Annex E Terms and Conditions of Business for Account Management, Administration of Course Contents and Related Additional Services in the Cloud

The legal relations between the contractual partners are determined solely in accordance with the law of the Federal Republic of Germany; this applies also to the following Conditions. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

Terms and Conditions of Business of the user, which derogate from these, have no validity

1 Object of the contract

1.1 BRAINYOO index cards and education software is a product protected on behalf of the operator.
IUBH Internationale Hochschule
HRB 10025
Mülheimer Straße 38
53604 Bad Honnef

Managing Directors: Dr. Sven Schütt, Prof. Dr. Peter Thuy Siegburg County Court
HRB: 10025
VAT ID No.: DE256445011

Phone: +49(0)8651-90234-53

Fax: +49(0)8651-90234-50

e-mail: study@iubh.de

You may also address any questions or complaints to these contact details. We shall respond without delay.

1.2 Where "Operator" is mentioned in these Conditions, this refers to the Internationale Hochschule Bad Honnef · Bonn GmbH (hereinafter IUBH)

1.3 This contract regulates

- the setting up of a Brainyoo ACCOUNT and

- The use of the Brainyoo learning system, in particular the acquisition, administration, use and synchronisation of course contents (hereinafter (Contents) and of additional services.

1.4 The operator concludes world-wide contracts. The sole language of the contract is German.

1.5 The operator shall behave in compliance with applicable law and shall be subject to no other codes of behaviour created under private law or extra-judicial complaints or redress procedures.

Insofar as these Terms and Conditions are accepted, the students of the IUBH are entitled to use the account (hereinafter referred to as Users; this term includes both male and female students).

2 Terms of reference

2.1 The operator makes available free of cost to the students the Account module developed by BrainYoo Ltd. (premium version of the Brainyoo index card leaning system).

2.2 The account module is a software package and a database for distributing and administering educational contents (Contents). It offers the user the possibility of administering contents in a cloud "on-line", i.e. it gives access via an Internet interface (data storage). The account assigns to the user a defined disk space in the Cloud. In the process the user may load existing or self-created contents via the Account into the Cloud and administer them there, order new contents free of charge or for a fee, and synchronise and administer the contents via the Cloud using the permitted number of workstations or mobile devices. Furthermore independently created contents may be "shared" with other individual users, i.e. other users may be allowed access via the Cloud to the contents.

2.3 The account is as a matter of principle made available to the operator in a premium version.

3 Setting up an ACCOUNT and Registration Procedure

3.1 The user sets up and registers for the activation of an account on-line or via the website or via the relevant user navigation after installing the clients for iOs, Android, Pc, Mac or the web version in the browser.

3.2 The user fills out the relevant data form and enters his e-mail address (IUBH address) and a password. The user shall accept the GTC and the data privacy statement by activating the GTC and data privacy statement buttons. It is the responsibility of the user to call up, read and save and/or print the GTC and data privacy statement. By clicking on the respective check box the user confirms that he has read the GTC and is in agreement with their application and that he is entitled to issue his informed consent under data protection law.

Furthermore, he can direct the operator prior to the lapse of the revocation period to begin performance of the contract.

Having confirmed the entries by activating the "Next" button, the user reaches a further page, on which a summary of all the data entered and the version selected are displayed. The user can return to the input screen by clicking on the "Correct" button and can correct all input data.

On activation of the "Set up account" button the data are transmitted to the operator, checked and stored. In doing this the user issues his legally binding instruction to the operator to set up the account.

The user immediately receives a confirmation e-mail to the e-mail address entered by him confirming the receipt of the data.

Acceptance of the contract is shortly afterwards declared by a separate e-mail from the operator to the e-mail address entered by the user. This e-mail address is used to send the user a summary of the contract, the log-in data and passwords; These contractual conditions, the data privacy statement and the Guidance on Revocation are also attached to this. Once the user has exited from the registration process, the contractual data can no longer be called up on line. The registration data and the GTC may be called up individually once more on request to the operator.

4 The use of the account

In accordance with the following agreement the user shall be entitled to access the Account:

4.1 Authorised access

The user receives free of cost a log-in and a password, which give him access to the account.

Access to the account is password-protected and only the user personally may access the account. The user is expressly prohibited from granting third parties access to the access data or to the account itself or from assigning access.

4.2 Confidentiality of the access data improper use by third parties; Liability

The user undertakes to treat his log-in and password as confidential, to refrain from passing them to third parties and to take reasonable steps to prevent access by third parties. The user undertakes to notify the operator without delay, if the suspicion exists that unauthorised persons have gained knowledge of the access code. In such a case the operator shall block access and allocate a new access code to the user.

The user shall be liable for damage caused by breaches of duty against this agreement with the operator, in particular for damage caused by improper use, unless the fault does not lie with the user. Improper use is in particular every use of the access code by persons other than the user himself.

4.3 Options for use

The user is entitled to exploit all the options for use offered within the account; in particular, the account makes it possible to access via the Internet virtualised disk space on the operator's servers.

If this has been offered, the user is entitled to (see 5),

- create his own educational contents via the account (see 5),
- to load his own and other already existing educational contents into the Cloud (see 6),
- to synchronise educational contents allocated to the user in the Cloud with his workstations,
- i.e. to make them available on all the workstations registered for this purpose (see 7),
- to acquire new and where applicable subject to a fee, educational contents from the operator or third party suppliers and to load these into the Cloud (see 8),
- to "share" his own educational contents with other users, i.e. to grant other uses access to his own contents, granted for this purpose (see 9).

To obtain the best use of the account it is necessary to install the software either for Windows or for Mac and/or the version for iOS and Android; this can be downloaded free of charge from and installed, once a separate license agreement has been concluded. The relevant legal relationships shall be separately regulated and are not the object of these contractual conditions.

Alternatively, the account can be used via the HTML version. This version does not require any local installation.

5 Creation of in-house course contents / third party intellectual property rights/ copyright

5.1 The user may create his own educational contents via his terminal by means of the education software; for this purpose he may generate and process texts on the terminal, via pre-existing texts, images, audio material and videos (drag and drop).

5.2 Prior to generating his own educational material the user must ensure that the elements or contents used are free from the conflicting rights of third parties, in particular that the user possesses the necessary rights to process, reproduce, disseminate, transmit on line (§ 19a Copyright Act), the rights applicable to sub-licensing and granting and/or transmission, in particular in order to load the educational contents created into the Cloud, to synchronise and share them and to facilitate this for third parties, insofar as the educational contents are to be further used. If the use of the self-created educational contents is extended to a later point in time, this shall apply accordingly to the point in time of extending the use.

5.3 The following provisions on the responsibility of the user in accordance with 6.3 - 6.5 shall apply also to the generation of own educational contents and accordingly also for the acquisition of educational contents from the IUBH scripts.

Copyright of the operator (IUBH)

All the operator's educational contents, in particular third party contents in the study scripts and the in-house content of the IUBH are protected by copyright. Any use other than the options for use contained in the educational software from BrainYoo, see also Point 4.3, is not permitted and requires the prior written approval of the copyright holder. This shall apply in particular to making the material publicly accessible via the Internet and its reproduction and dissemination to third parties. The term, third parties does not encompass other students at the IUBH, who also use this software. The use of the operator's contents is hereby permitted for personal (educational) purposes and for dissemination among fellow students.

6 Transfer of course contents in the Cloud

6.1 Storage in the Cloud

6.1.1 The operator provides to the user free of cost disk space in the premium version on its servers for the transfer and storage of already existing or self-created or acquired contents and progress reports and educational statistics. Storage of any other files is not permitted.

6.1.2 The parties are agreed that no specific storage area in terms of space shall be provided for the storage of data. However, the operator undertakes under this agreement to provide storage capacity to the user within the scope of the terms of reference for the entire term of validity of this contract.

6.1.3 The data shall be stored and reasonable steps shall be taken to secure them from access by third parties. Access to the schedule allocated to the user can be obtained only by entering the log-in, the password and the user ID. Access rights arising from "sharing the contents" shall be granted in accordance with Figure 9 of this contract.

6.1.4 The operator shall facilitate access to the user's schedule for calling up the files stored there via the interface to the Internet.

6.1.5 The operator shall furthermore always endeavour to make it possible for the user to access the files stored by him on the server in accordance with the contract for independent storage, extension, alteration or deletion of the files.

6.2 Granting rights of use in the educational contents created.
By transferring and storing previously existing contents created by him and the educational material on the servers the user grants the operator the non-exclusive right, restricted in time and space to store, disseminate the files and their contents and to reproduce the files or their contents in any form. Remuneration shall not be due for this.

6.3 Responsibility of the user for contents

6.3.1 All files and contents, which are stored and saved on the operator's server, are subject to the sole responsibility of the user. In transferring and storing data and contents on the operator's server the user undertakes to refrain from breaching the law of the Federal Republic of Germany currently in force and to refrain from breaching the rights of third parties. In particular the transfer, storage, dissemination or transmission via the Internet of the files or contents and their further use under this contract by the user must not breach copyright, art copyright, trademark, patent, registered design rights, other commercial intellectual property rights of third parties or German criminal law. In particular the user undertakes not to transfer, enter or store any contents of an offensive, libellous, national socialist or other subversive, racist, or pornographic nature. The user is personally liable for the use of these contents.

6.3.2 The user is obliged to ensure, prior to uploading, that he is the holder of all the rights required for reproduction and transfer via the Internet and that he is able to grant to the operator the rights required for implementing this contract.

6.3.3 In re-recording contents from his computer via the Internet onto the operator's server (upload) the user affirms that he is the holder of the rights of reproduction and transfer via the Internet with respect to these contents and that they are free from conflicting rights of third parties.

6.4 Reservation on blocking/deletion

6.4.1 The operator is entitled and legally obliged; immediately on cognisance of storage of illegal data or contents or of facts or circumstances, from which illegal conduct or information becomes obvious, to block the individual data or items of information, or if it is not possible to block them individually, to block the contents as a whole. The data or information is blocked by temporarily suspending the connection of the data or information to the Internet.

6.4.2 The operator shall notify the user of the blocking. The user is obliged immediately to remove the illegal data or information or to prove the legality of the material to the operator. The operator is further entitled without delay to delete the data and information irrevocably, if being in possession of them is contrary to good order or indictable.

6.5 Freedom from viruses of transferred data/ back-up copy

6.5.1. The user bears total responsibility for the fact that files transferred by him and stored on the server are free from viruses, worms, Trojan horses or similar harmful programs.

6.5.2 The user is obliged, prior to uploading graphics or images to check the files using suitable updated virus programs.

6.5.3 It is the responsibility of the user regularly to save elsewhere the data transferred and stored by him, for instance, through a back-up system. In particular the operator shall accept no liability for the loss of the user's stored data; Liability for culpable intent remains unaffected thereby.

7 Synchronisation of course contents to workstations

7.1 The user may synchronise educational contents stored in the Cloud by means of the software i.e. release it for download on to all terminals. However the workstation restrictions agreed on ordering educational contents subject to a fee apply to such educational contents.

7.2 If the right of use of the educational content terminates, at the latest with the ending of the student's period of study at the IUBH, the right of use of the synchronised educational contents on the other terminals also comes to an end; the termination of use is technically ensured by the operator by linking the educational contents and all copies to an expiry date.

8 Acquisition of new course contents from the on-line shop

8.1 The user may for a fee purchase new educational contents via the affiliated on-line shop or associated partner firms permanently or temporarily. The order details are determined in accordance with separate order conditions to be agreed on placing the order.

8.2 The educational contents to be purchased are protected under copyright law, in part also pursuant to the Trademark Act, the Registered Design Act, the Patent Act and other protection acts, including under international law.

The educational contents must therefore be used by the user solely within the rights of use granted by the respective order conditions. Any use extending beyond this is unlawful and shall incur inter alia prohibitory injunctions and claims for compensation in damages by the holder of the rights against the user; furthermore, breaches of copyright or other industrial property right are routinely regarded as criminal acts, which result in criminal prosecution by the holders of the rights.

8.3 For every order the operator uses its encryption software to encrypt each individual flash card with an operating license generated individually for the user, in accordance with which the user's educational contents may be further installed on a maximum of 2 desktop versions and 2 mobile versions. Furthermore the file is linked with the personal user identification and - for rights of use restricted in time - with an expiry date. This prevents unauthorised installation on multiple terminals and the forwarding of the digital educational flashcard sets to third parties; furthermore infringements must be related to the specific user.

8.4 The user must refrain from any manipulation of the encryption or of the linking of the file with identification data.

9 Parts of course contents not subject to a fee in the Cloud/ rights of use

9.1 The user may "share" self-created educational contents with other users (students at the IUBH). For this purpose the user may facilitate access to the educational content stored in the Cloud for the other user via an interface in the software, so that the latter may download the educational content on his own terminals. The "sharing" of education contents subject to a fee is not permitted.

9.2 Prior to "sharing" educational contents with third parties, the user must ensure the rights of third parties (copyrights, trademark rights, patent rights, other intellectual property rights) in the educational contents or their components are not breached by the transfer, storage in the Cloud and enabling access by third parties, furthermore by the downloading by other users and where applicable further exploitation through renewed sharing with further third parties.

9.3 By "sharing" the user grants to the operator, pursuant to 9.1 the single, non-exclusive right, which is unlimited in time and space and may be assigned or sub-licensed, to reproduction, storage, processing, dissemination of the educational contents and the right to make them available on line (§ 19a Copyright Act).

9.4 The user similarly grants to the other user, with whom he shares the educational content, the single, non-exclusive right, which is unlimited in time and space and may be assigned or sub-licensed, to reproduction, storage, processing, dissemination of the educational contents and the right to make them available on line (§ 19a Copyright Act), so that the latter may "share" the educational content further with other users.

10 General Conditions for all services

The following supplemental conditions apply to all the services offered under this contract, unless the foregoing services are subject to more specific regulations.

10.1 Right of revocation

If the user is a consumer, he has a statutory right of revocation. He may revoke the statement of contractual agreement within 14 days by unambiguous declaration without giving reasons. In the event of successful revocation the services received by both parties must be returned. The details on revocation may be consulted in the separate Guidance on Revocation (https://care-fs.iubh.de/de/studium/rund-ums-studium/tools4students//widerrufsbelehrung-brainyoo.php?p_id=4626).

10.2 User's obligation to cooperate

10.2.1 If malfunctions occur while the user is using the offer from the operator, the user shall immediately notify the operator thereof, so that the malfunction can be remedied.

10.2.2 The user is obliged to notify any changes to his data, which are relevant for this contract.

10.3 Obligations to protect, rights of access

10.3.1 The user undertakes to treat confidential data or access codes delivered to him (in particular user name and passwords) as confidential, not to pass such data to third parties and to take reasonable steps to protect the data from access by third parties.

10.3.2 The user undertakes to notify the operator without delay, if the suspicion exists that unauthorised persons have gained knowledge of the access code. The operator shall then temporarily block access and allocate a new access code to the user.

11 Liability of the user, release from liability

11.1 The user is liable for breaches of duty against this agreement in the case of damages being incurred by the operator, unless the user proves that the fault was not attributable to him.

11.2 In the event of claims asserted by third parties by virtue of a breach by the user of the afore-mentioned contractual obligations, in particular by virtue of breach of copyright, art copyright, trademark, patent, registered design, competition, criminal or other civil laws, caused by actions of the user, for which the operator is directly liable, the user undertakes to release the operator from any claims whatsoever.

11.3 If he is not a consumer, the user undertakes to pay to the operator a reasonable advance payment towards the costs arising from any prosecution, which may be necessary. Conversely, the user is entitled to exert influence on the conduct of the legal case by issuing instructions. More extensive claims by the operator remain unaffected thereby.

12 Liability of the operator

12.1 As a consequence of the use of the Account the operator accepts liability as follows:

The claims of the user for compensation for damage or replacement of unnecessary expenditure are regulated in accordance with the following provisions irrespective of the legal nature of the claim:

- The operator is liable to an unlimited extent for damages arising from injury to life, limb or health, which rely on negligent breach of duty by the operator or a culpably intentional or negligent breach of duty by one of the legal representatives or vicarious agents of the operator.
- For damage to property and other damage the operator shall be liable solely for culpable intent and gross negligence.
- The operator's liability is restricted with respect to the surrender of the storage space to culpable dealing, unless the operator is accused of breach of a duty of protection or liability for premises. This shall not apply to liability for fraudulent concealment of defects in the law or errors.
- Liability for loss of data shall be restricted to the typical restoration costs, which would have been incurred during the routine production of daily back-up copies.
- The foregoing provisions shall apply also in favour of the operator' employees.
- Liability under the Product Liability Act remains unaffected (§ 14 Product Liability Act).
- Liability for defects is determined in accordance with § 600 German Civil Code, with the stipulation that liability for grossly negligent behaviour is excluded.

12.2. Insofar as the operator's liability is not regulated separately in the foregoing, the latter shall be liable for damage to the user, irrespective of its legal basis, only if the operator or its vicarious agents culpably breach a cardinal or other material contractual duty, in a manner, which jeopardises the contract, or the damage can be traced to the gross negligence or culpable intent of the operator or its vicarious agents. Liability for guarantees or personal damage and liability under the Product Liability Act remain unaffected.

12.3 The claim for compensation in damages for the breach of material contractual duties is restricted to the amount of foreseeable damage, typical of the contract, unless liability exists for injury to life, limb or health or the operator had fraudulently concealed a defect or undertaken an express guarantee.

12.4 Liability for damage to other legal assets of the user, such as to other objects, is excluded, unless culpable intent or gross negligence exists or liability exists on account of injury to life, limb or health or the operator had fraudulently concealed a defect or undertaken an express guarantee.

12.5 If liability is effectively excluded or restricted, this shall also apply to the personal liability of the employees, the other members of staff, executive bodies, representatives and vicarious agents of the operator.

12.6 The foregoing provisions extend to claims for compensation for damages as well as the service and compensation for damages instead of the service, irrespective of the legal ground, (e.g. on account of defects, breach of contractual duties, tort) and for the claim for reimbursement of unnecessary expenses.

12.7 The operator accepts no liability for instances where the user's data and content cannot be called up, the cause for this lying outside the interface to the Internet, unless this cause is attributable to the operator.

13. Costs

The operator surrenders the account free of charge to the user for the duration of his studies

14 Data protection

The operator collects, processes and uses the user's personal data in order to implement the contract within the limits of the data privacy statement, issued separately (http://www.iubh-fernstudium.de/datenschutz/) and in compliance with the statutory provisions.

15 Term of contract/termination/deletion of data

15.1 The contract is concluded for the duration of the course of study of the respective user at the IUBH. Unless a specific period has been agreed, the contract may be terminated by the user at any time and by the operator on giving one month's notice; if at the time of termination a longer usage period has been granted for content subject to a fee, which has already been purchased, notice to terminate shall apply with effect to the expiry of this usage period.

15.2 On the termination of the contract all data stored shall be deleted on the expiry of the retention periods.

15.3 The right of both parties to termination without notice of individual services or the contract as a whole for good cause remains unaffected. Good cause, entitling the operator to termination without notice, exists in particular:

- in the case of use of the program by the user contrary to the contract, in particular the unauthorised transfer of the program for use by third parties,
- in the case of breaches by the user of the copyright of BrainYoo Ltd. or of the operator's contractual partners (e.g. suppliers of the content).

15.4 In case of doubt termination for good cause shall apply to the contract as a whole.

15.5 The user undertakes to delete all data stored on the operator's server within two weeks of termination of the contract. On the expiry of this period the operator shall set a further deadline of two weeks by letter or e-mail, together with the warning that it shall itself delete the data on expiry of the period. On the expiry of the second deadline the operator shall be entitled independently to delete the data from the server. More extensive surrender claims or claims for compensation in damages by the user shall then not exist.

16 Final clauses

16.1 Server data and general information

16.1.1 The user is notified that the operator for its part has rented disk space from a third party, on which all data shall be stored (server housing).
The content server is currently operated in a service provider's data processing service centre in Germany, Online AG, Industriestr. 25, 91710 Gunzenhausen.

16.1.2 The server is located in the Federal Republic of Germany.

16.2 Support/Hotline

If he has any questions or problems in connection with the contract or its implementation the user may contact us by telephone on (0049) 08651-90234-33 or by e-mail at it@iubh-fernstudium.de .

16.3 Final clauses

16.3.1 Oral collateral agreements to this contract have not been concluded. Amendments and additions to the contract may be made at any time with the agreement of both parties and require the written form. This shall apply also to the annulment of the requirement for the written form.

16.3.2 Should a provision in this contract be or become invalid or infeasible, this shall not affect the remaining provisions of the contract. The parties to the contract are bound to cooperate and to replace the invalid or infeasible provision by a valid or feasible provision, which comes closest in law to the commercial purpose of the invalid or infeasible provision. This shall apply mutatis mutandis to omissions. 16.3.3 It is the responsibility of the user to save and/or to print these contractual provisions.

Status of the Conditions, 22.04.2016

Sign. Internationale Hochschule Bad Honnef * Bonn GmbH, Dr. Sven Schütt