



Content Subscription Service Standard Terms & Conditions

1. Introduction

1.1 Mind Tools Limited (referred to as “**Mind Tools**” or “**we**”), is a company registered in England under registered number 4829074, with an EU VAT number of GB 840 1273 62 and registered office at Hardwick House, Prospect Place, Swindon, SN1 3LJ. Our business address is Mind Tools, 3rd Floor, The News Building, London Bridge Street, London, SE1 9SG, United Kingdom.

1.2 “**Customer**” or “**you**” refers to the Customer identified in the attached Subscription Schedule (“**the Subscription Schedule**”).

1.3 These Terms and Conditions of Service (“**these Terms**”) govern our provision of the Mind Tools Connect™ online content subscription service (“**the Service**”). We provide the Service only in accordance with these Terms. These Terms, together with the Subscription Schedule, constitute a binding legal agreement between the Customer and Mind Tools (“**the Agreement**”).

1.4 We care very much about the standard of the Service. If you are not satisfied in any way, please email us at connect.helpdesk@mindtools.com or call our customer services team on +44 20 7788 7978.

2. Provision of the Service

2.1 In the Agreement, “**Users**” means your employees and those of any affiliated companies of yours identified in the Subscription Schedule (“**the Associates**”), and any independent third party consultants or other contractors of yours but only whilst they are actively engaged pursuant to written agreements in activities for your benefit or the benefit of the Associates.

2.2 Your subscription will provide access to the Service and its content (“**the Materials**”) for use by the Users (subject to the overall limit on the number of Users specified in the Subscription Schedule) during the subscription period specified in the Subscription Schedule and any renewal period under paragraph 7.1 of these Terms (“**the Subscription Period**”). If you have nominated an intranet, learning management system or SSO/IDP system (the “**Nominated Secure System**”), then access to the Materials is to be obtained securely via the Nominated Secure System. Otherwise, the Users will access the Materials directly from our website using their email address and a password. In either case, access is to be in accordance with these Terms.

2.3 During the Subscription Period each User is required to adhere to the Connect Terms of Use as set out in Annex 1. You agree to notify us without delay if you become aware of any failure by a User to adhere to the Terms of Use.

2.4 The Customer agrees to be responsible to Mind Tools for the acts and omissions of all Associates and Users in relation to the use of the Service. Any such act or omission that

would, if done by you, constitute a breach of the Agreement shall be treated as a breach of the Agreement by you.

2.5 Each of Mind Tools and the Customer undertakes to comply with its obligations in relation to data protection as set out in Annex 2.

3. Service Levels and Credits

3.1 In this section 3, “**Availability**” means a percentage equal to a numerator of 100% of the scheduled uptime minus unscheduled outage periods during a month, divided by a denominator of 100% of the scheduled uptime. $(100\% \times [(available - unscheduled\ outage)/available])$.

3.2 The required service level for monthly Availability of the Service during a paid Subscription Period is greater than or equal to 99% (the “**Uptime Service Level**”). We agree to give you 5 days’ notice in writing of any scheduled outages for maintenance and upgrades.

3.3 For any full calendar month in which there is a failure to meet the Uptime Service Level, you will (subject to paragraph 3.4 of these Terms) be entitled to receive a credit for such month equal to an amount determined in accordance with the following table:

Availability	Service Level Credit
Greater than or equal to 99%	None
Less than 99% but greater than 95%	5% of the pro-rata monthly subscription fee
Equal to or less than 95%	10% of the pro-rata monthly subscription fee

3.4 The pro-rata monthly subscription fee is calculated by dividing the subscription fee for the Subscription Period by the number months or parts thereof in the Subscription Period.

3.5 Any time or times in which the Service is not available in the month under measurement due to any of the following reasons are not to be considered as an unscheduled outage:

- (a) circumstances beyond the reasonable control of Mind Tools, including, but not limited to, acts of war or other hostilities, acts of God, earthquake, flood, embargo, riot or other civil disturbance, sabotage, power outages, denial of service (where we are not responsible), labour shortage or dispute, governmental act, or failure of the Internet; provided that we give you prompt written notice of such cause and use our reasonable commercial efforts to promptly correct such failure or delay in performance;
- (b) where applicable, failure of any part of the Nominated Secure System, or incorrect integration set up for which the Customer is responsible;

- (c) scheduled maintenance and upgrades, as notified to you under paragraph 3.2;
- (d) our acts or omissions when done at your request or that of any Associate; or
- (e) any failure by you, any Associate or any User to provide information or approvals necessary to bring a system back online or release a system.

3.6 Within ten (10) days of the end of each month, we shall notify you of the amount of any service level credit that has arisen during the month, identifying each instance of relevant non-Availability. We will rebate the credit in the calendar month immediately following the month in which the credit arose.

4. Proprietary Rights

4.1 All copyright and other intellectual property rights (in any jurisdiction) in the Service and in the Materials are and shall remain the property of Mind Tools (or its licensors). Nothing in the Agreement shall operate to transfer any such property to the Customer or to any third party. The Materials are provided for the use of Users during the Subscription Period for your benefit and that of any Associates. The right to use the Materials will cease on expiry of the Subscription Period or on any earlier termination of the Agreement.

4.2 Users may download and store machine-readable extracts from the Materials and print them as reasonably required for their own use as an employee (or contractor) during the Subscription Period. Neither the Customer nor any User may otherwise scan, copy, reproduce, adapt, translate, modify or create derivative works without the prior written consent of Mind Tools. Neither the Customer nor any User is permitted to create any independently searchable database of the Materials.

4.3 The Customer and the Users shall not provide access to any part of the Service and/or Materials to any third party except the Associates as permitted by these Terms. The Customer, the Associates and the Users may share Materials among themselves but may not transmit any Materials to any other third party without the prior written consent of Mind Tools.

4.4 Mind Tools warrants that all Materials available as part of the Service are owned by us or are validly licensed to us and that we have the right to grant any licence or subsidiary right to use the Materials in accordance with the Agreement.

4.5 Mind Tools agrees to indemnify the Customer and the Associates and Users against all liabilities and expenses (including reasonable legal costs) incurred by the Customer or the relevant Associate(s) or Users (as the case may be) in relation to any claim that any of the Materials infringe the intellectual property rights of, or include any confidential information belonging to, any third party (a "**Claim**").

4.6 Paragraph 4.5 sets out the Customer's sole remedy and the entire obligation and liability of Mind Tools in respect of any Claim and our obligations under it are subject to you or the relevant Associate or User:

- (a) giving us prompt written notice of any Claim and not making any admission or taking any other step, whether by act or omission, that may jeopardize the successful defence or settlement of any Claim;
- (b) providing reasonable co-operation to us, at our expense, in the defence and settlement of any Claim; and

(c) giving us sole authority to defend or settle any Claim (but we will not admit liability on your behalf without your prior written consent).

4.7 The Customer warrants that any materials or data provided by the Customer to Mind Tools in connection with the Service (including without limitation your competency model, customized messages and all trade marks and logos) will not infringe the intellectual property rights of, or include any confidential information belonging to, any third party.

4.8 All copyright and other intellectual property rights (in any jurisdiction) in any trade mark, logo or branding or any other content, information or materials provided by the Customer to Mind Tools shall remain the property of the Customer. Nothing in the Agreement shall operate to transfer any such property to Mind Tools or to any third party. Any such materials are provided by the Customer to Mind Tools solely for the provision of the Service by us to you and to the Users during the Subscription Period. The right for us to use your materials shall cease on expiry of the Subscription Period or on any earlier termination of the Agreement.

5. Secure Access

5.1 Where applicable you must ensure that Users only access the Service when logged in to your Nominated Secure System. You agree to maintain all reasonable security measures to prevent unauthorized use or access to the Nominated Secure System, the Service and the Materials by third parties.

5.2 In order to enhance the security of access to the Service, you agree to collaborate with us to test and, at our reasonable request, to deploy any security application protocol interface or similar script that we produce for this purpose. We acknowledge that you have sole discretion in relation to any action affecting any system of yours.

5.3 On becoming aware of any breach or suspected breach of access security to the Service, you agree to notify us immediately and take such actions as we may reasonably require to prevent the breach and minimize the risk of future breaches.

5.4 We monitor access to the Service at all times and we will promptly notify you in writing of suspected security issues or unauthorised access via your Nominated Secure System or directly (as the case may be). On notification, you must act promptly as provided in paragraph 5.3.

5.5 We reserve the right to require you to change the security token and any passwords or link allocated to you and your Users for the purpose of gaining secure access to the Service.

5.6 In the event of a serious or persistent breach of Service security or misuse (including unauthorised disclosure) of any part of the Materials, we reserve the right to terminate the Agreement with immediate effect.

6. Subscription Charges

6.1 The subscription charges for use of the Service are set out in the Subscription Schedule. Payment is due within thirty (30) days of invoice and the first subscription is to be invoiced on the Agreement Date, at the commencement of set-up, unless otherwise agreed in the Subscription Schedule.

6.2 We reserve the right to suspend the Service if our charges are overdue for payment and to terminate the Agreement after giving you thirty (30) days' notice of our intention to terminate the Agreement if payment is not made within such period.

6.3 If any sum payable to us under the Agreement is not paid by the date on which it is due, then we have the right to charge interest on the overdue amount at the UK statutory rate. Where interest on any sum due is charged by us in accordance with these Terms, any payment later received will be applied first in payment of the interest due and secondly in reduction of the indebtedness.

6.4 All sums are exclusive of any applicable value added tax or other supply or goods and services tax or any similar sales tax in any relevant jurisdiction.

7. Term and Termination

7.1 The Agreement will start on the Agreement Date in the signed Subscription Schedule. The Service will be provided (subject to these Terms) for an initial Subscription Period starting on the Start Date specified in the Subscription Schedule and ending at 00:00 Eastern Standard Time on the Renewal Date specified in the Subscription Schedule.

7.2 Subject to payment of an agreed subscription renewal fee being made by you and accepted by us on or before each Renewal Date, the Service will continue to be provided for successive renewal Subscription Periods starting on each such Renewal Date.

7.3 Either party is entitled to terminate the Agreement immediately on written notice to the other if the other party:

- a commits any material breach of the Agreement that is not capable of remedy; or
- b commits any material breach of the Agreement that is capable of remedy and fails to remedy it within 30 days after receipt of a written notice giving full particulars of the breach, requiring it to be remedied and warning of the sender's intention to terminate the Agreement if it is not so remedied.

7.4 If you terminate the Agreement under paragraph 7.3, we will refund any pre-paid and unused subscription fees on a pro-rata basis.

7.5 For annual subscriptions, we will contact you in writing three months before the Renewal Date. If we have quoted a multi-year price for renewal, then we will honour that price provided that renewal is confirmed by the required date and any other conditions of renewal are met.

8. Warranty and Liability

8.1 We will provide the Service and the Materials to the Users with reasonable care and skill and will use our reasonable endeavours to maintain accuracy and continuity of the Service in accordance with the service levels set out in section 3 of these Terms. However, we cannot guarantee that the Service will be continuous or error free and we do not warrant that it will meet your specific learning and development needs or those of the Users.

8.2 The warranties given in these Terms are in place of all warranties, conditions or other terms implied by statute or otherwise that relate to quality, fitness for purpose or compliance with description, all of which are excluded to the fullest extent permitted by law.

8.3 NEITHER PARTY ACCEPTS LIABILITY TO THE OTHER FOR ANY SPECIAL LOSS OR ANY INDIRECT OR CONSEQUENTIAL LOSS OF ANY NATURE (INCLUDING WITHOUT LIMITATION ANY ECONOMIC LOSS OR OTHER LOSS OF BUSINESS, PRODUCTION, REVENUE, PROFIT, GOODWILL OR ANTICIPATED SAVINGS), WHETHER ARISING IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE,

AND WHETHER OR NOT THE POSSIBILITY OF SUCH LOSS ARISING HAS BEEN BROUGHT TO THE ATTENTION OF THE OTHER PARTY.

8.4 EXCEPT IN RELATION TO THE INDEMNITIES PROVIDED BY MIND TOOLS TO THE CUSTOMER UNDER PARAGRAPH 4.5 ABOVE AND UNDER PARAGRAPH 11 OF ANNEX 2, NEITHER PARTY'S LIABILITY TO THE OTHER UNDER THE AGREEMENT IN RESPECT OF ANY ONE EVENT OR SERIES OF CONNECTED EVENTS SHALL EXCEED THE ANNUAL SUBSCRIPTION CHARGE FOR THE SERVICE IN THE ANNUAL SUBSCRIPTION PERIOD IN WHICH THE RELEVANT CAUSE OF ACTION ARISES.

8.5 Nothing in this Agreement shall be construed as restricting or excluding our liability for death or personal injury resulting from our negligence or for fraud.

9. General

9.1 Except as otherwise specifically provided, a person who is not a party to the Agreement may not enforce any of its terms.

9.2 The Agreement constitutes the entire agreement between the parties concerning its subject matter and it supersedes any previous understanding or agreement, express or implied. Each party confirms that it has not relied upon any representation not recorded in writing in the Agreement inducing it to enter into the Agreement. No variation of the Agreement shall be valid unless it is in writing, refers specifically to the Agreement and is signed by the authorized representatives of both parties on or after the date of the Agreement.

9.3 Any notice given under the Agreement shall be in writing and shall be delivered by hand or by a method of postal or courier delivery that requires a signature to be provided by or on behalf of the recipient. In the case of postal or courier delivery, delivery shall be deemed to take place upon delivery to the addressee or upon receipt by the sender of a notice that the addressee has "gone away" or refused to take delivery or any notice having similar effect. Notices shall be delivered or posted to Mind Tools at the business address set out in paragraph 1.1 above and to the Customer at the address given in the Subscription Schedule or (in either case) to any other address notified in substitution on or after the date of the Agreement.

9.4 Each party shall maintain as confidential all information obtained from the other which is either stated to be confidential or could reasonably be regarded as confidential (including the terms of the Agreement) and shall not disclose such information to any person other than its employees, agents or sub-contractors where such disclosure is required for the performance of the party's obligations under the Agreement. This paragraph shall not extend to information which was already in the lawful possession of a party prior to the Agreement or which is already public knowledge or becomes so subsequently (other than as a result of a breach of this clause) or which is trivial or obvious. The obligations of confidentiality under this clause shall survive any expiry or termination of the Agreement.

9.5 If any dispute arises out of or in connection with the Agreement, a director from each party (or other senior representative with authority to settle the dispute) will attempt in good faith to resolve the dispute within fourteen (14) days of a written request from one party to the other.

9.6 If the dispute is not resolved by senior representatives under paragraph 9.5, then each of us agrees to enter into mediation in good faith to settle such a dispute and will do so in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties within fourteen (14) days of notice of the dispute, the mediator will be appointed by CEDR. To initiate the mediation, a party must give notice in writing (ADR Notice) to the other party referring the dispute to mediation. A copy of the referral should be sent to CEDR. Unless otherwise agreed, the mediation will start not later than

twenty-eight (28) days after the date of the ADR notice. Neither party may commence any court proceedings in relation to any dispute arising out of the Agreement until it has attempted to settle the dispute by mediation and either mediation has terminated or the other party has failed to participate in the mediation, Nothing in this paragraph shall prevent or delay either party from seeking injunctive relief in any court in respect of any infringement of intellectual property or breach of confidence or from issuing proceedings to recover any undisputed debt or from joining the other party to any proceedings issued against the first party by a third party.

9.7 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by English law and the parties irrevocably submit to the non-exclusive jurisdiction of the English Courts.

9.8 By using the Service, you consent to the collection of your company name and publicly recognizable image by us and to our use of them in the course of providing customization services as set out in the Subscription Schedule and for performance of the Agreement. We undertake not to make any other use of your company name or publicly recognizable image without your prior written consent.

Annex 1
Mind Tools Connect™
Terms of Use for Each User

Your access to Mind Tools is subject to the terms of agreement between Mind Tools and your company or other organization. By accessing Mind Tools Connect™, you agree to abide by the rules within these Terms of Use and you are responsible to your employer or principal for compliance with the terms.

1. Using Mind Tools

- The Materials in Mind Tools Connect™ are provided for your use as an employee (or contractor) of your organization during your subscription or trial period. Your right to use the Materials ceases on expiry of your organization's subscription or trial, or if your use is otherwise terminated by Mind Tools.
- Mind Tools Materials are protected by copyright and other intellectual property rights, and shall remain the property of Mind Tools.
- You may download and store machine-readable extracts from the Materials and print them for your own use during your subscription or trial period.
- You must not otherwise scan, copy, reproduce, adapt, translate, modify or create derivative works from the Materials. You are not permitted to create any independently searchable database of the Materials.
- You must not provide access to Mind Tools Connect or its Materials to anyone outside your organization. You must keep access details safe and secure, including any login name, password or token as may be needed to gain access to Mind Tools' materials.
- It is your responsibility to evaluate any advice or suggestions made in the Materials accessed by you at Mind Tools Connect before acting on it in any way. Any actions you take as a result of any Materials you use are entirely your responsibility.
- Where applicable, you are also responsible for the form, content and accuracy of any postings or material introduced by you.

2. Mind Tools rights

- Mind Tools reserves the right to remove any postings or material introduced by users if it considers them inappropriate, without explanation, at any time.
- Mind Tools also reserves the right to change these Terms of Use at any time.
- Mind Tools is not responsible for any postings or content on forums, sites or links external to www.mindtools.com, and can accept no liability for these.
- Anyone found in breach of these rules may be excluded from Mind Tools Connect and/or cause their organization's subscription to the service to be terminated.

Annex 2

Mind Tools Connect™ Data Protection

Processing of Personal Data by Mind Tools in connection with the Service

1. Definition and interpretation

1.1 For the purpose of this Annex 2, the following definitions apply:

Customer means the organisation identified in the Subscription Schedule to the Agreement;

Customer Personal Data means all Personal Data processed by Mind Tools on behalf of Customer under or in connection with the Agreement, the particulars of which are set out in Appendix 1 to this Annex 2;

Data Protection Legislation means any laws and regulations in any relevant jurisdiction relating to privacy or the use or processing of data relating to natural persons, including: (a) EU Directives 95/46/EC and 2002/58/EC (as amended by 2009/139/EC) and any legislation implementing or made pursuant to such directives, including (in the UK) the Data Protection Act 1998 (the "DPA") and the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (b) from 25 May 2018, EU Regulation 2016/679 ("GDPR"); and (c) any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR; and (d) any guidance or codes of practice issued by a governmental or regulatory body or authority in relation to compliance with the foregoing; in each case, to the extent in force, and as such are updated, amended or replaced from time to time;

DP Regulator means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Legislation;

Request means a request from a Data Subject to exercise its rights under the Data Protection Legislation in respect of Customer Personal Data;

Security Breach means any actual loss, unauthorised or unlawful processing, destruction, damage, alteration, or unauthorised disclosure of, or access to Customer Personal Data (accidental or otherwise) and/or any other irregularity in processing Customer Personal Data;

Standard Contractual Clauses means the standard contractual Clauses set out in the European Commission's Decision 2010/87/EU of 5 February 2010 for the transfer of Personal Data to processors established in third countries, as may be updated from time to time;

Sub-Processor means a person or entity subcontracted by Mind Tools to process Customer Personal Data in accordance with Mind Tools' obligations under or in connection with the Agreement.

1.2 In this Annex, the terms "**Data Subject**", "**Personal Data**", "**process**", "**processing**", "**transfer**" (in the context of transfers of Personal Data) and "**technical and organisational measures**" shall have the meanings and otherwise be interpreted in accordance with the GDPR.

1.3 Capitalised terms not defined in this Clause 1 shall have the meaning given to them in the Agreement.

2. Processing Personal Data

2.1 In performance of its obligations under the Agreement, Mind Tools shall only process the type(s) of Personal Data, and only in respect of the categories of Data Subjects and types of processing, set out in Appendix 1 to this Annex (Details of Personal Data Processed).

2.2 The parties acknowledge that for the purposes of the Data Protection Legislation, Customer is the Data Controller and Mind Tools is the Data Processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

2.3 Mind Tools shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Legislation and shall make such information available to any DP Regulator on request.

3. Processing Restrictions

3.1 The parties shall, at all times, comply with the provisions and obligations imposed by the Data Protection Legislation and the data protection principles set out therein when processing the Customer Personal Data.

3.2 Customer warrants that it has all necessary consents in place to enable lawful transfer of the Customer Personal Data.

3.3 In processing the Customer Personal Data, Mind Tools shall:

- (a) process Customer Personal Data only in accordance with Customer's written instructions from time to time (including those set out in this agreement) unless it is otherwise required by applicable law;
- (b) not process Customer Personal Data for any purpose other than those set out in this agreement or otherwise expressly authorised by Customer;
- (c) notify Customer within thirty-six (36) hours if it receives a Request;
- (d) provide Customer with reasonable co-operation and assistance in relation to any Request;
- (e) notify Customer if, in its reasonable opinion, any instructions given by Customer infringes the Data Protection Legislation; and

- (f) not disclose any Customer Personal Data to any Data Subject or to a third-party other than at the request of Customer or as expressly provided for in the Agreement to the extent which is permitted by Law.

3.4 Mind Tools shall be entitled to communicate directly with Service Users by electronic mail about the Service in order to:

- (a) manage Service Users' accounts; and
- (b) provide information about the resources included in the Service and to encourage the Service Users to make full use of those resources.

4. Sub-Processors

4.1 Mind Tools shall obtain the prior written consent of Customer prior to the appointment of Sub-Processors.

4.2 The Sub-Processor shall only process Customer Personal Data in order to perform one or more of Mind Tools' specified obligations under this Agreement.

4.3 Prior to any processing of Customer Personal Data by the Sub-Processor, Mind Tools shall enter into a written agreement with that Sub-Processor, requiring the Sub-Processor to:

- (a) process the Customer Personal Data only in accordance with the written instructions of Mind Tools or Customer;
- (b) comply with data protection obligations equivalent in all material respects to those imposed on Mind Tools under this Annex; and
- (c) allow Customer to audit the Sub-Processor on terms equivalent to those in paragraph 8.

4.4 Mind Tools is responsible and liable for the Sub-Processor's compliance with its obligations under this Annex.

5. Security

5.1 In processing Customer Personal Data, Mind Tools shall (and will procure that all Sub-Processors shall):

- (a) protect Customer Personal Data from a Security Breach by ensuring that it has in place at all times the appropriate technical and organisational measures to protect Customer Personal Data; and
- (b) ensure that Mind Tools' personnel who have access to the Personal Data are subject to written (or statutory) obligations to maintain the confidentiality of Customer Personal Data; and are trained on the requirements of Data Protection Legislation and their obligations in respect of Personal Data under this Annex.

6. Security Breach

- 6.1 Mind Tools shall (and will procure that all Sub-Processors shall), without undue delay (and in any event within thirty six (36) hours) after discovering any Security Breach or any failure of security which leads to, or may lead to, a Security Breach, notify Customer of the same and provide full details of the Security Breach and the consequences of the Security Breach including: (i) the date and time of when the Security Breach occurred; (ii) the type of data that was the subject of the Security Breach; (iii) where possible, the categories and approximate number of Data Subjects concerned; (iv) the identity of each affected Data Subject that has been identified to date; (v) any notifications made to DP Regulators or Data Subjects about the Security Breach; and (vi) details of any steps taken to remedy the Security Breach and recover or safeguard Customer Personal Data concerned.
- 6.2 In relation to a Security Breach or other failure of security, which is discovered by Mind Tools, or notified to Mind Tools by Customer or a third party, Mind Tools shall (and will procure that all Sub- Processors shall), co-operate with Customer in all steps as Customer may consider appropriate, including notification to the relevant DP Regulator or to the affected Data Subject(s).

7. Return or Destruction of Customer Personal Data

- 7.1 Subject to paragraph 7.2, Mind Tools shall, and shall ensure that all Sub-Processors shall:
- (a) return or irretrievably delete (at Customer's sole option) all Customer Personal Data;
 - (b) cease all processing of Customer Personal Data;
 - (c) delete all copies of the Customer Personal Data from any system under their control; and
 - (d) destroy all copies of any document containing Customer Personal Data, immediately upon the expiry of the Agreement, and provide written confirmation to Customer of the same.
- 7.2 To the extent that Mind Tools is prevented by law from destroying all or part of Customer Personal Data (the "**Legally Retained Data**"), Mind Tools shall not be required to comply with section 7.1 in respect of the Legally Retained Data, in which case Mind Tools undertakes that it shall:
- (a) notify Customer of such restriction and of the Customer Personal Data that constitutes the Legally Retained Data;
 - (b) cease all processing of the Legally Retained Data other than as required by the applicable law; and
 - (c) keep confidential all such Legally Retained Data and not disclose the Legally Retained Data to any third party.

8. Audit

8.1 Mind Tools will comply with all reasonable requests of Customer (and/or its auditors and internal or external representatives, subject to reasonable and appropriate confidentiality undertakings being given by Customer's auditors or representatives) to inspect and audit Mind Tools' (and its Sub-Processor's) processing activities, and records of such processing activities, to enable Customer to verify that Mind Tools (and its Sub-Processors) is complying fully with its obligations under this agreement and under Data Protection Legislation in relation to the processing of Customer Personal Data.

9. Co-Operation and Assistance

9.1 Mind Tools shall promptly co-operate with Customer, and promptly provide such information and assistance as Customer may reasonably require, to enable Customer:

- (a) to comply with Customer's obligations under the Data Protection Legislation (including articles 32 to 36 of the GDPR) in respect of Customer Personal Data; and
- (b) to deal with and respond to all investigations and requests for information relating to the Customer Personal Data from any DP Regulator.

9.2 If Mind Tools receives any complaint, notice or communication from a DP Regulator or other third party (excluding a Data Subject) which relates directly or indirectly to Customer Personal Data or to either party's compliance with the Data Protection Legislation, it shall as soon as reasonably practicable notify Customer.

10. Transfer of Personal Data

10.1 Mind Tools shall not process any Customer Personal Data, or otherwise transfer or access any Customer Personal Data, outside of the EEA without the express prior written consent of Customer.

10.2 The consent of Customer under paragraph 10.1 shall be conditional upon Mind Tools ensuring there is adequate protection for the Customer Personal Data in accordance with applicable Data Protection Legislation. Such adequate protection may include, where specified by Customer, Mind Tools (or applicable third party): (i) taking such steps as may reasonably be required by Customer on an on-going basis; and/or (ii) entering into the Standard Contractual Clauses with Customer.

10.3 If Customer authorises Mind Tools to transfer Customer Personal Data outside the EEA pursuant to paragraph 10.2 and either (a) the means by which adequate protection for the transfer is achieved ceases to be valid or (b) any supervisory authority or DP Regulator requires transfers of Personal Data pursuant to such Standard Contractual Clauses to be suspended, then Customer may, at its discretion, require Mind Tools to immediately cease data transfers, and delete or return all Customer Personal Data previously transferred.

11. Indemnity and Liability

11.1 Mind Tools will indemnify the Customer in respect of any claims, liabilities, damages, administrative fines, losses or costs ("Losses") incurred by the Customer due to any failure by Mind Tools to comply with its obligations under this Annex.

11.2 The total liability of Mind Tools to the Customer for Losses arising under this Annex (whether in contract, tort (including negligence), restitution, breach of statutory duty, misrepresentation or under the indemnity at paragraph 11.1 above) shall in all circumstances be limited to £1,000,000 (one million pounds sterling) for all claims or connected claims arising. Nothing in this clause shall limit or exclude the liability of Mind Tools for:

- (a) death or personal injury resulting from negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) any other liability that cannot be excluded by law.

Appendix 1 Details of Personal Data Processed

The Personal Data processing activities carried out by Mind Tools under the Agreement may be described as follows:

1. Subject matter of processing

Mind Tools processes personal data in relation to employees and other individuals who have been given access to the Service by the Customer.

2. Nature and purpose of processing

Personal Data is processed by Mind Tools for the following purposes:

- To administer Mind Tools' site and for internal operations, including troubleshooting, data analysis, testing, research, statistical and survey purposes.
- To improve Mind Tools' site to ensure that content is presented in the most effective manner for the User and their device.
- To allow the User to participate in interactive features of Mind Tools' service, when they choose to do so.
- As part of Mind Tools efforts to keep its site safe and secure.
- To make suggestions and recommendations to Users of Mind Tools' site about content and features that may interest them.
- To communicate relevant Mind Tools resources to individual Users.
- To provide reporting data to Customer of usage of the resources by the Users.

3. Categories of Personal Data

The categories of Personal Data processed by Mind Tools comprise:

- Customer generated User ID (Unique Identifier).
- MT generated User ID (will be the same as Customer generated ID if provided).
- Email address of the User (if provided with consent).
- First name of the User (if provided with consent).
- Personal information from the User to identify their learning needs - for example job role, seniority, skills gaps.
- Technical information, including the Internet protocol (IP) address used to connect the User's computer to the Internet, browser type and version, time zone setting, browser plug-in types and versions, operating system and platform.
- Information about the User's visit, including the full Uniform Resource Locators (URL) clickstream to, through and from our Website (including date and time); page response times, download errors, length of visits to certain pages, page interaction information (such as scrolling, clicks, and mouse-overs), methods used to browse away from the page.
- Cookies:
 - Mind Tools' website uses cookies to distinguish the User from other Users of our website. This helps Mind Tools to provide the User with a good experience when the User browses Mind Tools' website and also allows Mind Tools to improve its site.

4. Categories of Data Subjects

Users who have been given access to the Service by Customer.

5. Duration

Mind Tools will process Personal Data relating to corporate Users while providing the Service to them under an agreement with Customer (or until the Agreement is terminated).

Mind Tools will delete all Personal Data relating to an individual User within six months of the termination of the Agreement between Customer and Mind Tools.