

Terms and Conditions.

1. Definitions

1.1 For these terms and conditions (hereafter called the “Conditions”):

a) BrainCompass means BrainCompass B.V., with its registered office in Rotterdam;

b) Client means any natural person or legal person who buys Services of BrainCompass, or with whom BrainCompass enters into an Agreement, or with whom BrainCompass is negotiating to enter an Agreement;

c) Services means all services that are the subject of an Agreement;

d) Agreement means any agreement entered between BrainCompass and the Client, any modifications or additions to it, as well as any (legal) actions to implement this agreement and, in retrospect, any (legal) actions required to enter into this agreement;

e) Order means any order from the Client placed with BrainCompass, in any form whatsoever;

f) Materials means the material, of any kind, like teaching materials, documentation, analyses, systems, reports, designs, manuals, methods, software and other data made available by BrainCompass to the Client;

g) DNA kit means the collector designed to easily and safely collect human samples of saliva;

2. Applicability

These Conditions are a part of all Agreements and apply to all other actions and legal actions of BrainCompass and the Client. The applicability of the terms and conditions used by the Client will be explicitly rejected by BrainCompass.

3. Offers, coming into effect, modifications and additions to Agreements

3.1 An offer or quotation does not bind BrainCompass and only serves as an invitation to enter into an Agreement.

3.2 An Agreement will only come into effect if and to the extent BrainCompass accepts an Order of the Client in writing, or if the Client signs a quotation of BrainCompass for approval, or if BrainCompass is realizing an Order.

3.3 Modifications and additions to any provision in an Agreement, Order or Conditions can only be agreed to in writing.

3.4 When a modification or addition as referred to in Art. 3.3 is agreed on, this modification or addition only applies to the relevant Agreement.

3.5 These Conditions can be modified by a single notification of BrainCompass to the Client. If no complaint is made within 30 days after the notification, the modified Conditions will apply to all new Agreements and any outstanding Agreements from the notification date.

4. Prices and payment

4.1 All prices of BrainCompass are given in Euros and are excluding VAT. Any changes to the factors that influence the price of BrainCompass, including purchase prices, levies or taxes will be charged to the Client by BrainCompass. The prices quoted by BrainCompass do not include any travel and accommodation costs and costs for producing large numbers of documents, location and catering.

4.2 If no specific price agreements have been made for an Order, the applicable standard rates of BrainCompass at that time will apply.

4.3 The Client will pay BrainCompass all the amounts charged by BrainCompass without any discounts, settlement or suspensions within thirty days after the invoice date. BrainCompass may require advance payments from the Client at any time.

4.4 The Client is by the mere expiry of a payment term in default. In that case all payables of BrainCompass against the Client under the concerning Agreement are immediately due and at that moment the Client is indebted to pay the statutory interest to BrainCompass. In case of bankruptcy, suspension of payment or termination by the Client, all payables of BrainCompass will be immediately due.

4.5 If the Client also did not pay the due amount and statutory interest after the expiry of a further payment term established by BrainCompass, the Client has to pay all extrajudicial costs to BrainCompass. In that case, the extrajudicial costs to be reimbursed amount to at least 15 % of the sum of overdue invoice amounts, with a minimum of EUR 250 (in words: two hundred and fifty Euros).

5. Implementing Agreements

5.1 Delivery times will be respected by BrainCompass as much as possible. However, a delivery time mentioned by BrainCompass or the Client will never imply a deadline. Whenever a delivery time is exceeded by BrainCompass, the Client will not be entitled to any compensation.

5.2 BrainCompass implements agreements to the best of its knowledge and abilities. However, its commitments are obligations to perform. BrainCompass will not guarantee that its activities will lead to a certain result.

6. Force majeure

6.1 When force majeure prevents BrainCompass from fulfilling its obligations to the Client, all

these obligations will be suspended for the duration of the force majeure.

6.2 If the situation of force majeure has lasted three months, both parties are entitled to terminate the Agreement, in whole or in part, in writing. In case of force majeure, the Client is not entitled to compensation.

6.3 Force majeure of BrainCompass means any circumstance other than the intention of BrainCompass, causing the prevention of its fulfillment of obligations towards the Client in whole or in part or that the fulfillment of its obligations cannot be expected from BrainCompass, regardless if that circumstance could have been foreseen at the moment of signing the Agreement. The inability between the parties to pay will never be considered force majeure.

6.4 Both parties will inform each other of a (potential) force majeure as soon as possible.

7. Liability

7.1 The liability of BrainCompass is always limited to the amount paid in that case under the professional liability insurance of BrainCompass, increased by the excess paid according to the policy conditions of this insurance by BrainCompass. The abovementioned insurance has limitations in insurance coverage, including with regard to the amount of the damages and regarding the number of claims a year. At request, a Client can be granted access to these policy conditions.

7.2 If there is no payment under the insurance referred to in Article 7.1, for whatever reason, the liability of BrainCompass is limited to a maximum of the invoice amount charged to the Client regarding the Order and timely paid within the twelve months prior to the moment at which the event took place leading to liability, with a maximum liability of EUR 25.000 (in words: twenty-five thousand Euros).



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8. Termination

8.1 If the Client does not properly or timely fulfill any obligations arising from the Agreement, or if BrainCompass did not receive the DNA back within 3 months after the Client or End User has received the DNA kit, the Client is in default and BrainCompass will be entitled, without any notice, to suspend the implementation of the Agreement and/or terminate the Agreement with the Client in whole or in part, without prejudice to the other rights of BrainCompass and without BrainCompass being liable for any compensations.

8.2 In case of bankruptcy, (temporary) suspension of payment, cessation or liquidation of the company of the Client, all Agreements with the Client will be legally terminated, unless BrainCompass notifies the Client within a reasonable time to comply with a part of the relevant Agreement, in which case BrainCompass will be entitled, without any notice, to suspend the relevant Agreement(s) until the payment is sufficiently secured, without prejudice to the other rights of BrainCompass and without BrainCompass being liable for any compensations.

9. Intellectual property rights and privacy

9.1 All rights, in its broadest sense, including copyrights and trademarks on the material, of any nature, like teaching materials, documentation, analyses, systems, reports, designs, manuals, methods, software, and other data (hereafter referred to as “Materials”) made available by BrainCompass to the Client remain with BrainCompass or the licensors of BrainCompass. The Client will not use the Materials in any other way than for the purpose for which the Materials are made available to the Client. In particular, the Client will not make the Materials available to third parties. All Materials will remain the intellectual property of BrainCompass.

9.2 The Client will observe a strict confidentiality regarding the (contents of) Materials, as well as regarding people, working within the organization of the Client, who do not necessarily have to use or read the concerning materials. For people working within the organization of the Client who necessarily need to gain knowledge of the Materials for the proper performance of their duties, the Client will also comply with the pledge of secrecy.

10. Applicable law, competent court

10.1 All Agreements and Orders and the entire legal relationship between BrainCompass and the Client are governed by the Dutch law.

10.2 Any disputes arising from the Agreements, Orders or any of these Conditions, will be exclusively brought before the competent court in Rotterdam.