



Mindset Management

Service Terms and Conditions for Enterprise Users of the Engage EX Software-as-a-Service

Version 2.4 – Dec, 2024

The *Service Terms and Conditions* for Enterprise Users (“Terms”) govern accessing and using the Engage EX range of web-based applications. By accessing and using the Engage EX range of web-based applications, the Enterprise User agrees to be bound by the Terms set out in this document.

IMPORTANT NOTE:

- The Terms are intended to have a generic application to accord with the provisions set out in the section dealing with the Choice of Law (section 12) and the provisions set out in the section dealing with Complaints and Disputes (section 6).
- The Terms are set and made available in the English language, and the English version of the Terms will always take precedence over any translation of the Terms.

IMPORTANT EXCEPTIONS:

If you have -

- placed an order with Mindset Management that contains terms that differ from the Terms and such order is accepted by Mindset Management; or
- entered into a separate written addendum with Mindset Management that amends the Terms; or
- entered into a separate written contract with Mindset Management that supersedes the Terms,

in connection with access to, and/or use of Engage EX prior to obtaining access to, and/or use of Engage EX, the terms set out in such order or addendum read together with the unamended Terms, or the terms set out in the separate written contract shall constitute the “Terms”, in which case the terms of such order, addendum or contract shall take precedence over the Terms, or part of the Terms as the case may be.

In this Agreement unless otherwise required or indicated by the context:

- “Engage EX” means the software-as-a-service (“SaaS”) versions of the Engage EX product range, including but not limited to Engage Survey, Engage Analytics and Engage Insights, and all related and derivative web-based tools and applications that can be accessed via the domain name mindsetmanage.com or any of its sub-domains.
- “Mindset Management” means the contracting party under the Terms vis-à-vis the Enterprise User, being (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 Enterprise User 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 Enterprise User 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.
 - Mindset Management nominates its email address support@mindsetmanage.com for all official communication between Mindset Management and the Enterprise User, particularly in relation to section 14 dealing with the sending and receiving of official notifications.
- “Enterprise User” and “Subscriber” mean any organization or legal entity whose employees or otherwise designated or co-opted persons access, interact with or use Engage EX, whether as part of the free trial period at no cost to the Enterprise User or as part of a Subscription to access and utilize Engage EX upon payment of the prescribed Subscription fee.
- “System Data” means usage, transactional and device-related data that is collected automatically by Engage EX.
- “User” means any person who accesses or uses Engage EX in terms of a valid Enterprise User Subscription.
- “User Data” means any data or content entered or captured by a User utilizing Engage EX, including survey responses entered or captured by Users.

1. Engage EX Web-based Service

Mindset Management provides software as a service (“SaaS”) known as Engage EX, a web-based survey, analytics, expert recommendation and action planning system designed to help organizations measure, monitor and manage employee engagement and other organizational efficiency and effectiveness aspects at work.

The Terms regulate the relationship between Mindset Management and the Enterprise User as a subscriber to Engage EX, enabling the Enterprise User to access and utilize the web-based SaaS Engage EX developed and owned by Mindset Management.

1.1 Enterprise User Responsibilities

The Enterprise User will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to Engage EX or any software, documentation or data related to Engage EX; modify, translate, or create derivative works based on Engage EX (except to the extent expressly authorized in writing by Mindset Management); use Engage EX or any derivative product for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

The Enterprise User shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use Engage EX, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, “Equipment”). The Enterprise User and Mindset Management shall respectively be responsible for maintaining the security of their own Equipment, and adopting and implementing reasonable security measures for the protection of any user account, passwords (including but not limited to administrative and user passwords), files and data that are under a party’s control and/or as required by applicable legislation from time to time.

In the event that the parties enter into a Data Processing Agreement (“DPA”), the terms of the DPA will apply.

1.2 Availability of the Service

Mindset Management shall use reasonable efforts consistent with prevailing industry standards to maintain Engage EX in a manner which minimizes errors and interruptions in the use of Engage EX. Engage EX may be temporarily unavailable for scheduled maintenance or unscheduled emergency maintenance, either by Mindset Management or by third-party providers, or because of other causes beyond Mindset Management’s reasonable control. Mindset Management shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption or discontinuation.

NOTWITHSTANDING THE AFOREGOING, MINDSET MANAGEMENT DOES NOT WARRANT THAT ENGAGE EX WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF ENGAGE EX. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, ENGAGE EX IS PROVIDED “AS IS” AND MINDSET MANAGEMENT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

In the event that the maintenance of Engage EX, or any change to the Services causes the functionality of Engage EX to be materially affected to the extent that it no longer serves the purpose for which it was designed, the Enterprise User will be entitled, upon written notice to that effect to Mindset Management, to summary termination of the use of Engage EX. Mindset Management will in such an event refund the Enterprise User on a pro-rata basis in respect of any fees paid in advance.

If the Enterprise User is situated in an area where there is weak or limited connectivity and/or the Enterprise User attempts to access Engage EX whilst being offline, Engage EX may not function correctly. Mindset Management will not be liable for any damages suffered by an Enterprise User arising from using the Engage EX application in an area of weak or limited connectivity or for offline access.

Standard data costs will be charged when an Enterprise User utilizes Engage EX through the web-based application. These costs are charged by the Enterprise User’s mobile network operator or internet service provider, and Mindset Management will not be held liable for any claim arising from these data costs including any claims of heightened data usage. Any questions related to an Enterprise User’s data costs must be referred to its mobile network operator or internet service provider.

1.3 Software Support

Mindset Management shall make commercially reasonable efforts to correct bugs or other errors in Engage EX. Enterprise User acknowledges that Mindset Management is not required to correct every bug, error, or problem with Engage EX that it reports to Mindset Management or of which Mindset Management is otherwise made aware.

Mindset Management will provide technical support to Enterprise User via email within 1 (one) business day of the logging of a support call during weekdays. The Enterprise User may initiate a support request by emailing support@mindsetmanage.com or by means of the Need Help function in the side panel of the Engage Resources site that can be accessed by means of this link <https://www.mindsetmanage.com/concepts-guidelines> or by clicking on the Help button in Engage EX. Mindset Management will use commercially reasonable efforts to respond to all support requests within one (1) business day from logging of the support call.

1.4 Hosting and Transfer of Data

Data relating to the Enterprise User, including User Data and System Data, may be hosted and processed in a country or jurisdiction other than the one where the Enterprise User is based and may be transferred to suit Mindset Management's operational requirements between countries around the world that may not have the same data protection and privacy laws as in the Enterprise User's jurisdiction. Mindset Management will not host or transfer such data to a country or jurisdiction that does not support data protection and privacy laws to the same standard as those set out herein.

In the event that the parties enter into a Data Processing Agreement ("DPA"), the terms of the DPA will apply.

1.5 Links to other Websites

Due to the software architecture of the Engage EX platform and to assist in providing the Services, Mindset Management's Services may contain links to third-party websites or services that are not owned or controlled by Mindset Management, but which the Enterprise User will be able to access through the Services. These third-party web services are not part of the Services.

Any third-party websites or services that the Enterprise User may access through the Engage EX platform are subject to the terms and conditions of those websites and/or services.

Mindset Management has no control over and assumes no responsibility for, the content, privacy policies, or practices of any third-party websites or services.

2. Fees and Costs

2.1 Free Trial

Mindset Management may, at its sole discretion, offer a part, version or derivative of Engage EX on a free trial basis for a limited period of time ("Free Trial"). The Enterprise User will not be required to enter billing information in order to sign up for the Free Trial. At any time and without notice, Mindset Management reserves the right to (a) modify the terms and conditions of the Free Trial offer, or (b) cancel such Free Trial offer.

2.2 Subscriptions

Access to and use of Engage EX is billed to the Enterprise User on an annual subscription basis ("Subscription"). The Enterprise User will be billed in advance ("Billing Cycle"). All Subscription fees exclude sales tax, GST, VAT, or other similar taxes which will be charged in addition to the stated Subscription fees.

Unless otherwise agreed, payment in respect of invoices is due 30 (thirty) days after the invoice date.

Failure to make payment in relation to any invoice within 5 days of being called upon to do so after the due date thereof has passed, shall entitle Mindset Management to suspend and/or terminate the Enterprise User's access to or use of Engage EX as contemplated in clause 2.5 below.

2.3 Fee Changes

Mindset Management, in its sole discretion and at any time, may change the Subscription fee. Any change in the Subscription fee published prior to the expiry of a current Subscription period will apply to a renewal of the Subscription if the Enterprise User elects to renew the Subscription and Mindset Management agrees to such renewal. Mindset Management will provide the Enterprise User with reasonable prior notice of any change in Subscription fees that will apply to a renewal of the Subscription.

2.4 Refunds

Except when required by law, paid Subscription fees are non-refundable, save as otherwise provided for in this Agreement.

2.5 Termination of the Service

Mindset Management may modify, suspend, or terminate the Enterprise User's access to or use of Engage EX if the Enterprise User or any User violates any law, is in breach of any of the Terms, fails to make payment in relation to any invoice issued to the Enterprise User by Mindset Management, or creates harm, risk, or possible legal exposure for Mindset Management, its other subscribers and users, or any other third party and fails to rectify same within 5 days of being called upon to do so.

The following provisions will survive any termination of your relationship with Mindset Management: "Confidentiality and non-solicitation" (clause 8), "Indemnity and limitation of liability" (clause 4), and "Copyright and intellectual property" (clause 10).

3. Data Privacy and Data Processing

If the parties enter into a Data Processing Agreement (“DPA”), the terms of the DPA will apply in respect of data privacy and data processing and any conflicting Terms will be superseded by the relevant term(s) stipulated in the DPA.

If the parties do not enter into a negotiated DPA, then, by subscribing to Engage EX and accessing and using, or continuing to use Engage EX, the Enterprise User acknowledges and agrees that Mindset Management’s processing of the Enterprise User and Users’ personal information and data will be done in accordance with Mindset Management’s standard DPA and Privacy Policy, which can be accessed [here](#), subject to the provisions set out in section 12.

4. Indemnity and Limitation of Liability

Engage EX and all content on the web-based application are provided on an “as is” basis, and notwithstanding Mindset Management having exercised every reasonable care, Engage EX may include inaccuracies or typographical errors.

None of the content, including any information published about Engage EX or any specific aspects of the business of Mindset Management, should be construed as advice in respect of such aspect. Enterprise Users who choose to act in accordance with the contents of Engage EX, including any information published thereon, do so at their own risk, of their own volition, and through the exercise of their own discretion.

Mindset Management gives no warranty and does not make any representation as to the availability, accuracy or completeness of the Engage EX content, or any third-party content accessible via an internet link through Engage EX.

To the maximum extent permitted by applicable law, any limitations and exclusions in relation to liability set out in these Terms apply to any claims related to the Terms and Engage EX.

In the event that the Enterprise User or Mindset Management (as the case may be) (the “Claimant”) has any basis to recover damages, including in relation to any breach of the Terms –

- the Claimant’s exclusive remedy is to recover direct damages whether in contract, delict, breach of statutory duty or otherwise, limited to the total amount(s) paid by the Enterprise User to Mindset Management in terms of the Terms during the 12 (twelve) calendar month period preceding the event giving rise to such liability;

- The Enterprise User or Mindset Management (as the case may be) is under no circumstances responsible or liable for any –
 - indirect, special, incidental, consequential or punitive losses or damages;
 - loss of actual or anticipated profits;
 - loss of actual or anticipated income;
 - direct losses or damages in excess of the maximum obligation as set out above.

The Enterprise User acknowledges and agrees that the Terms are entered into between the Enterprise User and Mindset Management and do not govern the relationship between the Enterprise User, Users, and any third party.

5. Amendments to the Terms

Mindset Management may change, modify, add to or remove from portions or the whole of these Terms. Mindset Management will notify the Enterprise User of such changes via email or by posting a prominent notice on Engage EX. Any amendments to the Terms published by Mindset Management during a current Subscription period will not apply to such Subscription, but will automatically apply to any renewal of the Subscription if the Enterprise User elects to renew its Subscription and Mindset Management agrees to such renewal, unless the parties agree otherwise prior to the renewal of the Enterprise User's Subscription.

6. Complaints and Disputes

Enterprise Users can file complaints using the "Feedback & Support" option under the "Tools" function of Engage EX.

6.1 Negotiation

Should any dispute, disagreement or claim arise between the parties concerning the Terms (the "dispute"), the parties will endeavor to meet and negotiate in good faith to resolve such dispute within 10 (ten) business days after receipt by a party of a notice setting out the detail of the alleged dispute.

6.2 Mediation

Should the parties fail to resolve a dispute by negotiation or within such further period as the parties may agree upon, the parties will appoint a mutually agreed upon independent industry expert who shall endeavor to negotiate a resolution of the dispute on the parties behalf.

6.3 In relation to any dispute that cannot be resolved by negotiation or mediation, and where the Choice of Law is New York State Law, the following will apply:

6.3.1 The parties 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 the Terms.

6.3.2 Each party 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.

6.3.3 Each party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of the Terms in the United States District Court for the Southern District of New York, and hereby further 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.

6.4 In relation to any dispute that cannot be resolved by negotiation or mediation, and where the Choice of Law is South African Law, the following will apply:

6.4.1 Arbitration

Failing resolution of a dispute by negotiation and mediation, the dispute must be referred to arbitration to be conducted in accordance with the Commercial Arbitration Rules of the Arbitration Foundation of South Africa ("AFSA") or its successor body, by an arbitrator agreed upon between the parties, or, failing agreement within 7 (seven) business days, appointed by AFSA.

The arbitrator shall be, if the matter in dispute is principally:

- a legal matter, a practicing attorney or advocate with a reasonable level of experience based on the complexity of the dispute;

- an accounting matter, a practicing chartered accountant with a reasonable level of experience, based on the complexity of the dispute; or
- any other matter, an independent third party, agreed upon between the parties to the dispute.

Unless otherwise agreed between the parties in writing, the seat of arbitration will be determined by AFSA.

6.5 Unless otherwise agreed between the parties or between their advisers, service of any process, summons, notice or document in relation to any dispute will be sent and delivered by an internationally recognized overnight courier (receipt requested) to the receiving party's chosen *domicile* or main place of business, which will be regarded as effective service of process for any action, suit or proceeding with respect to any matters to which it has submitted to jurisdiction in this section 6.

6.6 Neither party will disclose, other than as lawfully required, or to their respective advisers on a need-to-know basis, or publish in any manner, any information in relation to a dispute, particularly not on any public platform, including social media. The parties agree and acknowledge that any unauthorized publication will, among other things, cause material harm to a party's reputation and business.

6.7 The provisions of this clause shall not preclude any party from approaching any court of competent authority for injunctive relief of an urgent nature.

7. Disclaimers

The Enterprise User's use of Engage EX is dependent on factors beyond Mindset Management's control, such as the Enterprise User's network coverage or network availability. Mindset Management is not liable for any indirect or consequential loss or damages the Enterprise User may suffer if a factor beyond Mindset Management's control arises and the Enterprise User or any User cannot access Engage EX.

Mindset Management, its holding company, shareholders, office bearers, affiliates, agents, employees, and subsidiaries shall not be responsible for any indirect or consequential loss or damages related to the Enterprise User's use of Engage EX or any Intellectual Property flowing from their use.

Mindset Management is not responsible or liable for any failure to perform or for any delay in performing its obligations under these Terms to the extent that the failure or delay is caused by circumstances beyond Mindset Management's reasonable control that include but are not limited to –

- labor disputes, strikes, lockouts or riots;
- acts of God, fire, storm, earthquakes, war or terrorist activity;

- epidemics, pandemics or quarantines;
- compliance with any applicable law or government order;
- delay, shortage, lack of, or interruptions to electricity supply;
- any User Data or other data is directly or indirectly lost or damaged because of power failures, unlawful acts, any third party program or virus, the Enterprise User and User's negligence;
- any failure or delay that affects services upon which access to Engage EX depends and that is provided by any third-party supplier including but not limited to the uninterrupted availability of internet connectivity services and electricity supply.

8. Confidentiality and Non-solicitation

The parties will keep confidential and will not make use of, directly or indirectly, and will not disclose any of the parties' trade secrets or confidential information including, but not limited to, technical know-how and data, plans, drawings, systems, URLs, methods, software, processes, client lists, employee lists, business affairs, suppliers' lists, marketing information or financial information, or those of its subsidiary or associate companies or those of persons who have made disclosures to a party under conditions of confidentiality, other than to persons authorized by a party or those employed by a party who are required to know such secrets or to have such information for the purpose of their employment with a party.

Should a party be uncertain whether any information is confidential or a trade secret, the party will request a written ruling from the other party.

The Enterprise User will immediately inform Mindset Management should it at any stage become aware of any unlawful disclosure or use of any such confidential information by any other person. The Enterprise User will deal with the issue on a confidential basis.

The obligations set out in section 8 will survive the termination of a Subscription.

Each party undertakes to inform the other in writing without delay should any demand or request for information relating to or in connection with the Subscription and Terms is received, irrespective of whether such request or demand is formulated in terms of any relevant legislation, or on any other grounds.

9. Breach

Either party may suspend performance or terminate the Subscription, and Mindset Management may suspend or disconnect the Enterprise User from using Engage EX, if the other party is in material breach of the Terms and fails to remedy that breach within 5 (five) days after receipt of written notice from the non-defaulting party, or if either party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within 90 days.

If the Subscription is terminated by the Enterprise User with cause, a *pro-rata* refund for any fees paid in advance will be made by Mindset Management, minus any accrued but unbilled fees and outstanding invoices.

10. Copyright and Intellectual Property

“Intellectual Property” shall mean with limitation, all inventions, specifications, patents, designs, trademarks, service marks, trade names and all goodwill associated with the foregoing; copyright and copyrightable works, including, but not limited to, all copyright in any logos, devices, designs, multimedia works and computer software programs (in both source and object code form, and including any programmers’ or developers’ notes, flow charts, memoranda and design documents); rights protecting goodwill and reputation; proprietary material, know-how, ideas, concepts, trade secrets, methods, techniques, graphics; schematics; marketing; sales and other data; domain names and URLs; databases and rights in databases, confidential information and all other intellectual property rights and rights of a similar character whether registered or capable of registration, rights in the nature of any of the above items whether registered or unregistered in any country or jurisdiction and all applications and rights to apply for protection of any of the same.

Mindset Management provides certain information on Engage EX. Content displayed on Engage EX is provided by Mindset Management, its affiliates or subsidiaries, or any other third-party owners of the content. All the proprietary works, and the compilation of the proprietary works, belong to Mindset Management, its affiliates or subsidiaries, or any third-party owners of the rights and the content is protected by South African and international copyright laws.

Mindset Management may make any changes to Engage EX, the content or services offered through Engage EX at any time with reasonable advance notice in writing or by e-mail to the Enterprise User. All rights in and to the content are reserved and retained by Mindset Management. Except as specified in the Terms, the Enterprise User is not granted a license or any other right including Copyright, Trademark, Patent or other Intellectual Property Rights in or to the content.

Subject to any Intellectual Property Rights held by any merchants or any other third parties, Mindset Management will at all material times retain ownership of all Intellectual Property and Intellectual Property Rights in and to Engage EX (including, but not limited to, all proprietary information, trademarks and copyright in any logos and other devices or storage media).

On the basis of a valid and paid-up Subscription, Mindset Management grants the Enterprise User a non-exclusive and non-transferable right to access and use Engage EX, for purposes set out in the Terms ("the Subscription"). The Subscription is personal to the Enterprise User and the Enterprise User is not entitled to grant or allow access and use of Engage EX to any person or entity other than to its *bona fide* Users.

The Subscription will commence when the Enterprise User accesses the web-based application to open Engage EX and sign up to access and use Engage EX and will continue until the Subscription terminates. Termination of a Subscription will result in the inability of the Enterprise User to access Engage EX without renewing its Subscription. On termination of the Subscription for any reason, the Enterprise User shall immediately cease using Engage EX.

Certain content available on Engage EX may include content that belongs to third parties. Mindset Management may provide links to third-party websites, as a convenience to the Enterprise User.

The Enterprise User agrees that Mindset Management is not liable for any of the following:

- The content or the accuracy of any content belonging to third parties, including, but not limited to any merchants, featured on Engage EX;
- Any content featured on the third-party websites that are accessed through the links found on Engage EX.

The Enterprise User may not copy, republish, distribute, adapt, modify, alter, de-compile, reverse engineer, or attempt to derive the source code of or create a derivative of works, or otherwise attempt to reproduce Engage EX, its contents, including any Intellectual Property therein, its design, any updates to Engage EX and/or any proprietary features in relation to it, or any parts of it. This prohibition extends to all content belonging to third parties that is found on Engage EX and/or any content featured on third-party websites that are accessed through links that are found on Engage EX.

The Enterprise User agrees that:

- It will not make any representations that it has any rights of any nature in any present and/or future Intellectual Property belonging to Mindset Management and/or any third parties featured on Engage EX;
- It will not use Mindset Management's and/or any third party that is featured on Engage EX, present and/or future Intellectual Property in any manner whatsoever;

- It will not do, or omit to do, or cause or allow to be done any act or thing which would be expected to weaken, damage, be detrimental to or in any way impair or tend to impair Mindset Management's goodwill or in any manner whatsoever undermine or prejudice Mindset Management's Intellectual Property; and
- It will not use, register or attempt to register as trade names, corporate names, business names, logos, domain names, meta-tags, meta descriptors, electronic mail (email) addresses, server names, or search-engine markers or anything identical to, contained in whole or in part, or is otherwise similar to Mindset Management's present Intellectual Property in any country.

The Enterprise User indemnifies Mindset Management against all actions, claims, costs, demands, expenses and other liabilities suffered or incurred by us as a result of any third-party claims initiated and/or instituted against Mindset Management relating to the Enterprise User's unauthorized use of Engage EX, the content thereon and/or any other Intellectual Property and Intellectual Property Rights flowing from the foregoing.

Any breach of the provisions of this section entitles Mindset Management, in addition to its common law remedies, to take legal action with prior notice to the Enterprise User.

Intellectual property that either party owned prior to entering into a contractual relationship based upon the Terms, or has developed or is developed independently and not in breach of any provisions of these Terms, is and remains that party's separate property. It is not affected by these Terms and neither party has any claims to or rights in such intellectual property of the other party.

The Enterprise User owns all rights in and related to its Intellectual Property, including without limitation its copyrighted works, data and any derivative works, and no rights are granted to Mindset Management concerning such Intellectual Property which is and remains reserved to the Enterprise User.

Mindset Management indemnifies the Enterprise User against all actions, claims, costs, demands, expenses and other liabilities suffered or incurred by Mindset Management as a result of any third-party claims initiated and/or instituted against the Enterprise User relating to Mindset Management's unauthorized use of the Enterprise User's Intellectual Property and Intellectual Property Rights flowing from the foregoing.

Any breach of the terms under this sub-clause entitles the Enterprise User, in addition to its common law remedies, to take legal action with prior notice to Mindset Management.

11. Enterprise User feedback

Feedback provided by the Enterprise User to Mindset Management about any aspect or feature of Engage EX may be used by Mindset Management without any obligation to the Enterprise User.

12. Choice of Law

Where the contracting parties' respective chosen *domicile*, or principal place of business is located within the official borders of the United States of America, the Terms will be governed by and construed under the laws of New York, without giving effect to the conflicts of laws and any dispute between the parties must be resolved in terms of the provisions of section 6.3 of the Terms.

If Mindset Management's chosen *domicile* or principal place of business is located within the official borders of the United States of America but the Enterprise User's chosen *domicile* or principal place of business is located outside of the official borders of the United States of America, the Terms will be governed by and construed under the laws of New York, without giving effect to the conflicts of laws and any dispute between the parties must be resolved in terms of the provisions of section 6.3 of the Terms.

If the contracting parties' respective chosen *domicile* or principal place of business is located within the official borders of the Republic of South Africa, the Terms will be governed by and construed under the laws of the Republic of South Africa and any dispute arising between the parties must be resolved in terms of the provisions of section 6.4 of the Terms.

If Mindset Management's chosen *domicile* or principal place of business is located within the official borders of the Republic of South Africa but the Enterprise User'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 Terms will be governed by and construed under the laws of the Republic of South Africa without giving effect to the conflicts of laws and any dispute arising between the parties must be resolved in terms of the provisions of section 6.4 of the Terms.

If any of the Terms 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 so as to give effect to the intent of the Terms, and the remainder of the Terms will continue in full force. In particular, should any Term of section 3 be found to be in conflict with any non-variable provision of applicable data privacy and data processing laws under the applicable choice of law in terms of this section 12 (i.e. the California Consumer Privacy Act of 2018 "CCPA" in the USA and the POPI Act in South Africa and

the GDPR in Europe), any 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.

13. General

The Terms constitute the whole agreement between the parties with regard to the Subscription, access to and use of Engage EX and the Engage EX content, and the parties waive the right to rely on any alleged term not expressly set out in the Terms. No contract varying, adding to, deleting from or cancelling the Terms, and no waiver of any right under the Terms by the Enterprise User shall be effective unless reduced to writing and signed by or on behalf of the parties.

Mindset Management may assign its rights under the Terms to a new owner if the ownership of all or substantially all of the business should change, in which case the Terms will continue to apply until the Terms are updated or amended by the acquiring party upon notice to the Enterprise User.

The invalidity, illegality, or unenforceability of any of the sections in the Terms will not affect the validity, legality, and enforceability of the remaining sections of the Terms.

If an Enterprise User account is blocked or access terminated for any reason, Mindset Management may suspend the Enterprise User's access to the Engage EX, until the Enterprise User has registered a new account on Engage EX and Subscribed for access to and use of Engage EX.

14. Notices

Other than any document or notice required to be sent or exchanged between the parties concerning the resolution of any dispute as provided for under section 6.5, communication between the parties will be conducted by email and addressed to the parties' respective nominated email addresses.

The nominated email address for Mindset Management is set out under the Mindset Management definition.

The Enterprise User nominates the email address registered on the Enterprise User's profile or through the Engage EX message system as the email address to which all communication will be sent.

Any communication sent by email to the respective nominated email addresses will be regarded as having been received by the addressee 1 (one) business day after it was sent.

15. Support Contact Information

Enquiries about Engage EX can be submitted to Mindset Management by sending an email to Mindset Management at support@mindsetmanage.com, or by contacting the Mindset Management support team via the Mindset Management website at www.mindsetmanage.com.

16. Distribution and Communication by Email

Any email communication received from Mindset Management is privileged and confidential and intended for the use of the addressee Enterprise User only. If an Enterprise User receives an email in error, please notify Mindset Management urgently and delete the email and any attachments. Unauthorized use, disclosure or copying of the contents of an email received in error, or any similar action, is prohibited. **WARNING:** From time to time, Mindset Management's spam scanners may eliminate legitimate email from an Enterprise User. There is a duty on the Enterprise User to ensure that Mindset Management acknowledges receipt of the Enterprise User's instruction.

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>