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## BUSINESS TERMS AND CONDITIONS

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### Introduction

In these terms and conditions, “we” “us” and “our” refers to Mindmuzik Media (Pty) Ltd. Your access to and use of all information on our website and or catalogues; sales of Mindmuzik Media assessment products and other assessment products (together referred to as "Products") as well as services rendered by Mindmuzik Media (Pty) Ltd; the purchase and use of Products by Customers is subject to and are conditioned upon acceptance of the following terms and conditions.

Customer agrees to these terms and conditions by submission of the Client Registration Form, order(s) for tests and services, or by paying part or all of a Mindmuzik Media Invoice. These terms and conditions constitute the entire agreement between Mindmuzik Media and the Customer and supersede any purchase order terms associated with a Purchase Order (P.O.) number on any order that may have been placed by the Customer. If any provision of the terms and conditions is found to be illegal or unenforceable, the remaining provisions will be enforced. These terms and conditions may not be waived or modified except by prior written agreement.

We reserve the right to amend this Notice at any time and your use of the website and placing of orders following any amendments will represent your agreement to be bound by these terms and conditions as amended. We therefore recommend that each time you access our website, place orders or book services, you read these terms and conditions.

### Registered Users

- Mindmuzik Media distribute mostly Psychological and Psychometric assessments, test materials and related products which are intended for use by professionally qualified practitioners and therefore sales of some of our materials are restricted.
- We uphold the guidelines established by the Health Professions Council of South Africa (HPCSA) and the British Psychological Association (BPS), the International Test Commission (ITC), the American Psychological Association (APA) and Association of Test Publishers (ATP) on the ethical and appropriate use of Psychological Tests and only supply tests to registered Practitioners in line with these guidelines and as contractually prescribed by the Authors and Publishers of the products. In cases of conflict between these guidelines, the guidelines of the HPCSA will prevail nationally.
- To ensure that our restricted materials are used with professional care and in appropriate situations, sales of materials are not allowed through agents, ordered material must be delivered to and received by the intended and appropriately qualified end-user of the test.
- In order to access the services provided or purchase any of our products, you must be registered on our client database. First time users must complete the client registration form completely, sign and return to us. Please refer to our Privacy Policy linked on our home page for information relating to our collection, storage and use of the details you provide on registration.

- You agree to ensure that your registration details are true and accurate at all times and you undertake to update your registration details from time to time when they change.
- On registration, we provide you with a Customer Code.
- Student/Intern Psychologist, - Psychometrist, - Registered Counsellor and Psychometrist – Supervised Practise are not allowed to purchase restricted material unless supervised. The Supervisor must sign their client registration form as well as all order forms.
- We reserve the right to terminate your registration at any time if you breach these terms and conditions.

### **Use of Products**

- Psychological tests must be used in compliance with current guidelines for ethical use of assessments. Restricted materials should at all times be managed, supervised and controlled by the registered user with full adherence to all ethical, legal and training guidelines.
- Customer agrees that it is the Customer's responsibility to use any Products in accordance with these and applicable professional guidelines, timeous payment of the Mindmuzik Media's invoices and the accuracy of all biographical and other information provided.
- Users must agree to guard against the improper use of the Products in order to retain the right to purchase those Products. The HPCSA and other relevant authorities may change its policy and guidelines from time to time and it is the responsibility of the Practitioner to keep update with these changes to ensure they remain compliant.
- Mindmuzik Media (Pty) Ltd reserves the right to refuse to supply Psychological tests if the client fails to comply with these guidelines
- Customer understands and agrees that the Products are intended to be used as tools in the overall assessment process, and are not designed to be used alone or to replace the Customer's professional judgment.
- Mindmuzik Media, its employees, agents or representatives is not responsible for any claims or damages incurred in connection with the Customer's or any third party's use or misuse of the Products.
- To protect their security and value, Products may not be resold, re-licensed, transferred or otherwise further distributed to a third party. Reselling on any online site or by any other method is strictly prohibited and will disqualify the reseller from future purchases of Mindmuzik Media Products or Services.
- To purchase restricted materials, Organisation must have qualified professionals on staff who will oversee the use of these materials. It is the Practitioner's responsibility to ensure that restricted materials be transferred to an appropriately qualified person should they leave the organisation.
- The Customer's purchase of Mindmuzik Products does not grant the Customer a right to reproduce additional copies of materials or content or enter any content into a computer medium.

### **Intellectual Property Rights**

- All assessments and other products distributed by Mindmuzik Media are protected by intellectual property rights (including trademarks, copyright, patents and design rights) and rights of confidence.
- Printing or reproducing copyright-protected materials or content, whole or in part, in any form, whether the reproductions are sold or furnished free for use, including reproduction of test items, scales, scoring algorithms, scored directions, or other content, is strictly prohibited by law and by these terms and conditions

- Reproduction of these materials in whole or in part, in any form, or their storage in a database or retrieval system, by any process, is prohibited except where expressly permitted by law or by license.
- Clients accept absolute responsibility of ensuring full adherence to copyright requirements by themselves, colleagues and their employer(s) and employees.
- Mindmuzik Media is bound by its author and distribution contracts to take prompt legal action against anyone who violates any intellectual property rights.

### **Limitation of Liability and limited warranty**

- Mindmuzik Media does not make any representation or warranty, express or implied, as to the merchantability or fitness of the assessments and tools we provide for any particular purpose, or non-infringement of intellectual property.
- To the extent permitted by law, any condition or warranty which would otherwise be implied into these terms and conditions is excluded.
- Mindmuzik Media is not responsible for any damages incurred in connection with a test or test materials, their use or misuse, scoring, or other services connected to test administration.
- Mindmuzik Media is not liable for expenses incurred while using a test; for delays; for costs of substitute materials; for possible lost income, grants or profits; or for any other damages. These conditions apply to all orders and may not be modified unless expressly agreed to in writing by Mindmuzik Media.
- To the full extent permitted by law, our liability for breach of an implied warranty or condition is limited to the supply of the goods and/or services again or payment of the costs of having those goods and/or services supplied again.
- If a Force Majeure event causing delay, breach or failure to perform any obligation, Mindmuzik Media shall not be liable to the client. "Force Majeure" means any act, circumstance or omission over which we could not reasonably have exercised control including but not limited to technical problems, acts of God, government controls, restrictions or prohibitions or any other Government act of or omission whether local or national, technical problems, labour disputes, any act or default of any supplier, agent or sub-contractor, strikes or work stoppages of any kind, interruption of electricity, telephone or internet services or any other similar or dissimilar cause.

### **Our Website Services**

- All prices are in South African Rands (ZAR) and are inclusive of VAT but exclusive of delivery costs.
- We endeavour to ensure that our price list is current. Our price list for our local published materials can be accessed from our home page and we reserve the right to amend our prices at any time.
- For distributed (International) products, please contact us to obtain a quote.
- If you have placed an order, we reserve the right to cancel your order should our prices change.

### **Product Descriptions**

- We strive to ensure that our products are described as accurately as possible on our website, however we do not warrant that the description is accurate. Where we become aware of any incorrect descriptions, we reserve the right to correct any error or omission.
- Images have been provided for illustrative purposes only and we do not guarantee that any image will reproduce in true colour nor that any given image will reflect or portray the full design or options relating to that product.

## Product Orders and Quotes

- We endeavour to ensure that our product list is current however we give no undertaking as to the availability of any product advertised on our website, printed brochures or catalogues.
- All prices are in South African Rands (ZAR) and are inclusive of VAT. Our price list can be accessed from our home page and we reserve the right to amend our prices at any time.
- Packaging and postage is an additional charge, calculated at time of purchase.
- Quotes are valid for thirty (30) days from date of quote.
- Prices may fluctuate depending on factors such as the exchange rate, import or printing costs, shipping costs, changing product prices or assessments being out of print or discontinued.
- When you order from us, we require you to provide your name, customer code, address for delivery, your email address and telephone contact details. We undertake to take due care with this information; however, in providing us with such information you accept that we are not liable for its misuse due to error in transmission or virus or malware.
- If an order is placed on behalf of a government department, semi-government organisation, university, company or similar institution, we supply a quotation on which you must request an official purchase order and send to Mindmuzik Media.
- Orders can only be processed on receipt of an order form or per email and an official purchase order (where applicable) or proof of payment. We do not accept telephonic orders.
- Invoices will reflect the product price, VAT and shipment costs where applicable.
- Payments can be done via e.f.t., credit card or paid in cash on collection at the office during office hours, 08H00 to 16H30, Monday to Friday (excluding public holidays and over the Christmas break). We do not accept cheques.
- Purchases on account is payable 30 days from date of invoice.
- All software purchases must be paid before a registration code is issued.
- We have the right to refuse orders to those clients who do not have the required professional registration, are no longer in good standing with regards to relevant legal and professional requirements, have a history of proven copyright violations, who misrepresent their qualifications, do not pay their accounts timeously or make assessments available to non-qualified people.
- Orders will be processed during our office hours, Monday to Friday, 8H00 to 16H30.
- We cannot guarantee stock availability. International products ordered may take up to three weeks to be delivered, depending on availability at the suppliers. Some products may also be out of print and no longer available. Bulk orders can take up to a week to be printed.
- Orders received before 13H30 will be shipped the same day, dependant on stock availability. Orders received after the cut-off time, will be shipped the next day. Orders for same day delivery must be received before 9H30. Note that delivery to outlying regional areas cannot be guaranteed within 48 hours. These services are dependent on the availability of courier services to that region.
- Delivery of your ordered product/s is done via a secure traceable method using the following methods:
  - Collect at Mindmuzik Media office
  - Speed Services, counter to counter or to door
  - Courier Services
- Title in the goods passes to you when we have received payment.
- All risk of loss or damage to the goods passes to you when we despatch the goods.
- Customs charges and duties may be applied to a shipment when it enters a foreign country. These charges are determined by the country's government and are collected by the package

courier upon delivery of goods. The carrier, acting as customs broker, may also charge a processing fee that you are responsible for paying. Mindmuzik Media plays no role in assigning or collecting these duties.

### **Order Cancellation Due to Error**

- Where a product has been listed at the incorrect price or with incorrect descriptive information or image due to typographical error or similar oversight, we reserve the right to cancel a transaction. Where your credit card has been charged, we will immediately refund your credit card for the total amount debited.

### **Product Returns**

- Mindmuzik Media, at its discretion, undertake to replace any product delivered to you that prove to be defective. We would expect any such items to be returned to us for examination prior to a decision regarding replacement being made. If you wish to return a faulty or damaged product, you must notify us via email at [sales@mindmuzik.com](mailto:sales@mindmuzik.com) within one week of receipt of the defective materials. If we are unable at the time of return to replace or exchange returned goods, we undertake to reimburse you for the amount initially debited for the purchase including packaging and postage charges.
- Where we send materials to you in error, Mindmuzik Media will arrange for pickup. In these cases, only unbroken, resalable packages are accepted. Mindmuzik Media must be notified within 3 days of receipt of the incorrect materials.
- We also undertake to exchange any undamaged product purchased from us so long as it is returned unused, in its original unopened packaging, by traceable means and with proof of purchase within Ten (10) days of purchase however we will not provide any refund of such purchase. If undamaged goods are returned to us for exchange, we do not refund any packing and postage charges. Mindmuzik Media reserves the right to charge a ten (10) percent handling fee on these returns. Return of undamaged goods for exchange is entirely at your cost and risk.
- Should a client wish to return a product which is not on our product catalogue and was specially imported, the client will be charged with a 25% handling fee and is liable for all costs associated with the import of the material, this may include import taxes, duties and courier charges. No returns will be accepted after ten (10) days of receipt of the material.

### **Jurisdiction**

- These terms and conditions are to be governed by and construed in accordance with the laws of Gauteng and any claim made by either party against the other which in any way arises out of these terms and conditions will be heard in Gauteng and you agree to submit to the jurisdiction of those Courts.
- If any provision in these terms and conditions is invalid under any law the provision will be limited, narrowed, construed or altered as necessary to render it valid but only to the extent necessary to achieve such validity. If necessary the invalid provision will be deleted from these terms and conditions and the remaining provisions will remain in full force and effect.

### **Privacy**

- We undertake to take all due care with any information which you may provide to us. However, we do not warrant and cannot ensure the security of any information which you may provide to us. Information you transmit to us is entirely at your own risk although we undertake to take reasonable steps to preserve such information in a secure manner.

- Our compliance with privacy legislation is set out in our separate Privacy Policy which may be accessed from our home page.