



# CHEMOMETRIC BRAIN

## SPECIAL TERMS AND CONDITIONS FOR CHEMOMETRIC BRAIN

PARTIES	
Client: [*]	
Client Code: [*]	
Tax ID No.: [*]	
Contact address: [*]	
Contact person: [*]	
Email: [*]	
Telephone no.: [*]	
Billing frequency: [*]	
SaaS provider: [*]	
Tax ID No.: [*]	
Contact address: [*]	
Contact person: [*]	
Email: [*]	
Telephone no.: [*]	
IBAN: [*]	

ORDER DETAILS							
Date: [*]			Method of payment: [*]				
			Payment deadline: <b>30 days</b> from issue of the invoice by Chemometric Brain.				
No .	DESCRIPTION	FREQUENCY	EUROS/YEAR			TERRITORY	TOTAL
			1	2	3		
[*]	Chemometric Brain	YEARLY				SPAIN	[*]
[*]	Qualitative model for raw material.	YEARLY				SPAIN	[*]
[*]	Qualitative model for end product.	YEARLY				SPAIN	[*]



# CHEMOMETRIC BRAIN

[*]	Training (6-hour maximum)	ONE-TIME				SPAIN	[*]
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**REMARKS**

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## AGREEMENT

Under this Agreement, the Client subscribes to Chemometric Brain's Services, on its own behalf, subject to the current fees and the General Terms and Conditions of Chemometric Brain attached to these Special Terms and Conditions. The undersigned represent(s) that all the information provided herein is correct and that he/she/they has/have sufficient authority to enter into this Agreement.

In \_\_\_\_\_ on \_\_\_\_\_

<p><b>For Chemometric Brain SLU</b>  Legal representative: _____</p>          <p>Signature and stamp:  _____</p>	<p><b>For [*]</b>  Legal representative: _____</p>          <p>Signature and stamp:  _____</p>
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## CHEMOMETRIC BRAIN

### CHEMOMETRIC BRAIN GENERAL TERMS AND CONDITIONS

#### I. PURPOSE

1.1 This Agreement establishes the General Terms and Conditions for the use of the software that Chemometric Brain is entitled to exploit, as described in the Special Terms and Conditions subscribed by the Client, and for certain services accessory to that software.

Accordingly, by signing or completing the Special Terms and Conditions, the Client acquires the number of user licences specified in the Order, each to include one (1) right of access for one (1) user of the Software on the terms set forth in the Special Terms and Conditions of this Agreement, conditional upon payment of the amounts specified therein. In addition, Chemometric Brain agrees to provide the Additional Services in the terms and conditions described in this Agreement, where applicable.

Clients that have more than one computer connected to a LAN in a work group or network domain must purchase one licence for each user. For clarification purposes, licences run concurrently and, therefore, the Client can only use at the same time as many licences as he/she/it has purchased.

Finally, the Client warrants that Chemometric Brain has informed it how the Software operates and the minimum necessary technical requirements for using it, and it warrants as well that its equipment and network meet those requirements.

1.2 The provision of the Additional Services to the Software will be subject to the terms and conditions described in Section VI of these General Terms and Conditions and will further depend on which Additional Services, if any, are purchased as specified in the Order.

1.3 The following terms will have the following meanings for purposes of this Agreement:

- Chemometric Brain: means Chemometric Brain, S.L.U.
- Client: means the individual or company designated as such in the Special Terms and Conditions, who will therefore be the licensee of the Software.
- General Terms and Conditions/Agreement: means the "Chemometric Brain General Terms and Conditions".
- Special Terms and Conditions: means the terms, conditions, and any other information set out in the "Special Terms and Conditions for Chemometric Brain" signed by the Client and Chemometric Brain.
- Spectra: means the data, in the form of absorbance and wavelength values, obtained from analysing products using different spectroscopy methods. That is, the results obtained by interaction of photons with matter

that, if previously calibrated for that purpose, enable products, ingredients, physicochemical properties, etc. to be identified.

- Order: means the service(s) offered by Chemometric Brain as described in the "Order Details" section of the Special Terms and Conditions.
- Additional Services: means the service(s) offered by Chemometric Brain as described in the Order, not included in the Software.
- Software: means Chemometric Brain's software as described in the Order (including, but not limited to, all manner of works, features, formulas, spectra, original or *sui generis* databases, trade secrets, or other elements capable of being protected by intellectual property rights, etc.).

#### II. INTELLECTUAL PROPERTY RIGHTS

2.1 These Terms and Conditions neither warranty nor grant to the Client rights of any kind in the Software; therefore, as explicitly described in these Terms and Conditions, the Client acquires no intellectual property rights (including, but not limited to, rights relating to copyright, patents, trademarks, formulas, spectra, software (source code and object code), original or *sui generis* databases, trade secrets, etc.) of any kind in relation to the Software other than the right to use it as set forth in this Agreement, in a non-exclusive and non-transferable basis. Chemometric Brain expressly reserves all those rights and thus retains all ownership rights in the Software and in any and all entire or partial copies of the Software and in any original or *sui generis* databases generated from its use.

2.2 In the same terms expressed in the preceding paragraph, the Client will retain ownership of all formulas, spectra, and any other data relating to the end products that it uploads to the Software.

Nevertheless, having in mind that operation of the Software is based on analysing different Spectra and converting the data thus obtained into information helpful to the Client and that increasing the Software's usefulness and precision requires large volumes of data, the Client authorises Chemometric Brain to use any and all data or spectra relating to the composition, physicochemical properties, or any other type of information, etc., used by the Client and uploaded to the Software, for incorporation into databases, mathematical models, and/or the Software, with no restrictions as to either territory or time.

Accordingly, Chemometric Brain may modify and develop the Software and the algorithms contained therein, based on the mathematical data taken from the Spectra provided by the Client, to the benefit of all of Chemometric Brain's Clients.

In consequence, Chemometric Brain may use the



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aforesaid information and Spectra even after the current relationship has ended, all without prejudice to the duty of confidentiality established in this Agreement.

For clarification purposes, while the data and Spectra provided by each Client may be implemented within the Software, each Client will be able to access only those data and Spectra it has individually analysed, via its own private library; it will benefit from the mathematical model generated using other Client's data, but it will not have access to these individual data. Likewise, the models that relate to each Client's end products will be for the exclusive use of that Client, unless the Client chooses to share them with its own clients through the Software.

In this regard, the Client represents and warrants that it and it alone has obtained the data and Spectra uploaded to the Software and that it has sole and exclusive ownership of those data and Spectra. The Client further represents and warrants that it is not aware that the data and Spectra uploaded to the Software infringe or conflict with any third-party rights, in whole or in part. Accordingly, the Client will hold Chemometric Brain and any other party it may authorise harmless from any and all claims based on third-party rights as a result of use of the data and Spectra uploaded to the Software.

2.3 Use of the Software is subject to the Special Terms and Conditions and this Agreement, an updated version of which is available on the webpage at [www.chemometricbrain.io](http://www.chemometricbrain.io). The Client will visit that webpage and read and acknowledge the terms and conditions published therein from time to time, which will be understood to have been accepted when the Client requests the use of the Software or accesses it for the first time, which will be deemed an unequivocal sign that it has accepted the General Terms and Conditions of the Software established by Chemometric Brain.

Chemometric Brain will notify the Client of any substantial changes to the General Terms and Conditions at least 15 days before the new terms and conditions take effect. The Client will be understood to have accepted the changes to the General Terms and Conditions of the Software if it has not raised any objections during that time period or if it continues using the Software after that time.

### III. CONSIDERATION

3.1 The Client will pay Chemometric Brain the fees stipulated in the Order with the frequencies indicated therein. Payment will be made by bank transfer to the current account listed in the Order, by credit card, by direct debit, or by any other payment method or platform accepted by Chemometric Brain at any given time.

3.2 The different services detailed in the Order will be understood to have effectively been engaged when

they have been expressly confirmed by the Client and when Chemometric Brain has received the first monthly instalment payment for each contracted service.

3.3 All amounts detailed in the Order will be increased by the corresponding taxes applicable under the current law at any given time.

3.4 Chemometric Brain will send the Client the corresponding invoice(s) for the contracted service(s), to be paid by direct debit, and the Client will accordingly send to Chemometric Brain the "SEPA B2B direct debit mandate" attached to this Agreement.

3.5 The following specific conditions will be applicable to the Client, which it represents that it acknowledges and accepts:

- The consideration for the Additional Services will be determined in accordance with the terms and conditions specified in this Agreement, unless Chemometric Brain indicates otherwise.
- In case of default of any of the instalments or invoices issued by Chemometric Brain for more than 15 days, Chemometric Brain will be entitled to remotely block and prevent the Client from using the Software and to stop providing the Additional Services until the Client has cured the default.
- After 30 days from default of any of the invoices issued, Chemometric Brain may terminate this Agreement, including the Special Terms and Conditions, and stop providing the Additional Services, and the Client will no longer be entitled to use the Software, all without prejudice to Chemometric Brain's right to claim the due amounts and any damages that it may have sustained. In that case, Chemometric Brain may remotely block use of the Software by the Client permanently.

### IV. DURATION OF THE AGREEMENT

4.1 This Agreement is established for ONE YEAR from the date of signature and on expiry will be understood to be automatically renewed for an identical period, with new, adjusted fees, unless either of the parties has notified the other of its intent to cancel the Agreement at least 30 days before the expiry date.

4.2 The user licence and the provision of the Additional Services will be understood to have been revoked upon termination of this Agreement or for any other reason stipulated in the Agreement. In particular, this Agreement, including those in Clause 3.5, will apply in case of default.

### V. CLIENT OBLIGATIONS

5.1 By signing and/or completing the Order, the Client agrees:

- To duly pay the corresponding fees for the modalities and services contracted in a timely



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manner.

- To observe Chemometric Brain's intellectual property rights.
- To use the Software in the terms set forth in the Special Terms and Conditions and in this Agreement.
- To have in place the technical and computing equipment needed to be able to use the Software in the terms notified by Chemometric Brain.

### VI. SPECIAL TERMS AND CONDITIONS FOR PROVISION OF THE SERVICES

6.1 Chemometric Brain will provide the Additional Services in the terms and conditions stipulated in this Agreement.

6.2 Types of Additional Services available aside from the Software:

- "Training": If specified in the Order, Chemometric Brain will provide the Client with online and/or in-person training in operating the Software for the length of time stated in the Order.
- "Consultancy": Where contracted by the Client, Chemometric Brain may provide specified consultancy services in the terms stipulated by the parties in each case.

6.3 Software-related services:

Chemometric Brain will provide the following services to the Client:

- Remote Client service. Answering questions concerning the contracted models in relation to new samples analysed by the Client, and providing theoretical and practical advice to improve Software usage and help in obtaining results. Chemometric Brain will make every effort to respond to all questions posed or incidents reported concerning the Software and/or the mathematical models it uses within roughly 48 hours of receipt during business hours in the city of Murcia, Monday to Friday.
- Software changes and upgrades. The Client will be entitled to access upgrades to the mathematical models used by the Software that may be developed by Chemometric Brain, at its discretion, while the Agreement is in effect.
- Export service and backup copies. Chemometric Brain will make a backup copy of the Spectra uploaded and analysed by the Client for delivery to the Client in .csv or a like format at the end of the commercial relationship unless the relationship is ended as a result of breach by the Client.

Accordingly, the Client will retain ownership of all the data and Spectra it has uploaded to the Software throughout the entire period when it is using the Software and may export the data and Spectra at the end of the relationship.

- Client support services. To help ensure effective and meticulous support for all Clients, the Client should review the documents supplied by Chemometric Brain before making use of the support service. It should also check the condition of the computing equipment and accessories.

If the problem persists after it has checked these aspects, the Client may contact Chemometric Brain's Technical Service by email at [support@chemometricbrain.io](mailto:support@chemometricbrain.io), identifying itself using the Client Code provided by Chemometric Brain.

The Client should have an Internet connection so that the incident can be dealt with remotely.

Questions will relate exclusively to the Software and to the results obtained by using certain of the Software's mathematical model. This service does not cover any question regarding any other software or hardware element or the Additional Services. The Software support team will reply within 48 h of receipt of the query during business hours in the city of Murcia, Monday to Friday.

### VII. WARRANTY, INDEMNIFICATION, AND LIMITATION OF LIABILITY

7.1 Chemometric Brain provides the Software to the Client "as is", with no warranty of any kind except for upgrades to mathematical models as expressly stipulated in this Agreement. In consequence, the Client waives all express or implied warranties, including the implied warranties of non-infringement, merchantability, and fitness for a particular purpose.

7.2 The Client will bear full liability and will indemnify and hold Chemometric Brain harmless against all liability arising from use of the Software or of the Spectra uploaded to the Software or arising from any act or omission by the Client in accordance with this Agreement.

7.3 Chemometric Brain's liability under or in relation to this Agreement (including damages), whether from negligence, breach of contract, or any other cause, will be limited to the price of the Software paid by the Client in the last year.

7.4 Chemometric Brain will not be liable for any direct or indirect loss (a) of profits, (b) of savings, (c) of goodwill, (d) of reputation, (e) of revenue, (f) of anticipated savings, (g) of business opportunity, (h) of data and Spectra uploaded to the Software, or (i) any other pure economic loss; nor will it be liable for any special, indirect, consequential, or incidental losses or damages of whatever kind or nature, regardless of whether they arise from breach of contract, breach of warranty, tort, strict liability, negligence, or any other cause, even if Chemometric Brain has been advised of the possibility of such loss or damage or such loss or damage was reasonably foreseeable.



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7.5 Chemometric Brain declines all liability in the following cases:

- Breach by the Client of any of the stipulations in this Agreement.
- Improper or negligent use of the Software, Spectra, and/or databases.
- Loss of unrecoverable information (including the loss of data relating to the Spectra uploaded to the Software).
- Any type of indemnity claim for damages made by the Client arising from the availability of the Software and/or the Additional Services.

7.6 The Client will assess, review, confirm, and compare the results obtained in guides, models, own sources, other types of analysis, etc. when using the Software, and the Client will be responsible for their use at all times.

The Software is a tool to be used by the Client as an aid in obtaining certain results, and the Client will in all cases be responsible for those results and will ensure that they are appropriate in each individual case.

For this reason, Chemometric Brain will in no case be liable for the results and/or Spectra obtained using the Software, and consequently the Client warrants that it will bring no claim against Chemometric Brain in this connection and will hold Chemometric Brain harmless against any and all claims made by any third party in respect of the subject matter of this paragraph.

7.7 In particular, with regard to use of the Software, Chemometric Brain makes no guarantee that:

- The Software will always be secure, appropriate, uninterrupted, or error free.
- The Software will operate in combination with any other hardware, software, system, or any form of data or Spectrum.
- The Software will meet the Client's requirements or expectations.
- The stored data will be accurate and reliable.
- The mathematical models and algorithms employed by the Software are defect free.
- The service(s) provided by other telecommunications operators that make Chemometric Brain's Software available will be operational or will not contain defects or other harmful components.

7.8 Chemometric Brain's Software may be subject to limitations, delays, or other incidents inherent to use of the Internet and electronic communications. Chemometric Brain will not be liable for any damage arising from such incidents.

### VIII. SERVICE-LEVEL AGREEMENT

8.1 Chemometric Brain will make every commercially reasonable effort to ensure the continuity and availability of the contracted services. For information purposes, Chemometric Brain will supervise the

availability of those services during business hours, Monday to Friday.

8.2 Chemometric Brain will make every effort to resolve incidents affecting the services that may occur, to the extent that this is within the scope of the technical and human resources available to Chemometric Brain and the Client fulfils the stipulations set forth in these General Terms and Conditions.

8.3 Where the contracted services are unavailable to the Client for a significant time period for reasons attributable to Chemometric Brain, Chemometric Brain will discount the pro-rated amount corresponding to the time when the Client was unable to use the Software from the next invoice. For clarification purposes, scheduled limitation or suspension of the services by Chemometric Brain will not count for purposes of availability.

### IX. ADDITIONAL SECURITY MEASURES FOR THE CLIENT'S DATA AND SPECTRA

9.1 Chemometric Brain employs reasonable measures designed to protect the Software's operating environment from unauthorised physical access and other threats, which includes the following capabilities:

- A secure data centre with physical access restricted to authorised personnel protected multilevel security systems. Supervised access by other people for specific needs (for example, to perform maintenance tasks on hardware components).
- A continuous conditioned power supply with redundant power supply infrastructure, including a backup battery and generator system and regular systems testing to monitor continuous availability.
- Redundant air-conditioning, ventilation, and cooling systems and fire-extinguishing systems.

9.2 In addition to the physical access control measures described above:

- Chemometric Brain has implemented controls compliant with the ISO 27002 standard.
- The Client's data and Spectra are stored in secure directories that require access authentication.
- Chemometric Brain makes recurring backup copies of the data and Spectra uploaded by the Client. The Client's data are stored at external facilities. The backup copies are stored until the contractual relationship has ended.
- Chemometric Brain's Software contains antivirus protection software. Where the Software has been found to have been impaired by a virus or the like, Chemometric Brain will make every commercially reasonable effort to restore the Software as soon as possible.
- Chemometric Brain will supply sufficient server



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capacity to provide a proper operating environment for the Software.

### X. INDEPENDENT RELATIONSHIP

10.1 Each party is an independent contractor. Neither of the parties is, nor will it claim to be, a legal representative, franchisee, agent, or employee of the other, except as may be specifically provided in this Agreement. Neither of the parties will accept or create obligations for the other except as may be expressly set forth in this Agreement or subsequent to prior written consent by the other party; neither of the parties will, therefore: (i) refer to itself as an authorised representative of the other party in promotional, advertising, or other materials; (ii) use Chemometric Brain's registered trademarks or any derivative thereof in any of its promotional, advertising, or other materials; (iii) make any other sort of public announcement referring to the other party or this Agreement.

### XI. FORCE MAJEURE

11.1 Should a force majeure event beyond the control of the parties occur and interfere with or prevent performance by either of the parties of its respective obligations, no breach of contract will be considered to have taken place, nor will it entitle either of the parties to claims or damages arising as a result.

### XII. CONFIDENTIALITY

12.1 Chemometric Brain and the Client agree that the information on the Client in respect of products, Spectra, and formulas relating to the Client's end products that Chemometric Brain acquires as a result of using the Software will remain confidential and the property of the Client. Chemometric Brain thus agrees to keep that information confidential and not to use it or disclose it to third parties without the Client's prior written consent (the "Confidential Information").

12.2 Chemometric Brain will take suitable measures to ensure proper processing and non-disclosure of the Confidential Information. Those measures will not be less than those Chemometric Brain employs for its own confidential information, and will consist of:

- Limiting usage of the Confidential Information to what is strictly necessary to enable use of the Software and improvement of the mathematical models it employs.
- Allowing access to the Confidential Information only to those individuals or legal entities that provide services to Chemometric Brain and in doing so require the Information to perform legitimate tasks for which use of that Information is strictly necessary. To that end, Chemometric Brain will advise those individuals or legal entities of their duties regarding confidentiality and will oversee the performance of those duties.
- Taking the necessary measures in respect of both

its employees and third parties to ensure performance of the duties of confidentiality established in this Agreement.

- Reporting to the Client any leak of the Confidential Information due to breach of the Software or disclosure of the Confidential Information by persons who have had access to it of which Chemometric Brain may be or may become aware.
- Observing the duties of confidentiality indefinitely, even after the relationship between the parties has come to an end for any reason.

12.3 Without prejudice to the obligations imposed by national or Community law, or those accepted by Chemometric Brain, the duties of confidentiality set forth in this Agreement will not apply to information in respect of which Chemometric Brain can demonstrate that:

- The information was already in the public domain at the time it was disclosed.
- The information was published or made public in any other way, without breach of Chemometric Brain's duty of confidentiality, after it was disclosed to Chemometric Brain.
- At the time of disclosure Chemometric Brain had already gained possession of the information by lawful means or had a legally recognised right to access that information.
- Chemometric Brain had the Client's prior written consent to disclose the Confidential Information.
- Chemometric Brain was asked for the information by competent government or judicial authorities for them to issue a ruling concerning aspects of some or all of that information.

12.4 The duties of confidentiality set forth in this Agreement will remain in effect for the entire duration of the Agreement and indefinitely, even after the Agreement has ended. In case of breach of any of these duties, the Client may claim compensation from Chemometric Brain for the damages caused.

12.5 For the sake of clarity, the data or Spectra as such will not, in themselves, be Confidential Information, which will be limited to the formulas and to the set of Spectra by means of which Chemometric Brain or a third party could ascertain the composition and specific formulation of the Client's end products. Thus, Chemometric Brain may use the data and Spectra uploaded by the Client to further develop and improve the functionalities, mathematical models, algorithms, and databases used by the Software, on condition that the Client's end products cannot be reproduced using them.

### XIII. DATA PROTECTION

13.1 In accordance with current data protection legislation, the Client and Chemometric Brain mutually inform each other that the personal data



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exchanged in the context of the contractual relationship will be processed by each as the data controller for that processing, the purpose of the processing being proper performance and furtherance of the existing contractual relationship. The contractual relationship is the lawful basis for the processing. The data in question will not be transferred to third parties.

13.2 The Client and Chemometric Brain will process the personal data while the relationship between them lasts, and after it has ended, they will store them, duly protected, for the period in which liabilities could arise for either as a consequence of processing of the data.

The Client and Chemometric Brain further agree to ensure compliance with current data protection legislation. In addition, either of the parties may exercise its rights to access, rectification, erasure, restriction, or portability of their data on giving formal notice to the email addresses set forth in the Special

Terms and Conditions. Also, both parties will be entitled to submit a complaint to the Agencia Española de Protección de Datos [*Spanish Data Protection Agency*].

13.3 The parties agree to observe the duty of secrecy and the duty to keep the data disclosed confidential and to pass those same duties onto all those persons (employees, subcontracted personnel, interns, etc.) or entities that have access to the data in the performance of their functions and obligations in respect of the services received.

### **XIV. JURISDICTION**

14.1 The contracting parties expressly waive any jurisdictions to which they may be entitled and agree that any and all issues or disputes that may arise in respect of the interpretation, application, or enforcement of this Agreement will be subject to the jurisdiction of the courts of the city of Murcia (Spain).