

These General Terms and Conditions for access and use of Brainloop's Secure Dataroom Service together with the related order form (the "Order Form") (the "Agreement") are between Brainloop Limited ("Brainloop") and the company identified in the Order Form ("Customer"). This Agreement is effective on the date on which, following Brainloop's acceptance and processing of the Order Form, Brainloop sends an e-mail to Customer's Dataroom Center Administrator (as identified in the Order Form) inviting Customer to access the Brainloop service identified in section 1 (the "Service") (the "Effective Date") and covers the Service. The Service is owned and operated by Brainloop and provided on a subscription basis to Customer.

1. Definition of the Service.

The Service is defined as Brainloop's Secure Dataroom Service, as described in Brainloop's website and current documentation for the Service, as such website and documentation may be modified by Brainloop from time to time.

2. Registration.

To use the Service, Customer must complete Brainloop's contact registration forms that are presented on the Brainloop's web site ("Site") at the time of setup or on addition of Named Users license. This information shall be referred to as registration data ("Registration Data"). If any of Customer's Registration Data is or becomes inaccurate, incomplete or not current, Customer shall correct the information within 30 days. On failure of Customer to do so, Brainloop may suspend or terminate Customer's right to access and receive the Service.

3. Conduct.

Customer is solely responsible for the content of transmissions through the Service and storage of the information or materials through the Service. Brainloop does, however, reserve the right to take any action with respect to the Service and/or the Site that Brainloop deems necessary. Customer's use of the Service is subject to all applicable laws and regulations (including without limitation those governing account collection, export control, consumer protection, data protection and privacy, unfair competition, anti-discrimination or false advertising). Customer agrees: (i) to comply with all applicable laws, rules and other regulations applicable in connection with the Service; (ii) not to post, distribute, or otherwise make available or transmit any content or other computer files that contain a virus or other harmful component; through the Service (iii) not to use the Service for illegal purposes; (iv) not to delete from the Site any legal notices, disclaimers, or proprietary notices such as copyright or trademark symbols, or modify any logos that Customer does not own or have express permission to modify; (v) not to interfere or disrupt networks connected to the Service; (vi) not to use the Service to infringe any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; and (vii) not to transmit through the Service, or use in conjunction with the Service, any unlawful, harassing, libellous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature. Customer will not attempt to gain unauthorized access to other computer systems or any third party's account provide through the Service, or otherwise interfere with another user's access, use and enjoyment of the Service.

4. Modifications.

Brainloop reserves the right in its sole discretion to change, add, discontinue or delete (hereafter, "Modify" and "Modifies" and its grammatical variants shall be construed accordingly), portions of this Agreement or the Service or both at any time. Subject to giving reasonable prior notice, Brainloop may Modify the Agreement at any time by (i) posting a revised document on or accessible through the Site and/or (ii) sending information regarding the amendment to the email address Customer provides to Brainloop.

If Customer objects to any such Modifications, it shall notify Brainloop during that notice period and at the end of that period the Agreement shall be deemed terminated unless Brainloop agrees to waive such modifications to which Customer objects. Otherwise, the Agreement may not be amended except in writing signed by both parties. Brainloop reserves the right to Modify the Service with or without notice to Customer, but will return any unused fees in the event of any discontinuation of the Service. Brainloop will not be liable to Customer or any third party should Brainloop exercise its right to Modify the Service.

5. Passwords and Security.

As part of the registration process, Customer must provide Customer's email address and choose a password for access to Customer's account. Customer shall maintain the confidentiality of all of Customer's passwords and account information. Customer is solely responsible if Customer does not maintain the confidentiality of Customer's passwords and account information and for any and all activity that occurs under Customer's account. Customer shall immediately notify Brainloop of any unauthorized use of Customer's account or any other breach of security known to Customer, including if Customer believes that Customer's password or account information has been stolen or otherwise compromised. Access to and uses of password protected and/or secure areas of the Site is restricted to Customer, its employees and individuals who are authorized by Customer (and to the number of authorised Named Users in respect of whom Customer has contracted for Services).

6. Customer Rights as to the Service.

6.1 Pursuant to this Agreement, Customer's right to use Service is subject to certain restrictions, terms and conditions. It is understood and agreed that Brainloop is not transferring a license or title to the Service or any aspect of it to Customer and that Customer's use of the Service shall never continue beyond the time that this Agreement is in effect.

6.2 The Service is made available solely for use by Customer and its Named Users according to this Agreement. Any reproduction or redistribution of the Service not in accordance with this Agreement is expressly prohibited.

6.3 Customer acknowledges that the Service made available in connection with the Service is proprietary to Brainloop and/or Brainloop's suppliers and may be protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Therefore, Customer may only use the Service as expressly authorized by Brainloop and this Agreement. Except as required to be permitted by applicable law, Customer may not remove any proprietary notices or labels from the Service. Customer shall not (i) redistribute, sell, auction, decompile, reverse engineer, disassemble or otherwise reduce the Service to a human-readable form, (ii) make the Service available, in whole or in any part, to third parties, unless those persons register with Brainloop as Named Users, (iii) reproduce, publish, distribute or create derivative works based on the Service without expressly being authorized to do so by Brainloop, (iv) alter, modify, or otherwise attempt to derive source code from the Service or rent, lease, or (v) grant a security interest in, or otherwise transfer rights to, the Service. All rights not expressly granted in this Agreement are reserved to Brainloop.

6.4 Customer, its employees and Named Users shall comply with all acceptable use policies of Brainloop that are posted on the Site and as such policies may be amended from time to time.

7. Disclaimer of Warranties.

7.1 Although Brainloop has attempted to provide accurate information with regard to the Service, the Site and documentation relating to the Service and the Site, Brainloop assumes no responsibility for the accuracy or inaccuracy of that information. Mention of non-Brainloop products or services is for information purposes only and constitutes neither an endorsement nor a recommendation. Customer's access and use of the Service and the Site is at Customer's risk.

7.2 To the extent permitted by applicable laws and regulations, the Service, the Site and all related documentation are provided by Brainloop "as is" and Brainloop disclaims all warranties, conditions and other obligations of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose or noninfringement, or warranties arising from a course of dealing, usage, or trade practice.

8. Limitation of Liability.

8.1 Nothing in this Agreement shall limit or exclude Brainloop's liability for (i) death or personal injury resulting from its negligence, (ii) fraud, or (iii) any other liability to the extent that it may not be limited or excluded by law.

8.2 Subject to Section 8.1, Brainloop and its suppliers shall not be liable to Customer, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, for (i) any indirect, special, consequential or incidental damages, or (ii) any loss of profits or revenues, costs of replacement products or service, loss or damage to data arising out of the use or inability to use the Site, the Service or any Brainloop product or service. Subject to Section 8.1, under no circumstance shall Brainloop be liable, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, for damages resulting from reliance on the information present on the Site, even if Brainloop have been advised of the possibility of such damages.

8.3 Subject to Section 8.1, Brainloop's total liability to Customer, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, shall not exceed the higher of (i) the amount paid by Customer to Brainloop in the most recent 12 months of the term of this Agreement, and (ii) twenty-five thousand pounds (£25,000).

9. Title.

The trademarks, logos, and service marks (collectively the "Trademarks") displayed on the Site or related to the Service, are registered and unregistered trademarks of Brainloop and others. Nothing contained in this Agreement should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademark without the written permission of Brainloop or such third party that may own the Trademarks. Except as provided in this Agreement, Customer's use of the Trademarks and any other content on the Site or in connection with the Service is strictly prohibited.

10. Support, Service Level Agreement, Service Fees, Payment Terms and Taxes.

10.1 During the term of the Agreement and so long as Customer has performed its obligations under this Agreement, Brainloop will provide support services to Customer. These support services are intended to enable the Service and the Site to perform substantially in accordance with Brainloop's then current customer documentation for the Service and the Site.

10.2 Unless the Service satisfies an availability standard of 98.5% Uptime (as defined below) each calendar month and if Customer notifies Brainloop in writing within the next calendar month that such availability standard was not satisfied, Brainloop will provide the Service to Customer for a day without charge for the same number of Named User for each half of a percentage point that the Service was not so available. Thus, for example, if the Service achieved 97.5% Uptime during a calendar month and Customer so notifies Brainloop as provided for above, the next invoice forwarded by Brainloop to Customer for Service Fees (as defined below) shall be reduced to reflect no charge for two days access and use of the Service by the same number of Named Users as were in effect that month. The discounts in the Service Fees contemplated by this section 10.2 shall be the Customer's sole and exclusive remedy in connection with Brainloop's failure to meet the availability standards set out in this section 10.2. For the purpose of this section, "Uptime" shall be defined as all time during a calendar month excluding any time in which the Service was not available due to a scheduled downtime, for reasons not attributable to Brainloop, or due to any choice of Brainloop to suspend or terminate the Service due to breach by Customer.

Brainloop will attempt to provide Customer with at least three (3) days prior notice of any scheduled downtime, but reserves the option to schedule downtime on shorter notice in the event that circumstances beyond its control require it to do so.

10.3 Payment of all fees for the Services which are calculated in accordance with the Order Form ("Service Fees") are due and payable to Brainloop without demand, invoicing or notice before the commencement of the period to which those fees apply if not specified otherwise on the Order Form. All other amounts due to Brainloop from Customer shall be due and payable by Customer on the receipt of an invoice by Brainloop for those amounts. Brainloop will send all invoices to the address specified by Customer in this Agreement.

10.4 Customer agrees to be responsible for and to pay any sales, personal property, use, VAT, excise, withholding, or any other taxes that may be imposed, based on this Agreement, access or use of the Service, or any product provided under this Agreement, excluding taxes based on net income payable by Brainloop.

11. Length of Agreement and Termination.

11.1 In the event that Customer has paid in full the provisioning fee as set forth in the Order Form (the "Provisioning Fee") and subject to Brainloop having been able to verify or authenticate any information provided to it by Customer, this Agreement shall commence on the Effective Date and shall continue for the period identified in the Order Form (the "Initial Term"), unless it is terminated earlier in accordance with its terms. Thereafter, and if (i) Customer has paid the Service Fees for the Service, as well as other amounts that Customer may owe Brainloop, when they are due and payable, and (ii) the Order Form does not state that the Agreement shall not continue in effect following the Initial Term, the Agreement shall continue in effect for the remainder of the fiscal quarter that includes the last day of the Initial Term and thereafter for successive terms of three months ending on the last day of each fiscal quarter (the "Successive Term"). Notwithstanding the above, the Agreement shall not continue for a Successive Term if either party provides written notice of non-renewal to the other party provided herein at least thirty (30) days prior to the end of the Initial Term or the then current Successive Term. Subject only to any refund under section 4, Modifications, of this Agreement, all payments by Customer under this Agreement are final and nonrefundable.

11.2 Notwithstanding any of the preceding, Brainloop may immediately terminate Customer's subscription and right to access and use the Service and the Site if (i) Customer materially breaches this Agreement; (ii) Customer fails to pay any amounts when due under the Agreement and fails to rectify such failure within thirty (30) days; (or (iii) Brainloop decides, in its sole discretion, to discontinue offering the Service. Brainloop may also terminate this Agreement in accordance with Section 2. Brainloop will not be liable to Customer or any third party for termination of the Service. Upon termination of Customer's subscription, Customer shall remain liable for all fees incurred or accrued by Customer and any fees Customer may have paid in advance are nonrefundable. Upon expiration or termination for any reason, Customer is no longer authorized to use the Service or the Site. When this Agreement is terminated, Customer will no longer have access to data and other material Customer has stored on the Site and that material will may be deleted by Brainloop.

11.3 Sections 6.2, 6.3, 7 to 9 (inclusive), 11 to 16 (inclusive) and 19 shall survive any termination, expiration or rescission of this Agreement regardless of the reason.

12. Data Protection

12.1 In this Section 12, the expression "Data Protection Legislation" means the UK Data Protection Act 1998 and other applicable laws and regulations relating to data protection or privacy (as amended or replaced from time to time) and "Personal Data" and "process" (and its grammatical variants) shall have the meanings given to them in the Data Protection Legislation.

12.2 Neither party shall do, nor cause or permit to be done, anything which may result in a breach of the Data Protection Legislation by the other.

12.3 Brainloop shall, to the extent it processes any Personal Data on behalf of Customer (i) only process the relevant Personal Data in accordance with the written instructions of Customer and to the extent, and in such a manner, as is reasonably necessary to provide the Services in accordance with this Agreement or as is required by any applicable laws and regulations, and (ii) implement appropriate technical and organisational security measures to guard against unauthorised processing of the relevant Personal Data or accidental loss or destruction of the relevant Personal Data.

13. Export Law Assurances.

The Service is subject to United States and European Union export controls. The Service may not be made available in connection with or exported into (or to a national or resident of) (i) Cuba, Iraq, Libya, North Korea, Iran, Syria, or any other country to which the United States or the European Union has embargoed goods or services; or (ii) anyone on the United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.. By subscribing to the Service or using the Service, Customer represents and warrants that Customer is not located in, under the control of, or a national or resident of any such country or on any such list.

14. High Risk Activities.

The Service is neither fault-tolerant nor designed, manufactured or intended for use or resale as an on-line control in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines or weapon systems in which the failure of the Service or the Site could lead directly to death, personal injury or severe physical or environmental damage ("High Risk Activities"). Accordingly, Brainloop and its suppliers specifically disclaim any express or implied representations, commitments or warranties related to High Risk Activities.

15. Nondisclosure of Confidential Information.

Unless expressly authorized by law, Customer and Customer's employees, officers, directors or representatives shall not disclose to any third party any confidential information or materials of Brainloop, including without limitation material and pages on the Site, the Service, any other software, materials or documentation, this Agreement, and discussion and written communications between the parties, which materials and information are either marked or identified as confidential or proprietary, or which by their nature are proprietary and/or confidential (referred to in this Agreement as "Confidential Information"). This restriction does not apply to any information that is in the public domain, or in Customer's possession prior to disclosure by Brainloop, in each case other than by a breach of a duty of confidentiality, or to Customer permitting third parties who register on the Site with Brainloop as Named Users to use the Service.

16. Advertising and References.

Brainloop may publish or use Customer's name or trademark in any advertising, publicity material related to this Agreement or the Service, or in any publication, press release, client list, marketing or promotional material with the prior, written approval of Customer.

17. Notices.

All notices by Customer in connection with this Agreement shall be in writing and sent by first class mail or certified mail, (receipt being deemed 72 hours after postage and return receipt requested) directly to Brainloop's address set forth in this Agreement. All notices to Customer may be similarly sent or sent by email to the address provided by Customer.

18. Indemnification.

18.1 Brainloop agrees to defend or, at its option, to settle any claim or action brought against Customer to the extent it is based on a claim that Customer's use of the Service in accordance with this Agreement, infringes any United Kingdom or European trademark or copyright of a third party. Customer agrees that Brainloop will have the foregoing obligation only if Customer provides Brainloop with: (i) prompt written notification of the claim or action; (ii) sole control and authority over the defense or settlement thereof; and (iii) all available information, assistance and authority to settle and/or defend any such claim or action.

18.2 If the Service becomes, or in the opinion of Brainloop is likely to become, the subject of an infringement claim or action, Brainloop may: (i) procure, at no cost to Customer, the right to continue using the Service; (ii) replace or modify the Service to render it non-infringing, provided there is no material loss of functionality; or (iii) if, in Brainloop's reasonable opinion, neither (i) nor (ii) above is commercially reasonable, terminate all or part of the Agreement and refund any prepaid but unexpired portion of the Service Fees paid to Brainloop for the Service. Except as provided in Section 18.1, the foregoing provisions of this Section 18.2 state Brainloop's sole obligation and Customer's exclusive remedy in the event of any ownership or infringement claim or action with regard to the Services or the Agreement is commenced or is likely to be commenced.

18.3 Brainloop will have no liability under this section 18 for any claim or action where: (a) such claim or action would have been avoided but for modifications of the Service, or portions thereof, made after delivery to Customer other than by Brainloop; (b) such claim or action would have been avoided but for the combination or use of the Service, or portions thereof, with any other products, processes or materials; (c) liability resulting, in whole or in part, fault or negligence of Client, (d) causes external to the Service such as, (i) Customer continues allegedly infringing activities after being notified thereof, (ii) claims relate to an alleged infringement of any patent, copyright or trade secret in which the Customer or any affiliate thereof has an interest or license; or (iii) when use of the Service is not in accordance with the terms of this Agreement. Customer agrees to indemnify and hold Brainloop harmless from and against all losses, damages and expenses, including reasonable legal fees, in connection with any claims brought against Brainloop and its officers, employees, agents or subcontractors arising as a result of any breach of this Agreement by Customer, any of the conditions described in clauses (a) to (d) (inclusive) above or any warranties, guarantees, or representations made by Customer or Customer's employees or agents which differ from or are inconsistent with those made by Brainloop hereunder. If Customer is exporting the Service from the United Kingdom, Customer shall defend, indemnify, and hold Brainloop harmless from and against any related import and export duties or other claims. Brainloop will provide Customer with: (i) prompt written notification of the claim or action; (ii) sole control and authority over the defense or settlement thereof; and (iii) all commercially reasonable information, assistance and authority to settle and/or defend any such claim or action.

19. Professional Services

19.1 Professional services order by the Customer shall be delivered in accordance with the terms of this Agreement.

19.2 All trainings will be conducted via webinar. The Customer must have internet and telephone connections in order to participate and is responsible for any associated costs. Training shall be conducted with one participant. Additional participants may be allowed upon request. The time and date of the training will be agreed upon by Brainloop and the Customer.

19.3 Customer may reschedule trainings up to two business days before the training. Brainloop reserves the right to cancel or reschedule any training for any reason. In the event that Brainloop cancels or reschedules any training under this provision, Brainloop shall notify Customer no later than two business days prior to the training. Customer will not be invoiced for cancelled or rescheduled courses.

19.4 Customer shall facilitate Brainloop's performance of the Services as far as it is reasonable, necessary, and appropriate. If the Customer does not fulfill his contractual obligation to cooperate according to section 19.4, Brainloop is not responsible for any non-performance of the Services or partial performance if (i) the Customer's breach of the obligation to cooperate was the cause and (ii) if Brainloop gave the Customer a reasonable opportunity to cure his breach.

19.5 Customer is granted a non-exclusive and non-transferable license to use the deliverables for its own internal purposes, as well as for test and evaluation purposes. Customer is not permitted to transfer, license, or sublicense these rights to third parties. All other rights remain with Brainloop.

20. Miscellaneous.

20.1 This Agreement represents the entire agreement concerning its subject matter, the Service, Customer's subscription to use the Service and the license granted hereunder, and it supersedes and extinguishes all prior and contemporaneous representations, statements, agreements and other communications between the parties, whether written, oral or implied. Each party acknowledges and agrees that it has not been induced to enter into this Agreement by any representation or warranty other than those contained in this Agreement and, having negotiated and freely entered into this Agreement, agrees that it shall have no remedy in respect of any other representation or warranty, except in the case of fraud. Each party acknowledges that its legal advisers have explained to it the effect of this Section 20.1.

20.2 No waiver or amendment of any term or condition of this Agreement shall be valid or binding on any party unless agreed to in writing by Brainloop.

20.3 This Agreement and any non-contractual obligations arising from or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales. In relation to any legal action or proceedings arising out of or in connection with this Agreement or its subject matter or formation (whether arising out of or in connection with contractual or non-contractual obligations) ("Proceedings"), each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales and waives any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum. The parties specifically disclaim applicability of (i) the United Nations Convention on the Sale of Goods and (ii) any Incoterms.

20.4 Customer and Brainloop are independent contractors. Customer shall be solely responsible for managing its employees, officers, directors or representatives using the Service and for any and all compensation, taxes, benefits and liabilities of those individuals. Neither Customer nor its employees, officers, directors or representatives shall make any representations, warranties or guarantees with respect to Brainloop, the Service (including, without limitation, that Brainloop is a warrantor or co-seller of any of Customer's products or services) other than as expressly authorized by Brainloop.

20.5 If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severed from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

20.6 Customer may not assign its rights under this Agreement, or transfer or delegate any of its duties or obligations to Brainloop, whether by operation of law or otherwise, without the express prior written consent of Brainloop.

20.7 Each party and its signatory hereby represents and warrants to the other party that it and such signatory has all the necessary authority to enter into and perform its obligations under this Agreement without the consent of any third party or breach of any obligation or duty to any third party. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one instrument. A facsimile of an original signature transmitted to the other party is effective as if the original was sent to the other party.

20.8 Except for confidentiality obligations, acceptable access and use commitments, and payment obligations arising under this Agreement, any failure to perform, or delay in performance by a party of the obligations pursuant to this Agreement shall not constitute a breach or non-performance to the extent such failure or delay is caused by any condition outside of the reasonable control of the party so effected by such condition, but only to the extent that party has provided prompt notice of the occurrence of such condition.