

General Terms and Conditions for Consultancy Services

Mindbreeze GmbH

Austrian law

Valid from 1st of January 2024



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For the sake of convenience this document does not make use of gender-specific terms. Any terms shall refer to both women and men for the purposes of equal treatment.

1 Preamble

This Agreement relates to Mindbreeze products. Mindbreeze products are standard products that are distributed by Mindbreeze GmbH under the umbrella brand "Mindbreeze" (with or with no addition).

Thus, Mindbreeze has gained special knowledge and experience in potential applications, functions, qualities and characteristics with respect to these Mindbreeze products. Customer wants to obtain information on potential applications, operating modes, qualities and characteristics of these Mindbreeze products.

2 Services

Mindbreeze undertakes to provide information on potential applications, operation modes, qualities and characteristics of the products distributed by Mindbreeze through provision of staff in numbers to be agreed upon in each individual case at the employment location and period/date to be agreed upon in each individual case.

In case consultancy services are rendered at the (registered) office of customer, customer shall provide at its own costs and ready for operation the hardware and software environment determined by Mindbreeze in each individual case with the capacity and characteristics specified in each individual case.

In connection with such input of consultancy services Mindbreeze shall be obliged to convey such knowledge and competence which is available at Mindbreeze's on the basis of the Mindbreeze product distributed by the company. Mindbreeze shall, however, not be liable for a concrete success or result, i.e. for the fact that the knowledge conveyed by it may be and/or will be implemented by the recipient of the services.

The contents of the license agreements under which Mindbreeze distributes the Mindbreeze products shall not be affected by entering into this consulting agreement, i.e. by entering into this consulting agreement no further warranties and/or liabilities, respectively - with respect to the Mindbreeze product - will be assumed in addition to those already stipulated in the license agreement.

The performance period shall be determined in each individual case.

3 Consideration

The consideration to be paid by the customer for the consulting services is set out in the underlying offer from Mindbreeze. The statutory rate of VAT will be added to the amounts stated in the price list.

This consideration shall be paid to Mindbreeze via bank transfer - all charges paid, no cash discount - within 30 days of the date of the invoice.

4 Confidentiality

Mindbreeze shall mark as "confidential" all materials made available to customer in the course of rendering the consultancy services and subject to special maintenance of secrecy.

With respect to those materials marked as confidential and the information contained therein customer warrants that

- the information obtained will not be passed on to persons beyond the group of participants in the consultation event with the participants in the said consultation event being obliged to warrant themselves that they will maintain secrecy, as well.
- no copies or reproductions of the information obtained will be made without written consent by Mindbreeze
- the materials will be returned immediately upon request by Mindbreeze
- the information contained in the materials and the knowledge gained therefrom will in no case be exploited.

5 Staff matters

Customer shall refrain from addressing employees or staff members of Mindbreeze regarding circumstances in connection with employment or cooperation with customer (with the intention of enticing him/her away) without express written consent by the management board of Mindbreeze.

6 Right to use the software

Customer shall be entitled to utilise the products distributed by Mindbreeze only on the condition that s/he is authorised to utilise the programmes pursuant to the contents of the license agreement.

If in the course of the performance of consultancy services works are created which are protected by copyright Mindbreeze hereby grants Customer the non-exclusive right to use the works for an unrestricted period of time, which shall not be transferable to other legal personalities. Accordingly, Customer shall be authorised to utilise such works protected by copyright for his own purposes, however, on a non-exclusive basis.

Therefore, Mindbreeze shall also be entitled to integrate such works protected by copyright in the products of the producer (standard products and service products) and/or create or have created such products from or on the basis of such work. Mindbreeze shall hold all rights to such products; Customer waives existing property rights of his own (if any); the license to use the work granted by Customer shall, however, remain effective.

7 General Provisions

(1) Mindbreeze shall be liable vis-à-vis the Customer exclusively for negligently caused direct damage (personal injury and damage to property, except for damage caused by loss of data or program) up to the amount of the fee for the consultancy service that constitutes the subject-matter of the claim. The fee, which is applicable at the time the claim arises exclusive of VAT shall be relevant.

Any additional claims of the Customer vis-à-vis the Licensor and its agents [*Erfüllungsgehilfen* as defined by Section 1313a of the Austrian General Civil Code [*ABGB*] und *Verrichtungsgehilfen*], such as, e.g., claims for compensation on grounds of late delivery, impossibility of delivery, fault at the time of conclusion of the contract, claim for compensation for indirect damage, consequential damage, damage caused by disturbance of operations, lost profit, savings not earned, loss of data or program, or on grounds of wrongful acts shall be excluded unless caused by wilful intent or

deliberate gross negligence of the Licensor. The same exclusion of liability shall also apply to any damage to property caused by a defective product.

If, however, in the cases listed above mandatory law provides for liability of the Licensor, such claims for damages shall be subject to the conditions that

- (a) promised properties are missing or
- (b) the Licensor promises a performance that it was not able to provide at all from the beginning (initial inability as defined by law).

Such claims for compensation vis-à-vis the Licensor and its agents shall in any case become statute-barred 12 months after the damaging event occurred.

(2) Modifications of or amendments to this Agreement must be made in writing until a reviewed version is published on the official internet presence of the Licensor and shall not be made electronically; this shall also apply to a waiver of this clause on the requirement of written form itself.

If the amendments to these General Terms and Conditions are necessary due to changes in the legal basis, e.g. changes in the legal/regulatory situation, new supreme court rulings, etc., the respective amendment to these General Terms and Conditions shall take effect on the specified date of entry into force.

The respective new editions are available at <https://inspire.mindbreeze.com/contracts-and-information>.

(3) This Agreement - including its annexes and attachments which constitute a part of this Agreement - as well as the issue of whether it was validly concluded, and its pre-effects and after-effects, shall exclusively be subject to Austrian law; applicability of the provisions of private international law and UN Sales Law (UN Convention on Contracts for the International Sales of Goods) shall expressly be excluded.

(4) All disputes arising out of this Agreement, including its annexes and attachments which constitute a part of this Agreement, as well as the issue of whether it was validly concluded, and its pre-effects and after-effects, shall exclusively be decided by the court having jurisdiction over the subject-matter and over the place of the Licensor's registered office or, at the Licensor's option, also by the court having jurisdiction over the subject-matter and over the circuit where the Customer has its registered office, an establishment or its assets. The place of performance shall be A-4020 Linz, Austria.

(5) If the Customer uses the website of Mindbreeze GmbH, the Customer fully accepts the terms and conditions of use of the website and the services of Mindbreeze GmbH, including but not limited to participation in discussion forums.

(6) If one or more contractual provision(s) is/are or become(s) ineffective or unenforceable in whole or in part, the effectiveness and enforceability of the remaining provisions of this Agreement shall not be affected thereby. The ineffective or unenforceable provision shall be deemed replaced by a provision which comes as close as possible to the economic and technical purpose of the ineffective or unenforceable provision. In the event of a gap in the Agreement the foregoing provision shall apply accordingly. In that case a reasonable regulation shall apply which the parties would have intended if they had thought of that issue at the time of conclusion of this Agreement. This paragraph shall not apply to consumers.