



Mindset Management

Privacy Policy

("Mindset Management")

Version 1.8 – Dec, 2024

Introduction

Thank you for visiting our website and/or using our applications. Please note that in doing so, you may provide to us, or we can collect from you, personal and private data and information. We encourage you to read this privacy policy to learn how we collect, use and protect your personal information.

This privacy policy applies to any website, application, form, document, product or service that references this privacy policy and describes how we collect, use, disclose, retain and protect your personal information to comply with the governing data privacy and processing laws. By accessing and utilizing our website and our applications, you agree to be bound by this privacy policy.

For the purpose of this privacy policy:

- "Mindset Management" means (as the case may be) either:
 - **Mindset Management Inc, duly incorporated under the laws of the State of Delaware, United States of America, State of Delaware File # 7045775**, with its international principal place of business located at 90 State Street, Suite 700, Albany, New York, United States of America, 12207, **if the** principal place of business of the data subject is located within the official borders of the United States of America; **or**
 - **Mindset Management Programs (Pty) Ltd, duly incorporated in the Republic of South Africa with company registration number 2016/038861/07** with its principal research and development office located at Midlands Office Park West, Mount Quray Road, Centurion, Gauteng, Republic of South Africa, 1683, **if the** principal place of business of the data subject is located within the official borders of the Republic of South Africa, or is located in any other country outside of the official borders of South Africa other than in the United States of America.

- the terms “personal data”, “personal information” and “data” bear the same meaning for the purposes of this privacy policy;
- “data subject” means an “Enterprise User” and “User” as defined in the Mindset Management Terms of which this privacy policy forms an integral part, and if the “Enterprise User” is an employer of data subjects, the definition of a “data subject” shall include a person under the direct authority of the “Enterprise User” such as an employee, consultant, adviser and contractor. For the purposes of this privacy policy, the definition of a “data subject” shall also include a juristic person as stipulated in the POPI, if applicable;
- “personal information” is any data and information that relates to a living, natural person who can be directly or indirectly identified, and any information that relates to existing juristic persons such as companies or other institutions and shall include personal and private information protected by the governing law applicable to data privacy and data processing in accordance with the Choice of Law provisions set out in the section “Applicable law, precedence and scope”;
- “DPA” means the relevant data processing service terms and conditions as set out in this Privacy Policy document that can be accessed on our website or when logging on to any of our applications. Unless a subscribed Enterprise User and Mindset Management agree otherwise in writing, the provisions of the DPA will automatically apply to the data processing services Mindset Management supplies to any subscribed Enterprise User that accesses and utilizes any of our applications.

The data subject’s right to privacy is very important to us and we are committed to protect the data subject’s personal information and to comply to the fullest extent with the governing data privacy protection laws. This privacy policy therefore intends to comply with the applicable provisions of among others, the California Consumer Privacy Act of 2018, as amended (“**CCPA**”) as the current benchmark data privacy protection law in the United States of America, the European Commission’s General Data Protection Regulation, 2016/679, as amended (“**GDPR**”) as well as the South African Protection of Personal Information Act, No. 4 of 2013 (“**POPI**”), as amended.

It is important to take note that there are key differences between the CCPA, GDPR and the POPI, principally in the scope of application:

- The GDPR and POPI prescribe an opt-in model, requiring consent from data subjects prior to collecting or processing personal information.
- The CCPA in most cases (there are exceptions) does not require consent prior to collecting or processing personal information but requires clear disclosure that personal information will be collected and processed and data subjects are entitled to opt-out after the collection and processing of data subjects’ personal information.

Data subjects are not required to provide all the personal information identified in this privacy policy to enable a data subject to use our website or applications, but certain functionalities will not be available or accessible to a data subject if the data subject does not provide the personal information as and when requested.

We have appointed a Data Protection Officer who is responsible for overseeing enquiries in relation to this privacy policy. If the data subject has any questions about this privacy policy, including any requests to exercise its legal rights, or if the data subject suspects there has been any unauthorized access to or misuse of its personal information, immediately contact our Data Protection Officer / Information Officer at info@mindsetmanage.com.

Who controls and who is processing the personal information

The CCPA, POPI and GDPR distinguish between persons and institutions doing the collection of personal information (i.e. defined as “the business” (CCPA), “controllers” (GDPR) or “responsible parties” (POPI)), and those persons or institutions who do the processing of personal information, i.e. “the business or third party” (CCPA), “processors” (GDPR) or “operators” (POPI).

- The **“Business”, “Controller” / “Responsible Party”** determines the purposes for which (“why”) and the means by which (“how”) personal information is processed.
- The **“Business” or “Third Party” / “Processor” / “Operator”** is usually an independent third party external to the controller / responsible party, that processes personal information on behalf of the controller / responsible party in terms of an agreement or mandate, without coming under the direct authority of the controller / responsible party.

For the purposes of this privacy policy, Mindset Management is regarded as the Business or Third Party under the CCPA, the Controller under the GDPR and the Responsible Party under the POPI responsible for the data subject’s personal information in instances where Mindset Management prescribe the processing operations concerning the data subject’s personal information.

However, due to the nature of the services Mindset Management provides, we also operate as a processor / operator when we enter into a contract with an Enterprise User that is the employer of Users (data subjects) to act as the Enterprise User’s data processor / operator to process personal information collected by the Enterprise User. In these circumstances:

- the Enterprise User by entering into a contract with Mindset Management and therefore deciding what, why and how the personal information of its Users (data subjects) will be processed, is by law regarded as the controller / responsible party;

- it is the responsibility of the Enterprise User as controller / responsible party to comply with the relevant provisions of the law where the Enterprise User transfers a User's (data subject's) personal information to Mindset Management for processing and when the Enterprise User uses our website and applications to upload and process the User's (data subject's) personal information;
- an Enterprise User can only process or transfer to a processor / operator the personal information of Users (data subjects) for processing:
 - where the consent of the User (data subject) concerned is freely given, specific, informed and unambiguous by a statement or by a clear affirmative action that signifies agreement to the processing of personal information relating to him or her;
 - where a contractual obligation exists between the Enterprise User and the Users (data subjects);
 - to satisfy a legal obligation of the Enterprise User;
 - to protect the vital interests of the Enterprise User;
 - to carry out a task that is in the public interest; and
 - in pursuance of the legitimate interests of the Enterprise User.
- Mindset Management, in entering into a contract with the Enterprise User to process the personal information of Users (data subjects) that is transferred to Mindset Management by the Enterprise User or uploaded by the Enterprise User to Mindset Management's website or applications, act as an independent third-party data processor that is regarded by law as the processor / operator.

The data we collect

In our typical operations, we collect and process data from data subjects such as survey participants, administrative users acting on behalf of the Enterprise User (which is a client of Mindset Management), end-users using our applications (e.g. dashboards) and trial users for potential new clients.

The personal information we collect, and how that data is used, depends on how the data subject uses our online services and applications. We collect personal information directly from the data subject when the data subject provides us with information such as:

- personal information contained in any communication the data subject sends to us or that we send to the data subject;
- The data subject's contact data;

- user information when the data subject creates a user account via our website;
- login information when the data subject logs into its user account on our website;
- personal information the data subject uploads to our website.

We collect personal information indirectly and through an automated process from the data subject when:

- the data subject uses or interacts with our online services and applications;
- the data subject transacts with us through our website;
- event logging for error tracing takes place when using our applications or completing a survey;
- the data subject uploads and stores its own data or the data of other persons on our website while using our online services and applications;
- personal information is provided by the data subject's employer (the Enterprise User) including the data subject's contact and demographical information.

Where we need to collect personal information by law, or under the terms of a contract we have with the data subject and the data subject fails to provide that data when requested, we may not be able to perform the obligations under the contract (for example, to supply the Services to the data subject).

The Data Subject's third-party data

Where the data subject provides personal information to us or uses personal information in our applications that the data subject has collected from third parties, such as the data subject's customers, employees, other private individuals and juristic persons while using our online services or applications, the data subject will be regarded by law as the "controller" / "responsible party" and the data subject will by law be responsible to ensure that any personal information that the data subject collects and uses is protected, and transferred to us in compliance with applicable data protection laws.

Our use of the data

We process personal information on the legal basis that it is necessary to pursue our legitimate interests or to pursue a data subject's employer's (the Enterprise User's) legitimate interests, including performing our contractual obligations in terms of the contract with the Enterprise User. We use a data subject's personal information for the following purposes:

- the proper administration of our website, services and business;

- to supply the services through our website and applications;
- to contact the data subject to fulfil a request from the data subject for information, products and services;
- to develop, test and improve our services and applications;
- to maintain and improve our online services and applications;
- to keep a record of correspondence;
- to do troubleshooting;
- to notify the data subject about changes to our applications including new features;
- to manage the relationship with the data subject and to communicate with the data subject in relation to our online services and applications that the data subject uses;
- to provide the data subject with personalized features and content;
- to monitor the data subject's interactions with our website and applications by using analytics;
- to create and maintain our databases to ensure that we supply our online services and run our applications in a proper and efficient manner;
- for the data subject's security, risk management and the security of our website and applications and to detect or prevent any criminal activity;
- to assert the data subject's legal rights, our legal rights and the legal rights of third parties;
- to enable us to verify the data subject's eligibility to use our applications and give the data subject access to our online applications as a User;
- to enable us to send the data subject survey links as a participant in a survey;
- to provide the data subject's employer (the Enterprise User) with aggregated results, dashboards and reports from surveys where such surveys are conducted on an anonymous basis and as such the data subject's anonymity as survey participant is protected by default;
- where it is necessary for compliance with a legal obligation under the legal jurisdiction that applies to us, or in order to protect the data subject's privacy or the privacy of other natural persons;
- to use data in an aggregated and anonymized basis for benchmarking or research purposes;
- to send the data subject news and information about our services and applications, policies, updates and new offerings where the data subject has registered for a trial license or has requested information

from us. The data subject will be entitled to opt-in to receive our communications in this regard and to opt-out again at any time when the data subject no longer wishes to receive these communications.

Our legal bases

We will only collect and process the data subject's personal information where there is a lawful basis. Lawful bases include:

- where the data subject grants us specific, unambiguous consent;
- where processing is necessary to execute or to prepare to enter into a contract to which the data subject is a party;
- we need to process the data to comply with a legal obligation of ours;
- where the processing of the data is done in accordance with the terms of a contract with the data subject or the data subject's employer (the Enterprise User) and necessary for the performance of the contract;
- when there are compelling grounds to rely on our legitimate interests in processing the personal information.

We will only use the data subject's personal information for the purposes for which we collected it unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If the data subject wishes to obtain an explanation as to how the processing for the new purpose is compatible with the original purpose, please contact us.

If we need to use the data subject's personal information for an unrelated purpose, we will notify the data subject and we will explain the legal basis which allows us to do so. Please note that we may process the data subject's personal information without the data subject's knowledge or consent, in compliance with the above rules, where this is required or permitted by applicable data protection laws.

Our sharing of data

We do not collect and share data or create individual profiles for the purposes of advertising, marketing, or any other commercial purpose not associated with our online services or the services supplied by using our applications. To manifest the data subject's rights attached to any marketing sent to the data subject, please use the in-built prompts provided on those communications, or contact us.

We only send newsletters to designated key client contacts and partners.

We may share the data subject's personal information with approved third parties, who comply with applicable laws that protect the data subject's personal information, such as our hosting service provider and bulk email distributor. Please contact us should the data subject wishes to have a copy of the list of approved third parties to whom we provide the data subject's personal information.

We may need to share the data subject's personal information in exceptional circumstances when we believe it is required by law or to help protect the rights and safety of the data subject, us or others.

Our cross-border transfer of data

We operate on a global basis and may transfer data to other countries or international third parties as necessary for the purposes described in this privacy policy.

Whenever we transfer the data subject's personal information to other countries, we ensure a similar degree of protection is afforded to it by ensuring at least one of the following safeguards is implemented:

- We will always have a contract in place covering the processing of data and service-provision between the parties; and
- We will only provide the data subject's personal information to an entity that processes personal information at standards equal to or better than ours; or
- We will only transfer the data subject's personal information to countries that have been deemed to provide an adequate level of protection for personal information by the USA and South African Information Regulators' respective offices; or
- Where we use certain service providers, we may use specific contracts/clauses approved by the applicable United States of America and South African Regulators' respective offices which give personal information the same protection it has in the USA and South Africa.

Please contact us if the data subject wants further information on the specific mechanism used by us when transferring the data subject's personal information out of the USA or South Africa.

Privacy of minors

We do not collect, store or process data from any person under the age of 18 years. In the event that a person under the age of 18 years visits or accesses our website and intends to submit any personal information to

us, such person must be assisted by a person who is legally competent to consent to any action or decision being taken in respect of any matter concerning such person under the age of 18 years.

Our website and our online services and applications are not intended to solicit, collect or process data from any person under the age of 18 years.

The Data Subject's rights

The data subject has the right to:

- request a copy of the personal information, which we will provide to the data subject in electronic form subject thereto that the data subject proves its identity to our satisfaction before we provide the requested data to the data subject;
- request us to rectify or amend any incomplete or inaccurate personal information free of charge;
- request us to restrict the processing of personal information;
- object to the processing of, or complain about our processing of personal information, subject thereto that we will not be obliged to abide by the data subject's request where we have compelling legitimate grounds for the processing which override the data subject's interests and rights, or if we need to continue to process the data for the establishment, exercise or defence of a legal claim;
- request that we transfer personal information to the data subject or another entity provided that we are processing the data on the basis of the data subject's consent or in order to perform our contractual obligations;
- request that we erase personal information, unless we are required to retain such data in order to comply with a legal obligation or to establish, exercise or defend legal claims;
- withdraw the data subject's consent at any time, free of charge if the data subject has consented to our processing of personal information and the data subject's consent is a legal basis for our processing of the data;
- request that we restrict our processing of personal information where:
 - The data subject believes such data to be inaccurate;
 - our processing of the data is unlawful; or
 - we no longer need to process the data for a particular purpose, but where we are not able to delete the data due to a legal or other obligation or because the data subject do not want us to delete it.

The data subject may exercise any of its rights in relation to personal information by sending us an email, using the contact details set out below. Where we have entered into a contract with the data subject's employer (the Enterprise User) regarding the processing of the data subject's personal information, the data subject must contact its employer (the Enterprise User) directly should the data subject wish to exercise any of its rights in relation to the data subject's personal information. The data subject will not have to pay a fee to access its personal information (or to exercise any of the other rights). However, we may charge a reasonable fee if the data subject's request is clearly unfounded, repetitive, or excessive. Alternatively, we may refuse to comply with the data subject's request in these circumstances.

We may need to request specific information from the data subject to help us confirm the data subject's identity and ensure the data subject's right to access its personal information (or to exercise any of the data subject's other rights). This is a security measure to ensure that personal information is not disclosed to any person who has no right to receive it. We may also contact the data subject to ask for further information in relation to the data subject's request to speed up our response.

Personal information that we process will not be stored for longer than lawfully allowed or longer than necessary for the relevant purposes as set out in this privacy policy.

The data subject has the right to request that we delete personal information that we process about the data subject, unless we are required to retain such data in order to comply with a legal obligation or to establish, exercise or defend legal claims.

We attempt to respond to all legitimate requests within 1 (one) calendar month. Occasionally it may take us longer than a month if the data subject's request is particularly complex or the data subject has made a number of requests. In this case, we will notify the data subject and keep the data subject informed of the progress.

The data subject has the right to lodge a complaint with the appropriate data protection authority that regulates the processing of personal information at the relevant time if the data subject believes that we have not complied with applicable data protection laws.

Our data security measures

We have sufficient technical and organizational measures in place to safeguard personal information in our custody and under our control. We have due regard to generally accepted information security practices and procedures that apply to us generally or are required in terms of specific industry or professional rules and regulations, to an appropriate level in relation to the risks and the nature of the personal information that we protect.

It is common knowledge that the internet is a global communications system of interconnected computer networks and as such personal information that the data subject submits online to our website and applications may be intercepted. We cannot guarantee that any personal information, during transmission, will be absolutely safe from intrusion by others.

Where our website and applications contain links to other websites, please note that this privacy policy applies only to our website and applications. If the data subject clicks on a link to another website, it may allow third parties to collect or share data about the data subject, and the privacy policy of that person or entity will apply. We do not control these third-party websites/services and are not responsible for their privacy policies or terms.

Where there are reasonable grounds to believe that the personal information of a data subject has been accessed by unauthorised persons, we will notify the controller / responsible party affected by the compromised data and the relevant authorities as required by law.

Data retention

We will only retain the data subject's personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

To determine the appropriate retention period for personal information, we consider the amount, nature, and sensitivity of the personal information, the potential risk of harm from unauthorised use or disclosure of the data subject's personal information, the purposes for which we process the data subject's personal information, any other United States of America or South African governing law requiring us to retain the data and whether we can achieve those purposes through other means, and the applicable legal requirements.

Details of retention periods for different aspects of the data subject's personal information are available from us by contacting us.

In some circumstances, the data subject can ask us to delete the data subject's data.

In some circumstances, we may anonymise the data subject's personal information (so that it can no longer be associated with the data subject) for research or statistical purposes in which case we may use this information indefinitely without further notice to the data subject.

Our Cookies policy

A cookie is a small text file stored by the data subject's browser on the data subject's device to collect standard internet log information and visitor behaviour information ("Cookies"). Cookie information can be cleared in the data subject's browser settings.

When the data subject visits our websites, we may collect information from the data subject automatically through tracking technologies such as Google Analytics. We store information in an essential Cookie on the data subject's browser when the data subject completes a survey questionnaire (e.g. storing the last page marker in the data subject's local Cookie, obtaining user credentials and timestamp when the data subject logs into our applications). The data subject can access our Cookies Policy by following this link <https://www.mindsetmanage.com/cookies>.

Applicable law, precedence and scope

Please note that the personal information that the data subject supplies to us, or that we collect from the data subject, or that we receive from the data subject's employer (the Enterprise User) is or could be protected under the data privacy laws of more than one country or economic union.

The data privacy laws of different countries and economic unions generally contain many similarities concerning their material scope, key definitions, providing for data subject rights, and their general approaches to personal information protection.

The governing law and jurisdiction that apply to any matter arising out of the provisions of this privacy policy are as follows:

- If Mindset Management's and/or the data subject's chosen *domicile* or principal place of business is located within the official borders of the United States of America, the protection and processing of personal information will be governed and construed under the California Consumer Privacy Act of 2018, as amended ("**CCPA**") as the current benchmark data privacy protection law in the United States of America, without giving effect to the conflicts of laws; and
 - the parties to a dispute arising out of this Privacy Policy under the foregoing paragraph (i.e. **where** the CCPA applies), irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this privacy policy;
 - each **party** to a dispute arising out of this privacy policy agrees to commence any such action, suit or proceeding in the United States District Court for the Southern District of New York or, if such

suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, New York County;

- each party to a dispute arising out of this privacy policy irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of a dispute in respect of this privacy policy in the United States District Court for the Southern District of New York, and hereby irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.
- If Mindset Management's and the data subject's chosen *domicile* or principal place of business is located within the official borders of the Republic of South Africa, or Mindset Management's chosen *domicile* or principal place of business is located within the official borders of the Republic of South Africa but the data subject's chosen *domicile* or principal place of business is located outside of the official borders of the Republic of South Africa but not within the official borders of the United States of America, the protection and processing of personal information will be governed and construed under the South African Protection of Personal Information Act, No. 4 of 2013 ("**POPI**"), as amended; and
 - the parties to a dispute arising out of this privacy policy under the foregoing paragraph (i.e. where the POPI Act applies) irrevocably submit to the exclusive jurisdiction of the High Court of South Africa, Gauteng Division, provided that any party to a dispute arising out of this privacy policy shall not be precluded from approaching any court of competent authority for injunctive relief of an urgent nature.

If any of the provisions set out in this privacy policy are found by a court of competent jurisdiction or any other statutory body of competent jurisdiction, to be invalid or unenforceable, such provision(s) will be enforced to the maximum extent permissible to give effect to the intent of this privacy policy, and the remainder of the provisions will continue in full force. In particular, should any provision in this privacy policy be found to be in conflict with any non-variable provision of the governing data privacy and data processing laws under the applicable choice of law in terms of this section, such conflicting non-variable provision(s) will be deemed to be amended in terms of the governing law to the extent necessary to ensure compliance with the applicable choice of law.

If there is any conflict between the terms of our privacy policy and a DPA between Mindset Management and the Enterprise User regarding the processing of personal information, the terms of such DPA shall prevail to the extent that such term(s) are not in conflict with any prescriptive (non-variable) provision(s) of the governing law(s).

Changes to this privacy policy

This privacy policy version was last updated in November 2024, and historic versions are archived and can be obtained by contacting us.

It is important that the personal information we hold about the data subject is accurate and current at all times. The data subject will use its best endeavours to keep the data subject's personal information updated by contacting us should any of the data subject's personal information change. We will not know if the data subject's personal information changes without the data subject informing us. We will not be liable for any incorrect personal information we may hold on/about the data subject if the data subject does not notify us of the changes needed.

Contact details

Please use the following contact details if the data subject has any questions or comments regarding this privacy policy or our privacy practices, or wish to communicate with us about the data subject's rights set out in this privacy policy:

Mindset Management

Attention: The Data Protection Officer / Information Officer

Email: info@mindsetmanage.com

Should the data subject wish to report a complaint or if the data subject is of the view that we have not addressed the data subject's concern in a satisfactory manner, the data subject may contact the relevant data protection authority by following the below-mentioned links:

- **Information Regulator – United States of America:**
<https://cppa.ca.gov/>
- **Information Regulator – South Africa:**
<https://www.justice.gov.za/inforeg/index.html>