Lamano GmbH & Co. KG
Grünberger Straße 44a • 10245 Berlin
(030) 120 88 512 • info@lamapoll.de

This English version is provided for information purposes only for international customers. In the event of discrepancies or questions of interpretation, the German version shall prevail.

General Terms and Conditions for the Use of LamaPoll

Preamble

Using our online tool LamaPoll (hereinafter referred to as the “survey platform”), you can conduct online surveys.

Our survey platform enables you, in particular, to create questionnaires, send invitation and reminder emails to recipients specified by you for the purpose of participating in your surveys (hereinafter referred to as “survey participants”), and use functions to monitor, manage and evaluate your surveys.

Subject to these General Terms and Conditions, you may access our survey platform using an identifier chosen by you (hereinafter referred to as “administrative access”) in order to gain access to our survey platform and to design online surveys of any kind, conduct them vis-à-vis others and subsequently evaluate them (hereinafter collectively referred to as “conduct online surveys”). The legal relationships between you and us based on these General Terms and Conditions for the Use of LamaPoll are referred to as the “Main Agreement” in our separately concluded “Data Processing Agreement pursuant to Art. 28 GDPR”.

§ 1 Scope

(1) These General Terms and Conditions govern the relationship between you and us (Lamano GmbH & Co. KG, Grünberger Str. 44 a, 10245 Berlin; VAT ID: DE235625574), as operator of the survey platform, with regard to your use of our survey platform via administrative access for the purpose of conducting online surveys.

(2) These General Terms and Conditions shall also apply, in particular, if you set up additional access to our survey platform for other persons, each of which is personal and remains directly linked to your administrative access, thereby granting such persons access to our survey platform and your data (hereinafter referred to as “user access”) so that they may conduct online surveys for you in your name; in other words, if you make use of such persons so that, at your request, they act for you and within your sphere of responsibility, including vis-à-vis us (hereinafter referred to as “authorized persons”).

(3) Our General Terms and Conditions shall apply exclusively. We do not recognize any terms and conditions proposed by you that conflict with or deviate from our General Terms and Conditions unless we have expressly agreed to their applicability in text form. Our General Terms and Conditions shall also apply if, despite being aware of terms and conditions proposed by you that conflict with or deviate from our General Terms and Conditions, we provide our services to you without reservation.

(4) Amendments to these General Terms and Conditions shall be offered to you in text form no later than two months before the proposed date on which they are to take effect. Amendments may be offered by post, by fax or electronically. You may either accept or reject the amendments before the proposed effective date. Your consent shall be deemed to have been given if you have not notified us of your rejection before the proposed effective date of the amendments. We shall specifically inform you of this deemed consent in our offer. If you are offered amendments to terms governing chargeable services, you may also terminate the chargeable

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services affected by the amendment without notice and free of charge before the proposed effective date of the amendment. We shall specifically inform you of this right of termination in our offer.

§ 2 Registration of Your Administrative Access

(1) You may apply, free of charge, for administrative access to our survey platform in order to conduct online surveys by visiting https://app.lamapoll.de/register/ and entering a personal email address (which also serves as the username for your requested administrative access) and a password in the designated text fields. You must also consent to the inclusion of these General Terms and Conditions in the user agreement between you and us, apply for the conclusion of our Data Processing Agreement pursuant to Art. 28 GDPR and finally click the “Create account” button.

(2) You have no entitlement to the establishment of the administrative access requested by you to our survey platform.

(3) Only persons with full legal capacity are eligible for administrative access.

(4) Administrative access is personal and may not be transferred to third parties.

§ 3 Restrictions on Administrative Access in the Event of Free Use

(1) Our free administrative access already enables you to conduct online surveys using a range of functions defined in more detail in our service description. Certain additional functions, which are likewise described in our service description, are provided by us for a separate fee.

(2) In order to prevent misuse of our survey platform and to ensure, as far as possible, that we have sufficient knowledge of your identity as our contractual partner, we expressly reserve the right, including where you use only our free services, to collect and verify your full name and a valid address for service in addition to the information provided by you pursuant to § 2 (1), if you wish us to enable your planned online surveys to be made technically accessible to survey participants via our survey platform and before we technically enable this functionality.

§ 4 Conclusion of Contract, Term, Minimum Term, Termination and Automatic Extension of the Contract

(1) The presentation of our offers and services does not constitute a legally binding offer on our part.

(2) Your registration for administrative access pursuant to § 2 (1), on the one hand, and any additional orders subsequently placed by you via your administrative access or, on your behalf, by persons authorized by you via their user access on our website by clicking the “Place order with obligation to pay” button, on the other hand, each constitute a separate, legally binding offer by you pursuant to § 145 of the German Civil Code (BGB). Your registration for administrative access pursuant to § 2 (1), as well as any subsequent orders placed by you via your administrative access or on your behalf via user access, are collectively referred to herein as “your application”.

(3) You and/or any persons authorized by you may correct all information and entries relating to your application at any time before submitting it as a binding order by using the correction tools provided and explained in more detail during the relevant ordering process, such as the “Change order details” button.

(4) By finally clicking the “Create account” button during registration pursuant to § 2 (1), you submit a binding offer

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(a) to conclude a user agreement with us for the establishment of administrative access for you, including the services specified and described directly above the “Create account” button, in accordance with these General Terms and Conditions; and

(b) to conclude our Data Processing Agreement pursuant to Art. 28 GDPR, which, like these General Terms and Conditions, is made available to you above the “Create account” button on the website referred to in § 2 (1) and is also attached to the automatic acknowledgement of receipt sent to you by email pursuant to § 4 (7).

(5) If, in connection with an order extending beyond the registration pursuant to § 2 (1), you click a “Place order with obligation to pay” button on one of the web pages of our survey platform, you submit a binding order to us for the services specified and described directly above that button and subject to the terms stated there.

(6) If a person authorized by you clicks a “Place order with obligation to pay” button on one of the web pages of our survey platform via their user access, that authorized person submits a binding order on your behalf for the services specified and described directly above that button and subject to the terms stated there.

(7) If we receive such an application from you, we shall immediately send you an automatic acknowledgement of receipt of your application by email, in which all contractual details are listed again. This automatic acknowledgement of receipt merely documents that we have received your application and does not yet constitute acceptance in the legal sense.

(8) If we wish to accept an application from you, we shall immediately send you an order confirmation by email. If, in an individual case, we reject your application, we shall likewise inform you without delay.

(9) The user agreement governing your right to use the administrative access to our survey platform shall initially run for an indefinite period and may be ordinarily terminated by either you or us at any time with 24 hours’ notice, provided that, at the time such ordinary termination takes effect, there are no other active contracts between you and us concerning additional chargeable services; see § 4 (10).

(10) If you have ordered chargeable additional services, ordinary termination of your free administrative access is possible no earlier than upon expiry of the term of all chargeable additional services.

(11) Information regarding the minimum terms of our chargeable additional services can be found directly in our online product and pricing information, during each ordering process immediately before you are given the opportunity to submit your order, and following your order in the automatic acknowledgement of receipt sent to you by email. During the term of each chargeable additional service, that service may be ordinarily terminated no earlier than at the end of the applicable minimum term.

(12) The right to terminate without notice for good cause shall remain unaffected by the foregoing provisions.

(13) Good cause shall include, in particular, but not exclusively:

(a) a breach of obligations and/or disregard of prohibitions set out in § 9;

(b) where chargeable additional services are used: default in payment of an amount due for more than two months.

(14) Notices of termination must generally be made in text form. Notwithstanding the foregoing, where a termination button is displayed and offered in your administrative access or in the user access of persons authorized by you to our online platform, you may also indicate to us by simply clicking that button that you wish to ordinarily terminate individual additional services or your entire contract concerning the use of our

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administrative access. If such a button is clicked, we shall be notified automatically, review your request for termination and inform you by email of the date on which the termination communicated in this manner takes effect.

(15) Contracts for chargeable additional services with a minimum term of one year may be terminated by you or us with 24 hours' notice, effective no earlier than at the end of the minimum term. If no notice of termination is given, the contractual term shall be extended by a further year unless the contract is terminated no later than 24 hours before its expiry.

(16) Contracts for chargeable additional services with a minimum term of one month may be terminated by you or us with 24 hours' notice, effective no earlier than at the end of the minimum term. If no notice of termination is given, the contractual term shall be extended by a further month unless the contract is terminated no later than 24 hours before its expiry.

§ 5 User Access for Persons Authorized by You

(1) Under certain plans, you may use your administrative access to our survey platform to set up additional user access for persons authorized by you (for example, employees authorized by you for this purpose), in order to personally permit and enable such persons, using the user access set up by you, to conduct online surveys with effect for and against you, directly and exclusively within your sphere of responsibility, including vis-à-vis us, and exclusively in your name. Such user access may only be established and made available to natural persons.

(2) If you set up such user access, which is always personal and non-transferable, for an individual person authorized by you, an automated email shall be sent immediately after the user access has been established to the email address previously stored by you for that authorized person. This email contains a link which the person authorized by you may open in order to initially enter and save an access password. This password shall subsequently be required for the future authentication of the person authorized by you on our survey platform via the user access set up by you, thereby enabling that person to conduct online surveys in your name and on your behalf via that user access.

(3) You alone and at your own responsibility determine for whom you establish and grant such user access and from whom you subsequently withdraw it.

(4) You alone are responsible for revoking user access established by you when the authorization of a previously authorized person ends. You may do so at any time via your administrative access to our survey platform by blocking or deleting the user access of the person previously authorized by you or, alternatively, for example, by sending us an individual notification to this effect in text form.

(5) For technical reasons, revocation of an authorization via your administrative access to our survey platform can naturally be processed more quickly, as it is fully automated, than if you send us a message in text form, for example in the evening or at a weekend, which can only be processed by us on the following working day. It is therefore in your own particular interest to revoke the authorization of persons authorized by you via your administrative access to our survey platform whenever possible and necessary, and to send us an individual notification in text form instead only if our survey platform is unexpectedly unavailable to you online.

(6) User access is likewise personal and may not be transferred to third parties.

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§ 6 Payments

Any chargeable services booked by you shall be invoiced by us. We shall send you an invoice requesting payment by bank transfer.

§ 7 Electronic Invoicing

We are entitled to send you invoices for chargeable services as electronic invoices by email pursuant to § 14 (1), sentences 8 and 7 of the German Value Added Tax Act (UStG).

§ 8 Availability of the Survey Platform

(1) According to the current state of technology, data communication via the Internet cannot always be guaranteed to be completely error-free and/or available at all times. We therefore do not guarantee completely uninterrupted and/or continuous availability of our survey platform and generally provide our services with an overall availability of at least 98%.

(2) Changes to our survey platform, as well as measures intended to identify and remedy malfunctions, shall only result in a temporary interruption or impairment of availability where this is absolutely necessary for technical reasons.

(3) The basic functions of our survey platform are monitored daily. In the event of serious errors, meaning that use is impossible or significantly restricted, maintenance shall be carried out immediately after we become aware of the issue. We shall inform you of maintenance work without delay and carry it out as quickly as possible under the prevailing technical conditions.

(4) If an error cannot be remedied within 24 hours, we shall notify you as soon as this becomes foreseeable, stating the reasons and the period of time expected to be required to remedy the error.

(5) We naturally do not owe the establishment or maintenance of data connections that lie outside our sphere of influence; that is, the data connection between your access environments / IT systems or those of persons authorized by you and of your survey participants, on the one hand, and our servers, which are properly and operationally connected to the Internet, on the other hand.

§ 9 Prohibitions and Obligations Incumbent on You; Your Overall Responsibility

(1) When registering your administrative access pursuant to § 2 (1), you are obliged to use exclusively a personal email address belonging to the natural person who actually carries out the registration and, where applicable, does so on behalf of a legal entity, another natural person, a group of natural persons, in particular a partnership, or a special fund under public law.

(2) In particular, you are prohibited from registering administrative access pursuant to § 2 (1) using an email address that does not meet the requirements of § 9 (1). This serves to prevent harassment of third parties and misuse of our survey platform and to ensure that your administrative access is and remains strictly personal. In particular, other natural persons must not be given the opportunity to obtain access to your administrative access by using the “Reset password” function, as could be the case if, instead of a personal email address, a company email account accessible by several natural persons in the course of ordinary use were used to register administrative access pursuant to § 2 (1).

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(3) You are therefore also obliged to keep the password for your administrative access confidential, not to disclose it or make it accessible to other persons and to carefully protect your administrative access against access by third parties.

If you wish to grant access to other persons who are to be permitted to use our survey platform in your name and with your authorization, you must establish separate personal user access for each such authorized person.

Please note: The option of establishing user access for persons authorized by you is not available under all plans for the use of our survey platform. If you wish to authorize other persons to use the platform in your name, you must always select a plan that functionally permits this. Under no circumstances may you provide other persons with the access credentials for your administrative access for their use.

(4) If you establish user access to our survey platform for authorized persons (§ 5), you are obliged to use exclusively a personal email address for each authorized person that is individually assigned to that person. In the case of user access, the personal email address of the person authorized by you shall likewise serve as that person's username for accessing our survey platform via the user access granted by you.

(5) You are prohibited from using an email address that does not meet the requirements of § 9 (4) to register user access pursuant to § 5. This serves to prevent harassment of third parties and misuse of our survey platform and to ensure that each individual user access is and remains strictly personal. In particular, unauthorized persons must not be given the opportunity to use the "Reset password" function to gain access to our survey platform in your name and with effect for and against you, as could be the case if, instead of a personal email address, a company email account accessible by several natural persons in the course of ordinary use were used to register user access pursuant to § 5.

(6) You are obliged to ensure, by taking appropriate measures, that all passwords relating to the individual user access of persons authorized by you are kept confidential, are in particular not disclosed or made accessible to others, and are carefully protected against access by other persons.

(7) You are obliged to ensure that any email address used by you for registration of your administrative access (§ 2) or for registration of user access (§ 5) is lawful in terms of its wording and does not infringe any third-party rights.

(8) You are obliged to inform us immediately if there are indications that unauthorized access has been gained to your administrative access or to any user access belonging to you.

If there are indications of unauthorized access to user access belonging to you, you are additionally obliged to immediately block the affected user access yourself via your administrative access until the matter has been fully clarified with us, which you must arrange by sending us messages in text form or by contacting us by telephone.

(9) You are obliged to ensure that any subdomain available for selection under certain plans for the technical delivery of your online surveys is lawful in terms of its wording and does not infringe any third-party rights.

(10) You are obliged to update all data concerning your identity stored by you in your administrative access, for example names and addresses, immediately and without separate request whenever changes occur.

(11) You are prohibited from registering administrative access pursuant to § 2 (1), as a natural person acting on behalf of one or more legal entities, another natural person, a group of natural persons, in particular a partnership, or a special fund under public law, unless you are authorized or otherwise legally entitled to do so.

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(12) You are prohibited from establishing user access via administrative access, as a natural person acting on behalf of one or more legal entities, another natural person, a group of natural persons, in particular a partnership, or a special fund under public law, unless you, as a natural person, are authorized or otherwise legally entitled to do so. In any event, you may only establish user access for natural persons, as for security reasons user access can only be provided by us as personal access.

(13) You are obliged to verify and ensure that the manner in which you conduct individual online surveys via our survey platform, as selected and individually specified by you, is lawful and does not infringe any third-party rights.

(14) In particular, you are obliged to ensure that

(a) the questions compiled by you for the online survey desired by you;

(b) any answer options compiled and specified by you; and

(c) all texts individually specified by you to accompany the survey desired by you

are lawful and do not infringe any third-party rights.

(15) You are obliged to ensure that you hold all rights required, in terms of content, territorial scope and duration, to all content uploaded to our survey platform in connection with the creation of surveys and subsequent maintenance of surveys, including texts, graphics, photographs and videos, in order to store such content on our survey platform and subsequently use it as part of the online survey selected and controlled by you, including, in particular, the right to distribute the content and make it accessible via the Internet. You are further obliged to ensure that such content does not infringe any third-party rights.

(16) You are responsible for your use of and activities carried out via our survey platform when conducting online surveys using our survey platform, in particular where you involve and make use of persons authorized by you for this purpose.

Because you are independently responsible for your actions, you must not only design your survey content in a legally compliant manner but must also provide and keep up to date in your administrative access, in connection with your own data accessible there, all legally required information, legal notices, legal instructions, legal identifications, legal declarations, consumer protection information and mandatory legal information required in this context. This must be done so that such information can always be delivered automatically together with your online surveys to your survey participants, who are defined and selected exclusively by you, thereby ensuring that you are able to comply with all identification and information obligations incumbent upon you when using our survey platform to conduct online surveys and, in particular, when contacting third parties using our technical infrastructure.

This includes, for example, any provider identification you may be required to provide, your legal notice, a privacy notice for your survey participants and, for example, a legally compliant email signature if you wish to send emails in your name via and using our survey platform, for example in order to invite recipients to participate in your survey.

You are therefore also prohibited from using our survey platform to make online surveys accessible to third parties without first providing in your administrative access all legal texts required from you for this purpose, so that our survey platform can always automatically deliver those texts together with your online surveys on your behalf.

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(17) You alone are exclusively responsible for deciding to whom you make your online surveys accessible using our purely technical infrastructure and in what manner this is done. If, for this purpose, you use our survey platform technically to send emails to email recipients defined by you, you must verify and ensure, both before entering all recipient data and again before initiating the sending of each email, that the intended sending of the email is lawful both with regard to the recipient and with regard to the content of each email specified by you and does not infringe any third-party rights.

(18) In particular, you are also obliged to verify and ensure the lawfulness under data protection law of conducting online surveys via our survey platform, as we process your data and all data of your survey participants exclusively on your behalf and solely in accordance with your instructions, while you alone determine the purposes and means of the data processing.

(19) In the event of violations of the foregoing provisions, we expressly reserve the right to block your access, your content and your online surveys. Contractual and statutory rights of termination shall remain unaffected.

§ 10 Indemnification

(1) You shall indemnify us against all claims asserted against us by third parties due to an infringement of their rights resulting from your use of our survey platform.

(2) In this context, you shall bear the costs of our necessary legal defense, including all court costs and statutory attorneys' fees. This shall not apply if you are not responsible for the infringement.

(3) If claims are asserted against us by a third party, you are obliged to immediately and truthfully provide us with all information and evidence required to examine the claims and prepare a defense. Any further claims for damages shall remain unaffected.

§ 11 Right of Withdrawal for Consumers

If you are a consumer, you have a right of withdrawal. A consumer is any natural person who enters into a legal transaction for purposes that can predominantly be attributed neither to his or her commercial nor to his or her self-employed professional activity.

For the requirements and legal consequences of the right of withdrawal, please refer to the separate withdrawal policy available on our website at www.lamapoll.de.

§ 12 Limitation of Liability

We shall be liable for intent and gross negligence. Furthermore, we shall be liable for the negligent breach of obligations whose performance is essential for the proper execution of the contract in the first place, whose breach jeopardizes achievement of the purpose of the contract and on compliance with which you, as the customer, may regularly rely. In the latter case, however, our liability shall be limited to foreseeable damage typical of this type of contract. We shall not be liable for slightly negligent breaches of obligations other than those referred to in the preceding sentences.

The foregoing exclusions of liability shall not apply in the event of injury to life, body or health. Liability under the German Product Liability Act shall remain unaffected.

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§ 13 Final Provisions

(1) Amendments or additions to these General Terms and Conditions must be made in text form. This shall also apply to any waiver of this text-form requirement. The precedence of individual contractual agreements shall remain unaffected.

(2) The law of the Federal Republic of Germany shall apply, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Mandatory provisions of the state in which you have your habitual residence shall remain unaffected.

(3) If, when entering into contracts with us, you had your domicile, registered office or habitual residence in Germany and, at the time legal action is brought, you have either relocated abroad or your whereabouts are unknown, the place of jurisdiction for all disputes shall be the court in Berlin having jurisdiction for our registered office.

(4) For contracts between us and merchants, legal entities under public law or special funds under public law, the exclusive place of jurisdiction shall be the court in Berlin having jurisdiction for our registered office.

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