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 information. We encourage you to read this privacy policy to learn how we collect and use your personal data.

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

For the purposes of this privacy policy:

- the terms “personal data”, “personal information” and “data” bear the same meaning;
- “data subject” means you, and where we enter into a contract with an employer of data subjects, it will include a person under the direct authority of the employer such as an employee, consultant, adviser and contractor;
- “personal data” is any 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;
- “contract” means our data processing service terms and conditions as published on our website and displayed when logging on to any of our applications. Unless we and a registered user agree otherwise in writing, the provisions of the contract will automatically apply to the data processing services we supply to any registered user that accesses and utilizes any of our applications.

Your right to privacy is very important to us and we are committed to protect your personal data and to comply to the fullest extent with the applicable data privacy protection laws. This privacy policy therefore complies with, and facilitates
the obligations required from, the European Commission’s General Data Protection Regulation, 2016/679 (“GDPR”) as well as the South African Protection of Personal Information Act, No. 4 of 2013 (“POPI”), as amended.

You are not required to provide all the data identified in this privacy policy to enable you to use our website or applications, but certain functionalities will not be available or accessible to you if you do not provide the data as and when requested.

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

Who controls and who is processing the data

POPI and GDPR distinguish between persons and institutions doing the collection of personal data (“controllers” or “responsible parties”), and those persons or institutions who do the processing of personal data (“processors” or “operators”).

- The “Controller” / “Responsible Party” determines the purposes for which (“why”) and the means by which (“how”) personal data is processed.

- The “Processor” / “Operator” is usually an independent third party external to the controller / responsible party, that processes personal data 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.

We are the Controller / Responsible Party responsible for your personal data in instances where we decide the processing operations concerning your personal data.

However, due to the nature of the services we provide, we also operate as a processor / operator when we enter into a contract with an employer of data subjects to act as the employer’s data processor / operator to process personal data collected by such employer. In these circumstances:

- the employer in entering into a contract with us and therefore deciding what, why and how the personal data of its employees will be processed, is by law regarded as the controller / responsible party;

- it is the responsibility of the employer as controller / responsible party to comply with the relevant provisions of the law where the employer transfers an employee’s personal data to us for processing and when the employer uses our website and applications to upload and process the employee’s personal data;

- an employer can only process or transfer to a processor / operator the personal data of employees for processing:
where the consent of the employee 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 data relating to him or her;

- where a contractual obligation exists between the employer and the employee;
- to satisfy a legal obligation of the employer;
- to protect the vital interests of the employee;
- to carry out a task that is in the public interest; and
- in pursuance of the legitimate interests of the employer.

- we, in entering into an agreement with the employer to process the personal data of employees that is transferred to us by the employer or uploaded by the employer to our 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 survey participants, administrative users acting on behalf of their employer (which is a client of Mindset), end-users using our applications (example dashboards) and trial users for potential new clients.

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

- personal data contained in any communication you send to us or that we send to you;
- your contact data;
- user information when you create a user account via our website;
- login information when you log into your user account on our website;
- personal data you upload to our website.

We collect personal data indirectly and through an automated process from you when:

- you use or interact with our online services and applications;
- you transact with us through our website;
- event logging for error tracing takes place when using our applications or completing a survey;
• you upload and store your own data or the data of other persons on our website while using our online services and applications;

• personal data is provided by your employer including your contact and demographical information.

Where we need to collect personal data by law, or under the terms of a contract we have with you and you fail to provide that data when requested, we may not be able to perform the contract we have or are trying to enter into with you (for example, to provide you with our Services).

Your third-party data

Where you provide personal data to us and / or use personal data in our applications that you have collected from third parties, such as your customers, employees, other private individuals and juristic persons while using our online services or applications, you will be regarded by law as the “controller” / “responsible party” and you will by law be responsible to ensure that any personal data that you collect and use is protected and transferred to us in compliance with applicable data protection laws.

Our use of the data

We process your personal data on the legal basis that it is necessary to pursue our legitimate interests, or to pursue your employer’s legitimate interests, including performing our contractual obligations in terms of the contract. We use your personal data for the following purposes:

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

• to supply the services through our website and applications;

• to contact you to fulfil a request from you 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 you about changes to our applications including new features;

• to manage the relationship with you and to communicate with you in relation to our online services and applications that you use;

• to provide you with personalized features and content;
• to monitor your 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 your security, risk management and the security of our website and applications and to detect or prevent any criminal activity;
• to assert your legal rights, our legal rights and the legal rights of third parties;
• to enable us to verify your eligibility to use our applications and give you access to our online applications as a user;
• to enable us to send you survey links as a participant in a survey;
• to provide your employer with aggregated results, dashboards and reports from surveys where such surveys are conducted on an anonymous basis and as such your 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 your privacy or the privacy of other natural persons;
• to use data in an aggregated and anonymized basis for benchmarking or research purposes;
• to send you news and information about our services and applications, policies, updates and new offerings where you have registered for a trial license or have requested information from us. You will be entitled to opt-in to receive our communications in this regard and to opt-out again at any time when you no longer wish to receive these communications.

Our legal bases

We will only collect and process your personal data where there is a lawful basis. Lawful bases include:

• where you give us your specific, unambiguous consent;
• where processing is necessary to execute, or to prepare to enter into a contract to which you are 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 you or your employer and necessary for the performance of the contract;
• when there are compelling grounds to rely on our legitimate interests in processing the personal data.

We will only use your personal data 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 you wish to get 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 your personal data for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so. Please note that we may process your personal data without your 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 your rights attached to any marketing sent to you, 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 your personal data with approved third parties, who comply with applicable laws that protect your personal data, such as our hosting service provider and bulk email distributor. Please contact us should you wish to have a copy of the list of approved third parties to whom we provide your personal data.

We may need to share your personal data in exceptional circumstances when we believe it is required by law or to help protect the rights and safety of you, 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 your personal data 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 your personal data to an entity that processes personal information at standards equal to or better than ours; or
- We will only transfer your personal data to countries that have been deemed to provide an adequate level of protection for personal data by the South African/European Information Regulator’s office; or
- Where we use certain service providers, we may use specific contracts/ clauses approved by the South African/European Information Regulator’s office which give personal data the same protection it has in South Africa/the EU.
Please contact us if you want further information on the specific mechanism used by us when transferring your personal data out of 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 where a person under the age of 18 years visits or accesses our website and intend to submit any personal data 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.

Your rights

You have the right to:

- request a copy of the personal data, which we will provide to you in electronic form subject thereto that you prove your identity to our satisfaction before we provide the requested data to you;
- request us to rectify or amend any incomplete or inaccurate personal data free of charge;
- request us to restrict the processing of personal data;
- object to the processing of, or complain about our processing of personal data, subject thereto that we will not be obliged to abide by your request where we have compelling legitimate grounds for the processing which override your 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 data to you or another entity provided that we are processing the data on the basis of your consent or in order to perform our obligations under contract to you;
- request that we erase personal data, 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 your consent at any time, free of charge if you have consented to our processing of personal data and your consent is a legal basis of our processing of the data;
- request that we restrict our processing of personal data where:
  - you believe 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 you do not want us to delete it.

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

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

Personal data 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.

You have the right to request that we delete personal data that we process about you, 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 try to respond to all legitimate requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made a number of requests. In this case, we will notify you and keep you updated.

You have the right to lodge a complaint with the appropriate data protection authority that regulates the processing of personal data at the relevant time, if you believe 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 data 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 be 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 data that we protect.

It is common knowledge that the internet is a global communications system of interconnected computer networks and as such personal data that you submit online to our website and applications may be intercepted. We cannot guarantee that any personal data, 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 you click on a link to another website, it may allow third parties to collect or share data about you, 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 your personal data 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 data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data, any other South African applicable 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 your personal data are available from us by contacting us.

In some circumstances you can ask us to delete your data.

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

Our cookies policy

A cookie is a small text file stored by your browser on your device to collect standard internet log information and visitor behaviour information (“Cookies”). Cookie information can be cleared in your browser settings.

When you visit our websites, we may collect information from you automatically through tracking technologies such as Google Analytics. We store information in an essential cookie on your browser when you complete a survey questionnaire (example storing the last page marker in your local cookie, obtaining user credentials and timestamp when you log into our applications).

You can access our Cookies Policy by following this link https://www.mindsetmanage.com/cookies.
Applicable law, precedence and scope

Please note that the personal data that you supply to us or that we collect from you or that we receive from your employer 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 in regard to their material scope, key definitions, providing for data subject rights, and in their general approaches to personal data protection.

The European Commission’s General Data Protection Regulation, 2016/679 (“GDPR”), which governs the protection of natural persons with regard to the processing of personal data and the free movement of personal data in the European Union will apply to personal data processed by us, unless we specifically state otherwise in this privacy policy.

Unless otherwise stated or communicated to you, our principal place of business is domiciled in the Republic of South Africa and as such the provisions of the South African, Protection of Personal Information Act, 2013 (“POPI”) apply by default. The provisions of the POPI will have precedence and override the provisions of the GDPR only to the extent where:

- the particular provision(s) of POPI are prescriptive (unalterable) in the particular situation; or
- not objectively dealt with in a manner of similar or better effect under the GDPR; or
- the particular provision(s) of POPI amplifies the GDPR or are of a higher standard of protection than a similar provision of the GDPR.

If there is any conflict between the terms of our privacy policy and an agreement between you and us regarding the processing of personal data, the terms of such agreement shall prevail to the extent that such term(s) are not in conflict with any prescriptive (unalterable) provision(s) of applicable law(s).

For the purposes of this privacy policy, the definition of a “data subject” under the GDPR (i.e. an identified or identifiable natural person) shall be amplified to include a juristic person as stipulated in the POPI.

Changes to this privacy policy

This privacy policy version was last updated in January 2022, and historic versions are archived and can be obtained by contacting us.

It is important that the personal data we hold about you is accurate and current at all times. Please let us keep your personal data updated by contacting us should any of your personal data change. We will not know if your personal
data changes without you telling us, so please let us know immediately should changes occur. We will not be liable for any incorrect personal data we may hold on/about you if you do not notify us of the changes needed.

Contact details

Our principal place of business is domiciled in the Republic of South Africa at Midlands Office Park, Mount Quray road, Centurion, South Africa 1683.

Please use the following contact details if you have questions or comments regarding this Privacy Notice or our privacy practices, or wish to communicate with us about your rights set out in this Privacy Notice:

    Mindset Management Programs (Pty) Ltd
    Attention: The Data Protection Officer / Information Officer
    Email: info@mindsetmanage.com

Should you wish to report a complaint or if you feel that we have not addressed your concern in a satisfactory manner, you may contact the relevant data protection authority by following the appropriate links:

- Information Regulator – South Africa:

- Information Commissioner – European Union:
  https://gdpr.eu/data-protection-officer/