressly agreed in writing. As used in these Terms, "FeedbackNow" means the legal entity specified in the Order with the Client, including such entity's affiliates.

2. FeedbackNow's Goods and Services

2.1 FeedbackNow's goods and services include: i) hardware and related software products that measure customer satisfaction, such as Smiley boxes, query displays and concentrators/gateways (such products hereinafter called the "Articles of Sale"), ii) licenses to the information and data recorded by the Articles of Sale (hereinafter called "Information"), including services related thereto, and iii) customization services related to the Articles of Sale and Information (hereinafter called "Customization Services", and together with the Articles of Sale, Information licenses and related services, collectively referred to as the "Goods and Services"). The specific Goods and Services Client has purchased will be set forth in the applicable Order.

3. Binding Contract

3.1. These Terms and an executed Offer represent the full and complete terms and conditions governing the Client's purchase and sale of FeedbackNow's Goods and Services and are binding on the Client upon their execution of the Order.

3.2 This Article I (General Provisions) shall apply to all Goods and Services purchased. Article II (Terms Regarding Articles of Sale), Article III (Terms Regarding Licenses to Information) and Article IV (Terms Regarding Customization Services) will apply only to the types of Goods and Services referenced in the applicable Article.

4. Prices, Payments and Invoices

4.1 All prices and fees set forth in the Order exclude VAT, sales tax, use tax and similar taxes, and Client agrees to pay any such taxes that may be applicable.

4.2. Payment of fees must be made solely to the account specified in the Order and applicable invoice(s). There are no discounts for early or punctual payment.

4.3. Unless otherwise agreed, invoices must be settled within (30) thirty days of issue. Arrears of payment attract interest of 8% above the base rate, or the rate allowed by law, whichever is lower. Such interest does not affect the right to assert damages in law.

4.4. The Client will be sent their invoice(s) by e-mail free of charge. Clients can be sent a printed invoice on request for a fee. Invoices will be sent to the billing address given in the relevant Order.

5. Setoff

Clients may not setoff any payments owed.

6. Communications and Delays

6.1 FeedbackNow's timely performance requires punctual communications and accurate information from the Client and FeedbackNow will not be responsible for any delays or performance failures caused by such issues.

7. Intellectual Property

7.1 FeedbackNow owns the intellectual property rights in the Articles of Sale and the Information, as well as all of its methodologies, software, data, algorithms, designs, tools, charts, models, compilations, presentations, services, tradenames and trademarks, including FeedbackNow (collectively, "FeedbackNow IP"). FeedbackNow IP is protected by intellectual property laws. Client shall not commit or permit any act or omission that would impair FeedbackNow's proprietary and intellectual property rights in FeedbackNow IP. All of Client's rights to use any FeedbackNow IP are expressly stated herein; there are no implied rights, and FeedbackNow reserves all rights not expressly granted to Client. Client shall not use any FeedbackNow IP or share FeedbackNow IP with any third parties unless expressly permitted by these Terms.

8. Confidentiality

8.1. Both parties will maintain the confidentiality of any materials and information disclosed by a party (the "Disclosing Party") to the other party (the "Receiving Party") in connection with the purchase of Goods and Services that is marked confidential, restricted, or with a similar designation, or would be understood by a reasonable person in the Receiving Party's position to be confidential ("Confidential Information"). FeedbackNow IP, the contents of the Order, including pricing, and any confidential information or knowledge FeedbackNow shares during a pilot or while providing the Goods and Services shall be considered FeedbackNow's Confidential Information. Confidential Information will not be deemed to include information that: (i) is or becomes known to the public through no fault of the Receiving Party; (ii) is already known to the Receiving Party prior to its receipt hereunder or becomes known to the Receiving Party from a third party who has a lawful right to disclose the information; or (iii) is independently developed by the Receiving Party without reference to Confidential Information of the Disclosing Party.

8.2. The Receiving Party shall use at least the same degree of care in safeguarding Confidential Information as it uses for its own information of like importance, but in no event less than a reasonable standard of care. Without the prior written consent of the Disclosing Party, the Receiving Party will not disclose Confidential Information to any other person (including in any request for proposals, tenders, or similar process), except to its employees who have a need to know with respect to the Goods and Services and who are subject to confidentiality obligations with respect to such Confidential Information at least as restrictive as those contained herein. If the Disclosing Party gives consent for the Receiving Party to share Confidential Information to a third party, then the Receiving Party shall ensure such third party has signed a confidentiality agreement as restrictive as the terms herein and the Receiving Party shall be responsible for any breach of confidentiality by such third parties. The Receiving Party shall not copy or reproduce any Confidential Information unless it is strictly necessary to provide or receive the Goods and Services. Upon the request of the Disclosing Party, the Receiving Party shall promptly return or destroy all Confidential Information of the Disclosing Party (including copies thereof) in its possession or under its control. Neither party shall be liable for disclosure of Confidential Information if such disclosure is required to comply with applicable laws, governmental regulations or judicial or governmental orders, provided that the Receiving Party provides prior written notice of such disclosure to the Disclosing Party (if allowed by law), takes reasonable and lawful actions to avoid or minimize the extent of such disclosure and takes reasonable steps to assist the Disclosing Party (at the Disclosing Party's expense) in contesting any such disclosure requirement. All Confidential Information will remain the property of the Disclosing Party, except to the extent that any rights with respect to such Confidential Information are expressly granted to the Receiving Party pursuant to these Terms. Each party acknowledges that its breach of this section may cause irreparable damage and hereby agrees that the

other party shall be entitled to seek injunctive relief in the event of such a breach, as well as such further relief as may be granted by a court of competent jurisdiction.

9. Limitation of Liability

9.1 FeedbackNow shall not be liable for any damages incurred by Client arising as a result of decisions made in reliance upon FeedbackNow's Goods and Services. In no event will FeedbackNow or Client be liable for any consequential, indirect, special, or incidental damages such as damages for lost profits, business failure or loss, arising out of these Terms or an Order, whether or not such party has been advised of the possibility of such damages. FeedbackNow's entire liability arising out of these Terms shall be limited to and shall not exceed the fee paid to FeedbackNow by Client pursuant to the Order(s) giving rise to the claim.

10. Order Termination

10.1 An Order may be terminated by either party if the other party commits a material breach of these Terms which is not remediable, or, where the breach is capable of remedy, such breach is not remedied within 30 days after being required by written notice to do so.

11. Miscellaneous

11.1. FeedbackNow is entitled to use the Client's name and the commercial descriptions used by them for FeedbackNow's own advertising purposes or as a reference.

11.2. The Terms are intended to create an independent contractor relationship between the parties and it will not be construed to create any employment relationship, partnership, joint venture, or agency relationship between the parties or to authorize either party to enter into any commitment or agreement binding on the other.

11.3. For Goods and Services provided in the United States, these Terms and the relationship of the parties shall be governed by and interpreted in accordance with the laws of Massachusetts without regard to its rules governing conflicts of law and the courts of Massachusetts shall be used to resolve any disputes arising under these Terms. For Goods and Services provided outside of the United States, these Terms and the relationship of the parties shall be governed by and interpreted in accordance with the laws of England and Wales without regard to its rules governing conflicts of law and the courts of England and Wales shall be used to resolve any disputes arising under these Terms. The UN Convention on the International Sale of Goods does not apply to these Terms.

11.4. Should any provision herein become null and void or unenforceable, then the remainder of these Terms shall not be affected. The parties hereto undertake to replace any such provision with a legally permissible one that comes as close as legally possible to the original intent of the parties.

11.5. Neither party may assign these Terms or an Order, either in whole or in part, without the prior written consent of the other party, except that either party may make an assignment as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets.

11.6. Any provisions in these Terms that by their nature are intended to survive expiration or termination of the Terms shall survive such expiration or termination for any reason.

II. Terms Regarding Articles of Sale

1. Applicability

1.1. The terms in this Article II shall apply to Client's purchase of Articles of Sale.

2. Articles of Sale

2.1. Client agrees to purchase, and FeedbackNow agrees to sell, the quantity and types of Articles of Sale set forth in the Order pursuant to the payment terms therein. Client will own the Articles of Sale upon payment in full, subject to the conditions, restrictions and limitations herein.

2.2. Unless otherwise agreed to in an Order, the Client will be solely responsible for the installation of the Articles of Sale on its premises.

2.3. FeedbackNow grants the Client a non-transferable, non-exclusive, worldwide license to utilize the software incorporated in any Articles of Sale for the purposes of using the Articles of Sale as intended. This limited license to use the software is not a grant or transfer of ownership in the intellectual property of the Articles of Sale and FeedbackNow maintains ownership of all intellectual property rights associated with the Articles of Sale.

2.4. The Client may not reverse engineer, deconstruct, modify or copy the programming or the functions of any Articles of Sale.

2.5. The Client may not sell, lease, rent, loan, distribute or transfer the Articles of Sale to any third party.

2.6 Client is responsible for general care, cleaning and upkeep of the Articles of Sale.

3. Condition and Shipment Risk

3.1. Title and the risk of loss and damage to Articles of Sale passes to the Client when such goods are delivered to the Client's premises. This applies regardless of which party pays shipping costs.

3.2. If the Client requests a shipment be delayed or shipment is delayed for reasons caused by the Client, then FeedbackNow shall be entitled to store the delayed Articles of Sale and invoice Client for 2% of the net invoice amount per week of storage (or part thereof) to cover storage costs. Any such delay will not extend the due date for the payment of Fees as specified in the Order. The right to assert further claims is reserved.

3.3 FeedbackNow shall not be responsible for delays in shipping caused by inclement weather or other circumstances outside its control.

4. Unpaid Articles of Sale

4.1. FeedbackNow retains title in the Articles of Sale until Client has paid for them in full. FeedbackNow reserves the right to take back Articles of Sale that have not been paid for in full if the Client breaches these Terms.

4.2. The Client has a duty to treat the Articles of Sale with due care until they are paid for in full, including insuring such Articles of Sale at their own expense against fire, theft and water damage. Client is responsible for any damage caused to Articles of Sale. The Client must not pledge any Articles of Sale as collateral or securitization.

5. Limited Warranty

5.1. Unless a different period of time is agreed to in an Order, the Articles of Sale are guaranteed to be free of defects and perform in accordance with their specifications and the relevant documentation for a period of twelve (12) months from the date of delivery ("Warranty Period"). The Client must notify FeedbackNow within the Warranty Period to receive service on their warranty claim; Warranty claims are barred outside of the Warranty Period.

5.2. If the Client has submitted a valid warranty claim within the Warranty Period, then FeedbackNow will either repair the defective Article of Sale or supply a replacement, at FeedbackNow's sole discretion.

5.3. The warranty does not cover any claim for: i) defects that do not substantively affect the performance of the Articles of Sale, ii) minor deviations from the documentation or agreed upon specifications, iii) natural wear and tear, iv) damage due to negligent treatment or excessive strain or use, v) use with unapproved hardware, equipment, software, or media, vi) defective installation by Client, vii) theft, loss or vandalism, or viii) issues caused by external factors, such as issues with Client's premises or other unusual external factors not reasonably foreseeable. If the Client or any third party makes repairs or modifications to the Articles of Sale, then the warranty herein is null and void.

5.4. Client shall be responsible for any additional warranty servicing costs (including shipment, travel and labor) that results from the Articles of Sale.

5.5 THE FOREGOING WARRANTY IS PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES AS TO INFRINGEMENT.

6. Display of Logo

6.1 The 'FeedbackNow by Forrester' logo must be visible and unaltered on any Articles of Sale on the Client's premises that are visible to the public, as well as on the feedback question accompanying such Article of Sale.

III. Terms Regarding Licenses to Information

1. Applicability

1.1. The terms in this Article III shall apply to Client's purchase of a license to Information.

2. License to Information

2.1 Any Information generated from Client's Articles of Sale shall be owned by FeedbackNow. Client may purchase a non-exclusive, non-transferable right to access and use the Information that is generated from its Articles of Sale (a "License") for the time period set forth in the applicable Order. In connection with the License, FeedbackNow will make available to the Client software and reports summarizing the Information.

2.2 Client may use the Information for any internal business purposes. Client is also granted a limited right to publicly display the certified summary of results regarding Client's Information that are generated from the tools made available on FeedbackNow's software (a "Certificate"). Display of a Certificate may contain accompanying text that states "Customer feedback results certified by FeedbackNow by Forrester", but any other references to the Certificate, the Information, FeedbackNow or its affiliates requires the prior written consent of FeedbackNow. Except as set forth in the foregoing, Client is prohibited from sharing, distributing, displaying, selling or transferring any Information publicly or to a third party without FeedbackNow's prior written consent.

2.3 FeedbackNow shall maintain all ownership and intellectual property rights in the Information and FeedbackNow may use the Information for any purposes FeedbackNow sees fit in its sole discretion, including using, transmitting, displaying, distributing or selling the Information to third parties, provided that FeedbackNow does not reference the Client as the source of such Information. FeedbackNow's ownership rights in the Information is perpetual and irrevocable and shall not expire or terminate at the expiration or termination of an Order or these Terms.

2.4 Client has the option to voluntarily participate in the FeedbackNow Benchmark Program, which allows companies in the same industry to share and compare Information for benchmarking purposes. Further details and terms are set forth in the FeedbackNow Benchmark Data Sharing Agreement.

3. Transmission and Storage of Information

3.1 Information generated from Client's Articles of Sale is transmitted to FeedbackNow and stored on FeedbackNow's servers. Client does not have the ability to directly access the Information from its Articles of Sale and will only have access to the Information if it purchases a License from FeedbackNow.

3.2. FeedbackNow is not liable for any delays or interruptions in transmission of Information or reports due to *force majeure* or other events outside of its control, such as inclement weather, a lack of power or electrical shutdown or labor dispute. If any *force majeure* event lasts for longer than 30 days, then either party may terminate an Order for cause.

3.3 FeedbackNow will maintain the Information during the term of any License, but reserves the right to delete the Information after the expiration or termination of a License. Client is solely responsible for ensuring it has saved and backed-up any Information it has licensed.

4. Information Security

4.1 FeedbackNow will use industry standard security to protect the Information stored on its servers from unauthorized loss or destruction during the term of a License.

4.2. The Client must ensure the safe use and protection of the passwords, user names and other security measures associated with accessing the Information and ensure that no third party gains knowledge of such security protections. The Client is liable for any and all damage caused by the loss of its passwords or unauthorized access to the Information by a third party, so long as such unauthorized access is not the result of FeedbackNow's negligence.

4.3 Client agrees to abide by all applicable laws in its use of any Information.

5. Contract Duration, Renewal and Price Increases

5.1. The initial term of the License shall be as set forth in the Order. After the initial term of the Order, the License shall auto-renew on each anniversary of the installation date for an additional one year term, unless: (i) either party provides at least ninety (90) days' written notice prior to the end of any given term of its intention not to renew or (ii) Client provides notice of non-renewal within (2) two weeks of receiving a notification of a price increase in excess of 5% as set forth in Section 5.2 of this Article III.

5.2 FeedbackNow may adjust the price of the License for a renewal term without notice to Client and without Client's consent. However, if FeedbackNow requires a price adjustment in excess of 5%, FeedbackNow will advise Client at least two months in advance of implementation of the increase. If Client does not agree with such price adjustment in excess of 5%, then Client may provide a non-renewal notice as set forth in Section 5.1 of this Article III.

5.3 After expiration, Client may continue to use the Information that it has saved to its own systems prior to expiration, but will no longer have access to existing Information on FeedbackNow's system or receive any new Information or reports.

IV. Terms Regarding Customization Services

1. Applicability

- 1.1. The terms in this Article IV shall apply to Client's purchase of Customization Services.
- 1.2. The project scope and details of any Customization Services shall be set forth in a proposal or statement of work agreed to by the parties and attached to the Order.

2. Performance Standard

2.1 FeedbackNow will perform Customization Services in a workman like manner in accordance with applicable industry standards. FeedbackNow represents that it has the requisite skill, knowledge and authority to perform the Customization Services.

3. Payment

3.1 Remuneration for Customization Services is due and payable in accordance with the payment terms set forth in the Order.

4. Contract Duration and Termination

- 4.1. An Order for Customization Services shall expire when the Customization Services have been completed or as otherwise set forth in the Order.
 - 4.2. An Order for Customization Services may be terminated by either party if the other party commits a material breach of these Terms which is not remediable, or, where the breach is capable of remedy, such breach is not remedied within 30 days after being required by written notice to do so.
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