C/O Monaghan and Company
Units 5 & 6, Bluebell Woods
Oranmore, Galway, Ireland

info@cognadev.com

TALENTLAB TERMS AND CONDITIONS **1 January 2024**

1. INTRODUCTION

”We” or **“us”** or **“our”** refers to the COGNADEV group, including Cognadev IRL Ltd incorporated and registered in Ireland with company registration number 749760; Cognadev (Pty) Ltd incorporated and registered in South Africa with company number 1994/009617/07; Cognadev UK Ltd incorporated and registered in the UK with company number 05565662; Cognadev BE BV incorporated and registered in Belgium with company number 0753748891; and Cognadev Chemistry Ltd registered in the UK with company number 07689817. (Hereinafter referred to as the “Company”)

“Companies” and **“Consultants”** refers to a Company or Individual consultant that has access to Cognadev’s Assessments, IP, Online Delivery Platform (Talentlab), as well as the public website.

2. DEFINITIONS

In these Terms (unless the context clearly indicates otherwise) the following terms and expressions shall have the meanings ascribed thereto:

2.1. **"Website"** means the Cognadev website which is accessible at www.cognadev.com.

2.2. "**Portal**" means the Talentlab delivery system where assessments are conducted at www.talentlab.cognadev.com.

2.3. **"Services"** means the services offered and made available by us via the Website and Portal by means of which Users are able to, inter alia: nominate candidates to do Assessments; complete the Assessments; view Assessments Results of test candidates; manage their Cognadev account on the delivery system; view our product-related research findings, papers and publications; access our e-Learning, and/or utilise other Services which may be made available by us via the Website and Portal from time to time.

2.4. **"Assessments"** means the Cognitive, Personality, Motivation and Job Analysis and Volume assessment tools provided by Cognadev and completed by Users. A description of the assessments is available on the Website at URL address www.cognadev.com.

2.5. **"Assessment Results"** means the results of Assessments provided by Cognadev in accordance with these terms and conditions.

2.6. **"Assessment Report(s)"** means the report(s) created by Cognadev based on the Assessment results of individuals, teams and jobs / positions as well as reports generated by the delivery system according to which Users can manage their Cognadev account.

2.7. **"EC Act"** means the Electronic Communications Act 2000 as amended, of the UK which may be viewed at www.legislation.gov.uk, or the Electronic Communications Act number 36 of 2005 as amended of South Africa which can be viewed at www.gov.za as the case may be.

2.8. **"Loss"** means any loss, including loss of profit, liability, expense, claim, penalty or damage, whether direct, indirect, special or consequential.

2.9. **"Privacy Policy"** means the privacy policy adopted by us and which is available on request.

2.10. **"Use"** means to use, access, refer to, view or make use of the Services.

2.11. **"You"**, **"Your"** and **"Users"** means any person who makes use of the Website and registers to use the Services.

Any words or phrases not defined in these Terms and Conditions but defined in the EC Act will bear the same meaning given to them in the EC Act.

By accessing the Website / Portal and/or by using the Services (as amended and updated from time to time), you agree to be bound by these Terms.

3. AGREEMENT TO COMPLY WITH THE TERMS AND CONDITIONS

3.1. When accessing the Website / Portal, you enter into a legally binding contract with Cognadev upon the terms and conditions as set out herein. You agree that:

3.1.1. Logging in or accessing the Portal, registering an account with us, making use of any of the Services and/or any use of the Website signifies your unconditional agreement to comply with all of the terms and conditions as set out herein.

3.1.2. We may, at any time, amend or introduce additional terms and conditions relating to the Services or any other service, content, products, facilities or functionality which is made available by us by way of the Portal or otherwise. You will be notified of such amendments and additional terms and conditions in the manner provided for in these Terms.

3.2. If you do not agree to any term or condition as set out herein, the Privacy Notice, any other appropriate policies, or any subsequent changes thereto, or become dissatisfied with us, the Portal or the Services, you must refrain from making use of the Portal and/or the Services, and contact us using the contact us at info@cognadev.com.

3.3. These Terms may be updated by us at any time in our sole discretion. We may send you notice of such changes to the Website or the Terms at least 7 (seven) days before implementing such changes. You may choose to either accept the changes before they apply or to terminate your use of the Services.

3.4. These Terms and the other policies (including but not limited to the Privacy Notice) posted on the Cognadev website constitute the complete and exclusive understanding and agreement between us and govern your use of the Services, the Portal and the Website superseding all prior understandings, proposals, agreements, negotiations, and discussions between the parties, whether written or oral.

3.5. You may print a copy of these Terms. If you have any difficulty printing these Terms or require assistance in obtaining a hard copy or electronic copy of these Terms, you should contact our support team by sending us an email via info@cognadev.com.

4. WHAT DO THE TERMS REGULATE?

These Terms regulate the terms and conditions upon which you may:

4.1. Use the Services.

4.2. Otherwise use the Website and Portal, including the use of the information, content, products or services including (without limitation) any text, software, icons, graphics, images, sound clips, trade names, logos, designs, trademarks and service marks which are displayed on, available on or incorporated in the Website (the "Content") and all the other forms of IP, to the extent that such Content is not regulated by its own terms of use.

5. HOW DO YOU ACCESS THE SERVICES?

5.1. In order to access the Services, you are required to contact us directly, provide proof of professional training and registration in the field of psychology and/or psychometrics, become trained and accredited to use the assessments and register an account with us.

5.2. As a Consultant, you may either register a personal account or a company account with us depending on whether you have chosen to work directly with us as a distributor and user, or on behalf of a company. Regardless of whether you deal with us as an independent consultant with a personal account, or on behalf of an organisation, you as accredited user of the specific Cognadev products will take full responsibility for the professional and ethical use of the products as stipulated in the various Cognadev Agreements that can be viewed on request.

5.3. To register an account, you will be required to provide us with certain personal, professional and organisational details, and will be allocated a password to create, access and manage your account and access the assessments and reports. (**"Access Details")**.

5.4. After you have registered an account with us, we will send you a verification e-mail to confirm your Access Details.

5.5. You will be required to enter your Access Details into the Website and agree with the necessary professional and ethical requirements as stipulated in the Cognadev Consultant agreement, each time you want to access the Services.

5.6. Cognadev may utilise Multi Factor Authentication (MFA) service to safeguard User access to the Online System. The MFA service may require you to provide certain contact information to Cognadev.

5.7. You may not provide your Access Details and MFA code to anyone. You are solely responsible for keeping your Access Details secret. Unique passwords will also be provided to your trained sub-distributors who will operate under your supervision and they should maintain an equally strict level of security.

5.8. You are solely responsible for any Loss you may suffer should any other person use your Access Details and we shall have no liability whatsoever in this regard.

6. COLLECTION OF PERSONAL INFORMATION

6.1. We collect personal information from you and all assessees. We will handle the collection, processing and storage of all personal information in accordance with our Privacy Notice available upon request.

6.2. By disclosing or submitting your personal information to us, you consent to us collecting, processing and storing your personal information for the purposes described in our Privacy Notice.

6.3. All personal information collected will be safeguarded and used in accordance with the EC Act and International privacy laws.

7. THE SUBMISSION OF CONTENT ON THE PORTAL OR THROUGH OUR SERVICES

7.1. You acknowledge and agree that you are solely responsible for your own account and assessment usage and the consequences of using the system and interpreting assessment results.

7.2. By submitting information to us, including any information associated with your account, clients, sub-distributors, assessees and their Assessments, you hereby grant to us an irrevocable, non-cancellable, perpetual, worldwide, non-exclusive, royalty-free, sub-licensable, transferable license to store and use this information for the purpose of further research and development, as well as for our Services (having regard for your privacy and anonymity as described in the Privacy Notice) with no compensation paid to you.

7.3. You expressly agree not to provide any assessment results, interpretations of results or other information:

7.3.1. that violates any law or employment law.

7.3.2. that infringes any of the foregoing intellectual property rights of any party, or its Content that you do not have a right to make available under any law or under contractual or fiduciary relationships.

7.3.3. that is harmful, abusive, unlawful, threatening, harassing, defamatory, pornographic, libellous, invasive of another's privacy or other rights, or harms or could harm minors in any way.

7.3.4. that harasses, degrades, intimidates or is hateful toward an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability.

7.3.5. that includes personal or identifying information about another person without that person's explicit consent.

7.3.6. that impersonates any person or entity, including, but not limited to, any of our employees, or falsely states or otherwise misrepresents an affiliation with a person or entity.

7.3.7. that constitutes or contains any form of advertising or solicitation if e-mailed to users who have requested not to be contacted about other services, products or commercial interests.

7.3.8. that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.

7.3.9. that disrupts the normal flow of dialogue with an excessive number of messages ("flooding attack") to the Services, or that otherwise negatively affects other users' ability to use the Services.

7.3.10. that employs misleading email addresses, or forged headers or otherwise manipulated identifiers in order to disguise the origin of Content transmitted through the Services.

7.4. Additionally, you agree not to:

7.4.1. make any libellous or defamatory comments or emails to or against anyone in terms of the Cognadev services, products or assessment results.

7.4.2. collect personal information (as defined in the Privacy Notice) or data about other users or entities for commercial or unlawful purposes.

7.4.3. attempt to gain unauthorised access to computer systems owned or controlled by us or engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of, the Services or the Website.

7.5. You understand that when using the Website / Portal, you will be exposed to Content from a variety of sources and users, and that we are not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such Content, including any Content provided by users relating to any Assessments.

8. CONDITIONS OF USE

8.1. When using the Services, you hereby agree as follows:

8.1.1. you will not intentionally provide any false Content on the Portal except for compatibility testing.

8.1.2. you will not be entitled to register an account on behalf of any other person whatsoever.

8.1.3. you may not register an alternative account if your membership to use the Services on the Portal is suspended or terminated for any reason whatsoever.

8.1.4. you will not be entitled to transfer your membership to another person or accept or use an account on the Portal that is not your own.

8.1.5. you may not levy any charge or fee to any person for access to any part of the Services on the Portal.

8.1.6. you may not use the Services and the Portal to unlawfully compete with Cognadev.

9. SPECIFIC CONDITIONS RELATING TO THE USE OF OUR SERVICES

9.1. When you view and/or use our assessment results, you understand and agree that the validity of any assessment results may well depend on the honesty, state of mind at the time of the assessment and self-insight of the test subject. You also accept that our assessment results are situational and largely reflect responses to circumstances at the time of the assessment.

9.2. You acknowledge that the information on the Portal and our assessment results are not intended to, and do not, constitute a replacement or substitute for professional psychological and/or psychiatric advice of any nature whatsoever, including (without limitation) in respect of any diagnosis or treatment to a specific psychological or psychiatric question or condition.

9.3. We will not be held liable for any loss suffered as a result of relying on the assessment results whatsoever.

10. COST AND PAYMENT

10.1. The cost of pre-paid credits is normally subject to volume-based discounts as determined by Cognadev.

10.2. Pre-payment for credits or an account facility approved by Cognadev is required for access to the assessment tools and reports on your system.

10.3. Prepaid credits are to be used within the year of purchase and will lose value in the subsequent year according to annual increases.

10.4. Unused prepayments older than one year are not refundable.

10.5. Assessment fees are regionally based and invoiced in different currencies by the various Cognadev Companies.

10.6. Given regional pricing, Users need to request quotations from Cognadev for international assessment projects.

10.7. Assessment fees are based on geotracking of the region where the candidate takes the assessment.

10.8. IP blocking practices aimed at disabling regional billing is prohibited.

10.9. Fifty percent (50%) of Training fees are payable before the training commences or e-learning courses can be accessed.

10.10. The fees may be subject to amendment depending on the contract between you and us for the Paid Services.

10.11. Annual price increases apply.

10.12. All fees must be paid in accordance with our payment terms of 30 days.

10.13. Cognadev reserves the right to deactivate an account that is in arrears, and where payment arrangements have not been made by the Consultant or company of the Consultant.

11. INTELLECTUAL PROPERTY

11.1. You acknowledge and agree that the materials on the Website and the delivery platform, including without limitation, the assessments, the reports, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like ("Materials") and the trademarks, service marks and logos contained therein ("Marks"), are owned by us, and are subject to copyright and other intellectual property rights in the United Kingdom, South Africa and Europe and foreign laws and international conventions. Materials on the Website are provided to you "as is" for your information and personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners.

11.2. We reserve all rights not expressly granted herein to the Website, Portal and the Materials. You agree to not engage in the use, copying, or distribution of any of the Materials other than as expressly permitted herein, including any use, copying, or distribution of Materials of third parties obtained through the Website and Portal for any commercial purposes. If you download or print a copy of the Materials for personal use, you must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable or otherwise interfere with security related features of the Website, Portal or features that prevent or restrict use or copying of any Materials or enforce limitations on the use of the Website or the Materials therein.

11.3. The Services are protected to the maximum extent permitted by copyright laws, other laws, and international treaties. Content displayed on or through the Services is protected by copyright as a collective work and/or compilation, pursuant to copyrights laws, other laws, and international conventions. Any reproduction, modification, creation of derivative works from or redistribution of the Website, Portal, the Materials, or the collective work or compilation is expressly prohibited. Copying or reproducing the Website, Portal, the Materials, or any portion thereof to any other server or location for further reproduction or redistribution is expressly prohibited.

11.4. You further agree not to reproduce, duplicate or copy any Products, Content or Materials from the Services, and agree to abide by any and all copyright notices and other notices displayed on the Services. You may not decompile or disassemble, reverse engineer or otherwise attempt to discover any source code contained in the Services. Without limiting the foregoing, you agree not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any aspect of the Services.

12. LIMITATION AND TERMINATION OF SERVICES

12.1. Your account will automatically be deactivated if your account is inactive for a prolonged period of 24 months. Should you wish to deactivate your account, you can contact us to deactivate your account.

12.2. We reserve the right at any time to modify or discontinue the Services (or any part thereof) with or without notice and that we shall not be liable to you or to any third party for any such modification, suspension or discontinuance of the Services.

12.3. You acknowledge and agree that we, in our sole and absolute discretion, have the right (but not the obligation) to delete or deactivate your account, block your e-mail or IP address, or otherwise terminate your access to or use of the Services (or any part thereof), immediately and without notice, and remove and discard any Content within the Services, for any reason or no reason at all, including, without limitation, if we believe that you have violated these Terms. Further, you agree that we shall not be liable to you or any third-party for any termination of your access to the Website, Portal or the Services. Further, you agree not to attempt to use the Services after any such termination.

12.4. No provision of these Terms (or any contract governed by these Terms):

12.4.1. does or purports to limit or exempt us from any liability (including, without limitation, for any loss directly or indirectly attributable to our gross negligence or wilful default or that of any other person acting for or controlled by us) to the extent that the law does not allow such a limitation or exemption; or

12.4.2. requires you to assume risk or liability for the kind of liability or loss, to the extent that the law does not allow such an assumption of risk or liability.

12.5. This section 12 constitutes an assumption of risk and/or liability by you and limits and excludes liabilities, obligations and legal responsibilities which we will have towards you and other persons. This section 12 also limits and excludes your rights and remedies against us and places various risks, liabilities, obligations and legal responsibilities on you.

13. DISCLAIMER OF WARRANTIES

13.1. You expressly acknowledge and agree that use of the Website, Portal and the Services is entirely at your own risk and that the Website, Portal and the Services are provided on an "as is" or "as available" basis, without any warranties of any kind.

13.2. All expressed and implied warranties, including, without limitation, the warranties of merchantability, fitness for a particular purpose, and non-infringement of proprietary rights are expressly disclaimed to the fullest extent permitted by law. As far as the law allows, we, our officers, directors, employees, and agents disclaim all warranties, express or implied, in connection with the website and your use thereof. We make no warranties or representations about the accuracy or completeness of the Portal’s / Website's content or the content of any third-party websites linked to the Website and assume no liability or responsibility for any:

13.2.1. errors, mistakes, or inaccuracies of content.

13.2.2. personal injury or property damage, of any nature whatsoever, resulting from your access to and use of the Website, Portal and Services.

13.2.3. any unauthorized access to or use of our servers and/or any and all personal information and/or financial information stored therein.

13.2.4. any interruption or cessation of transmission to or from the Portal. For the avoidance of doubt, you acknowledge the delivery of the Service is dependent on your Internet service provider network and infrastructure.

13.2.5. any bugs, viruses, trojan horses, or the like which may be transmitted to or through the Website and Portal by any third party.

13.2.6. any errors or omissions in any Content, the Assessment Results, or for any Loss of any kind incurred as a result of the use of any Content posted, emailed, communicated, transmitted, or otherwise made available via the Website, Portal or the Services.

13.3. We do not warrant, endorse, guarantee, or assume responsibility for any product or services advertised or offered by a third party through the Website, Portal or any hyperlinked Website, Portal or featured in any banner or other advertising, and we will not be a party to or in any way be responsible for monitoring any transaction between you and/or other users and/or third-party providers of products or services. As with the purchase of a product or services through any medium or in any environment, you should use your best judgment and exercise caution where appropriate.

14. LIMITATION OF LIABILITIES

14.1. In no event shall we, our officers, directors, employees, or agents, be liable for direct, indirect, incidental, special, consequential or exemplary damages (even if we have been advised of the possibility of such damages), resulting from any aspect of your use of the Website, Portal or the Services, including without limitation whether the damages arise from use or misuse of the Website, Portal or the Services, from inability to use the Website, Portal or the Services, or the interruption, suspension, modification, alteration, or termination of the Website, Portal or the Services.

14.2. Such limitation of liability shall also apply with respect to damages incurred by reason of other services or products received through or advertised in connection with the Website, Portal or the Services or any links on the Website, as well as by reason of any information, opinions or advice received through or advertised in connection with the Website, Portal or the Services or any links on the Website.

14.3. These limitations shall apply to the fullest extent permitted by law and you specifically acknowledge and agree that we shall not be liable for user submissions or the defamatory, offensive, or illegal conduct of any user or third party and that the risk of harm or damage from the foregoing rests entirely with you.

14.4. This section 14 constitutes an assumption of risk and/or liability by you and limits and excludes liabilities, obligations and legal responsibilities which we will have towards you and other persons. This section 14 also limits and excludes your rights and remedies against us and places various risks, liabilities, obligations and legal responsibilities on you.

15. RESEARCH AND PUBLICATIONS

15.1. No research may be conducted using our product information or participant data, irrespective of granted on-line access, without prior written consent from Cognadev. No research or any data derived from our products may be published without prior written consent from Cognadev.

15.2. In the event that you are granted written consent to compile research information, you agree to indemnify Cognadev from any losses or damage resulting from the quality, content and nature of the research conducted, and Cognadev shall have the right to apply lawful measures in the event of the misuse of data.

15.3. Should you be granted written consent to publish research information, you agree to provide Cognadev with the research data for review and consent, prior to publication. In such an event, we have the right to obtain further information in the arriving at your conclusions to uphold the integrity of our products.

15.4. You agree that Cognadev may use your candidate assessment data for the purpose of anonymous collective research, without naming any individual or organisation, for the purpose of knowledge sharing, thought leadership, case studies and the update of norm groups as required.

16. ASSIGNMENT

16.1. These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by us without restriction. Any assignment or transfer or attempted assignment or transfer by you shall be null and void.

17. ABILITY TO ACCEPT TERMS OF SERVICE

17.1. The Portal is intended only for trained, accredited users and nominated candidates. You affirm that you are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms, and to abide by and comply with these Terms.

18. SUCCESSORS AND ASSIGNS

18.1. These Terms shall inure to the benefit of and be binding upon each party's successors and assigns.

19. VIOLATION OF TERMS

19.1. You are required to report any violations of the Terms (including the Privacy Policy) that you may become aware of by contacting us. Any failure by us to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches by you or others.

20. VARIATION OF CERTAIN DEEMING PROVISIONS IN THE EC ACT

20.1. By using the Website, Portal and/or the Services, you agree that these Terms create a binding contract between us and you, even though these Terms are wholly or partly in the form of a data message. You agree specifically that:

20.1.1. The contract will be treated as if it was concluded at our physical address on the date on which you first made any use of the Website or Portal.

20.1.2. An electronic signature is not required by you or us for purposes of agreeing to these Terms.

20.1.3. Your use of the Website, Portal and/or the Services is sufficient evidence of your agreement to these Terms.

20.1.4. Subject to the further provisions of these Terms, any communication sent to you by an information system programmed to operate automatically on our behalf will be a data message attributable to, or authorised by us.

20.1.5. The contract will be treated as if it was concluded at our physical address on the date on which you first made any use of the Website or Portal; and.

20.1.6. Subject to the further provision of these Terms, a data message sent by you to us will only be treated as having been received by us when an acknowledgement of receipt is sent by us personally or a person who had authority to act on our behalf in respect of that data message.

You can also contact us at the following email addresses:

http://www.cognadev.com/contact/ or info@cognadev.com