



TERMS & CONDITIONS

By using MindaClient you are agreeing to be bound by the following terms and conditions.

MindaClient reserve the right to update and change these Terms and Conditions from time to time without notice. The latest version will always be displayed on our website www.mindaclient.com

MindaClient is a trading name of DKI Limited and any reference to MindaClient in this document shall be construed as referring to DKI Limited.

1. SETTING UP AND USING YOUR ACCOUNT

1.1 REGISTRATION TERMS

To register and use the Service, you must provide

- your full legal name
- a valid email address
- contact mobile number
- promptly pay all charges and monthly fees due in order to access and continue to use the Service;

You are responsible at all times for maintaining the security of your account and password.

MindaClient cannot and will not be liable for any loss or damage from your failure to comply with this security obligation; and for all content posted and activity that occurs under your account.

Any content you enter into your MindaClient account shall comply fully with the laws of defamation of the Republic of Ireland where MindaClient is headquartered.

1.2 MODIFICATIONS TO THE SERVICE AND PRICES

MindaClient reserves the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof) with or without notice.

Prices of all Services, including but not limited to monthly subscription plan fees to the Service, as are displayed at this Site or otherwise notified to you from time to time are subject to change upon 30 days notice from us. Such notice may be provided at any time by posting the changes to this Site or the Service itself.

MindaClient shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

1.3 PAYMENT AND REFUNDS TERMS

A valid credit card or a signed SEPA Direct Debit Mandate Form is required for paying accounts.

The Service is billed to you in advance on a monthly basis and is non-refundable. There will be no refunds or credits for partial months of Service, or refunds for months unused with an open account. In order to treat everyone equally, no exceptions will be made.

There is a charge for set up of MindaClient. This charge is non-refundable.

All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties. Vat will not be chargeable within the European Union apart from the Republic of Ireland provided a valid Vat registration number is supplied.

1.4 CANCELLATION AND TERMINATION OF YOUR ACCOUNT

Subject to these Terms of Service, termination of your agreement must be submitted in writing and one month's notice is required. You are solely responsible for properly cancelling your account. A phone request to cancel your account is not considered cancellation.

Your account will continue and monthly subscription fees and charges will continue to accrue until such time as your account is cancelled or terminated in accordance with these Terms of Services.

Upon cancellation of your service, you will be given the option of having your client data returned to you before it is removed. If you decline this offer your content will be immediately deleted. This content cannot be recovered once it is deleted. If you opt to have your data returned, your content will be extracted and it will be forwarded to you in an encrypted file. It will then be destroyed permanently from our server.

MindaClient may terminate your account at any time upon notice should you violate these Terms of Service or otherwise fail to comply with your obligations hereunder. Verbal, physical, written or other abuse (including threats of abuse or retribution) of any MindaClient customer, client, employee, member, or officer will result in immediate account termination.

2. CONTENT, OWNERSHIP AND PROHIBITED USES

2.1 OUR CONTENT.

You expressly acknowledge that the Site, the Software and the Service developed by MindaClient each contain content protected by copyright, trade marks, trade secrets, patents, designs or other proprietary and intellectual property rights (the "IPR"), and that these IPRs are valid and protected in all forms, media and technologies existing now or developed later and that all right, title and interest in and to the Materials, the Site, the Software, the Service and all IPR therein are and shall remain the exclusive property of MindaClient.

2.2 GRANT OF LICENCE.

Upon registration and during the continuance in force of your account, MindaClient shall and hereby grants you a non-exclusive, royalty-free, non-transferrable, revocable licence under the IPR in the Software and the Service to use the Software and/or the Service for your own purposes only, subject to these Terms of Service.

2.3 NO IMPLIED LICENCE.

Except as explicitly granted in these Terms of Service, no licence, immunity, or other right is granted or assigned under these Terms of Service, either directly or indirectly, by implication, estoppel or otherwise, to you with respect to any IPR of MindaClient.

2.4 PROHIBITED USES. You will not at any time:

copy, licence, distribute, sell or otherwise market the Software, or authorise any third party to do any of the foregoing;

reverse engineer or decompile the Software or any IPR in the Software, except and only to the extent authorised by applicable law;

remove any patent numbers, copyright notices or other notices from the Software, the Service and/or the Site;

use the Software, the Service and/or the Site, or any part thereof, for any purpose or do any act which would or might infringe the MindaClient IPR;

use the Software, the Service and/or the Site, or any part thereof, to create, publish, post, upload, transmit, disseminate or endorse any message, data, information, text, name, software, graphics, files materials or other content that is unlawful, libellous, defamatory, profane, obscene, pornographic, indecent, harassing, threatening, harmful, invasive of privacy or publicity rights or for any other unlawful purpose;

transmit any worms or viruses or any code of a destructive nature when using or otherwise in connection with the Service, the Software and/or the Site; or.

modify, adapt or hack into the Service or modify another website or service so as to falsely imply that it is associated in any way with the Service, MindaClient or any other MindaClient service.

2.5 YOUR CONTENT.

Your content is your responsibility. We have no responsibility or liability for it, or for any loss or damage your content may cause to you or other people, companies or organisations. We claim no intellectual property rights over the new material you independently create and provide to the Service. Your profile and materials uploaded remain yours. You will use the Software and/or the Service and exercise your rights under these Terms of Service in accordance with all applicable laws (including without limitation copyright laws).

2.6 MONITORING AND ALTERING CONTENT.

MindaClient does not pre-screen content, but we reserve the right in our sole and absolute discretion to screen and/or remove or edit without notice any content posted or stored on the Site that is objectionable to us for any reason (or to appoint a third party to do any of the foregoing), and we may do this at any time. You are solely responsible for maintaining copies of and replacing any content you post or store on the Site.

2.8 SPAMMING.

MindaClient provides a facility that enables users to send bulk email messages and bulk text messages to others. Users agree that they will not use this facility to send unsolicited, indiscriminate messages that would be considered spam, whether or not for a commercial purposes.

All communication through MindaClient whether through SMS, Email or any other means is the sole responsibility of the Users.

2.8 THIRD PARTY MATERIAL.

To the extent the Site, the Software and/or the Materials include or refer to any third party materials, the ownership of such third party materials shall be vested in the third party(s) concerned. MindaClient is in no way responsible for the content, accuracy or reliability of any such third party materials.

3. GENERAL CONDITIONS

3.1 DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

Your use of the Service and the Software is at your sole risk. The Service and the Software is provided on an "as is" and "as available" basis.

MindaClient does not warrant that (i) the Service and/or the Software will meet your specific requirements, (ii) the Service and/or the Software will be uninterrupted, timely, secure, or error-free, (iii) the results that may be obtained from the use of the Service and/or the Software will be accurate or reliable, (iv) the quality of any products, services, information, or other material purchased or obtained by you through the Service and/or the Software will meet your expectations, and (v) any errors in the Service and/or the Software will be corrected.

You expressly acknowledge and agree that MindaClient shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if MindaClient has been advised of the possibility of such damages), resulting from: (i) the use or the inability to use the Service, the Software and/or the Site; (ii) the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from the Service; (iii) unauthorized access to or alteration of your

transmissions or data; (iv) statements or conduct of any third party on the service; (v) or any other matter relating to the Service, the Software and/or the Site.

3.2 TECHNICAL SUPPORT AND HOSTING

Technical support is only provided to users covered by contract that is in force. Support is available through the support & feedback options available in the MindaClient system. Phone & Email support is provided between the hours of 9.00am and 5.00pm Monday to Friday (excluding bank and public holidays).

3.3 MARKETING

Unless otherwise expressed to us in writing we reserve the right to use your name and logo in general promotion for MindaClient, including on our website and on social media.

3.4 OTHER

We respect your right to privacy and will not collect any personal information about you on this Site without your permission. We do not share your personal information, unless required by law or court order. For more information about our privacy practices, please refer to our Privacy Policy.

The failure of MindaClient to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. The Terms of Service constitutes the entire agreement between you and MindaClient and govern your use of the Service, superseding any prior agreements between you and MindaClient (including, but not limited to, any prior versions of the Terms of Service).

These Terms of Service are governed by the laws of the Republic of Ireland.

3.5 CONTACT US

Questions about the Terms of Service should be sent to DKI Limited T/A MindaClient, Business Centre, 11 Patrick Street, Kilkenny, Ireland. MindaClient is a registered business name of DKI Limited. You can also contact us at support@mindaclient.com

Data Processing Agreement

This agreement is made between THE CLIENT and MindaClient

Data Location: All customer data is stored within ISO27001 certified data centres in Dublin and will never leave the Irish Jurisdiction. So for current and future data protection regulations and compliance requirements, customers will always know exactly where their data resides.

This Agreement covers the following Service(s) provided by MindaClient to THE CLIENT:

CRM, Software & ancillary services

RECITALS

- A. In connection with the provision of the Service(s) which MindaClient is supplying to the Customer, this Agreement shall apply to all Data, disclosed by the Customer to MindaClient, accessed by MindaClient on the authority of the Customer for Processing and otherwise received by MindaClient for Processing on Customer's behalf.
- B. The Customer is the Data Controller in respect of all Personal Data that MindaClient Processes on its behalf in connection with the provision of the Service(s)
- C. MindaClient is a Data Processor in respect of all Personal Data it Processes on behalf of the Customer in connection with the provision of the Service(s)
- D. It is intended that this Agreement will govern the terms and conditions applying to MindaClient use of the Data and other related matters.

IT IS HEREBY AGREED by and between the Customer and MindaClient as follows:

1. Definitions:

In this Agreement, unless the context otherwise requires:

Data shall mean any information of whatever nature that, by whatever means, is provided to MindaClient by the Customer, is accessed by MindaClient on the authority of the Customer or is otherwise received by MindaClient on the Customer behalf, for the purposes of the Processing specified in the Data Protection Acts and the GDPR (When effective), and shall include, without limitation, any Personal Data;

Data Controller or Controller has the meaning given to that term in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR;

Data Processor or Processor has the meaning given to that term in Section 1(1) of the

Data Protection Acts and (when effective) in Article 4 of the GDPR;

Data Protection Acts means the Data Protection Acts 1988 and 2003 (as amended) and the European Communities (Electronic Communications, Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. 336/2011) and every statutory modification, re-enactment, replacement and/or amendment thereof for the time being in force (or, where the context so admits or requires, any one or more of such Acts) and all orders and regulations/statutory instruments made thereunder;

Data Subject has the meaning given to this term in Section 1(1) of the Data Protection Acts;

Delete for the purposes of this agreement means removing all Data which is electronically held in such a way that it can never be retrieved from the device on which it is held;

Personal Data has the meaning given to that term in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR (when effective);

Sensitive Personal Data has the meaning given to that term in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR (when effective);

Freedom of Information Act means the Freedom of Information Act 2014 and any amendments to or replacements thereof, including by means of directly effective EU Regulation;

GDPR means the EU General Data Protection Regulation, Regulation (EU) 2016/679, the effective date of which is 25th May 2018;

Processing and Process has the meaning given to those terms in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR;

Service(s) shall mean the provision of the identified service(s) to be provided by MindaClient to the Customer.

THE CLIENT shall be known as **the Customer** for the purposes of this agreement

2. Obligations of MindaClient (the “Data Processor”):

MindaClient agrees that it shall:

2.1 Process the Data at all times in accordance with the Data Protection Acts, the GDPR (when effective) and any guidance issued by the Data Protection Commissioner;

2.2 Manage and Process any Data which they acquire from the Customer in accordance with the documented instructions of Customer and the obligations of the Data Protection Acts and the GDPR in so far as these obligations apply to a Data Processor;

2.3 Not use the Data directly or indirectly for any purpose other than in connection with the provision of the Service(s) to the Customer;

2.4 Not disclose Data to any of MindaClient staff, agents, subsidiaries or sub- contractors unless and only to the extent that such persons need to know such Data for the purposes of providing services in connection with the Service(s), and provided that such persons have been made aware of the restrictions in this Agreement on the disclosure of the Data;

2.5 Maintain secret and confidential all Data furnished to it or otherwise acquired by its staff, agents, subsidiaries or sub-contractors save and to the extent that such Data has been made available to the public by the Customer or by any third party lawfully in possession thereof and entitled to make such disclosure without restriction;

2.6 Not disclose the Data whether directly or indirectly to any third party without the express prior written consent of the Customer, or except as may be required by Law;

2.7 Implement appropriate human, organisational and technological controls in accordance with Section 2(c) of the Data Protection Acts and Article 32 of the GDPR, to keep the Data secure and to protect against accidental loss, destruction, damage, alteration, or disclosure of the Data.

2.8 Take the necessary precautions for the prevention of unauthorised access to, unauthorised disclosure of or other unauthorised processing of the Data and in particular:

2.8.1 Have all necessary access controls in place to include authentication and authorisation for access to Data to ensure its security and confidentiality; and

2.8.2 Have all necessary systems in place to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services; and

2.8.3 Have the ability to restore the availability and access to the Data in a timely manner in the event of a physical or technical incident; and

2.8.4 Have a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Data;

2.9 Ensure all mobile computer devices which are used to access or store the Data are encrypted in accordance with MindaClient Encryption Policy;

2.10 Ensure the security of the Data in transit;

2.11 Assist the Customer to fulfil its obligations to respond to requests from Data Subjects exercising their rights under Section 2D of the Data Protection Acts and Chapter III of the GDPR, (including the rights of access to, rectification of and erasure of their Personal Data), and comply with any request from the Customer to amend, transfer or Delete such Personal Data;

2.12 In the event that MindaClient receives a request for any information contained in the Data pursuant to the Freedom of Information Act, not to respond to the person making such request, but to inform the Customer as soon as possible, and MindaClient further agrees to assist the Customer with all such requests for information which may be received from any person within a reasonable timescale;

2.13 Not Process or transfer the Data outside of Ireland except with the express prior written consent of the Customer;

2.14 Inform the Customer as soon as is practical, but no later than 72 hours after they become aware of any breaches in MindaClient security which could potentially give rise to the loss, theft or unauthorised release or disclosure of the Data or any part thereof;

2.15 If so requested by the Customer, permit Customer or its representatives (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit MindaClient data processing facilities.

3. Obligations of the Customer (the “Data Controller”):

In consideration of the obligations undertaken by MindaClient in clause 2 of this Agreement, the Customer, agrees that it shall:

3.1 Ensure it complies at all times with the Data Protection Acts and the GDPR (when effective) and, in particular, the Customer shall ensure that any disclosure of Personal Data by it to MindaClient is made with the Data Subjects consent or is otherwise lawful;

3.2 Remain responsible for the quality and accuracy of the Data, Personal or otherwise that it makes available to SalesPulse / MindaClient; and

3.3 ensure, where it is necessary to send Data from the Customer to MindaClient for Processing, the Customer takes all the necessary precautions, to ensure the security of the Data before and during transit.

4. MindaClient I.T. Resources

The Customer acknowledges that MindaClient may store and Process the Data on MindaClient I.T. resources that are used for other purposes and which are not dedicated solely to the storage and Processing of the Customers Data.

5. Disclosure Required by Law

In the event that MindaClient is legally required to disclose any of the Data to a third party, MindaClient undertakes to notify the Customer of such requirement prior to any disclosure and, unless prohibited by law, to supply the Customer with copies of all communications between MindaClient and any third party to which such disclosure is made.

6. Termination

On termination of the Agreement, MindaClient at the written request of the Customer, shall return to the Customer, all Data which has been disclosed by the Customer to MindaClient and copies thereof, or Delete all Data and certify to the Customer that it has done so, unless legislation imposed upon MindaClient prevents it from returning or destroying all or part of the Data.

7. Survival of Obligations

The non-disclosure obligations of this Agreement will survive and continue and will bind MindaClient legal representatives, successors and assigns indefinitely, notwithstanding that the Service(s) may not be actually implemented by the parties.

8. Variation

This Agreement may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties hereto.

9. Notice

Any notice or other communication given or made under this Agreement shall be in writing and may be delivered to the relevant party or sent by pre-paid registered post airmail or fax to the address of that party specified in this Agreement or to that party's fax number thereat or such other address or number as may be notified hereunder by that party from time to time for this purpose and will be effective notwithstanding any change of address or fax number not so notified. Unless the contrary is proved, each such notice or communication will be deemed to have been given or made and delivered, if by post 48 hours after posting, if by delivery when left at the relevant address or, if by fax upon transmission, subject to the correct code or fax number being received on the transmission report.

10. Governing Law

This Agreement will be governed by and construed in accordance with the laws of Ireland, and the parties submit to the exclusive jurisdiction of the Irish courts for all purposes connected with this Agreement, including the enforcement of any award or judgement made under or in connection with it.