

TERMS OF SERVICE
FOR THE
MINDJET CONNECT® SERVICE

These Terms of Service apply to the Mindjet Connect® Service (the “Service”).

NOTICE: By clicking that you accept these Terms of Service you form a legally binding contract between you, the end user, and the following entity that is applicable to the jurisdiction in which you are located:

- If you are located in Europe (other than the UK or Ireland), the Middle East or Africa: **Mindjet GmbH**
- If you are located in the UK or Ireland: **Mindjet (UK) Ltd.**
- If you are located in Japan: **Mindjet Co. Ltd. (KK)**
- If you are located anywhere else, including the United States: **Mindjet LLC**

(collectively, “Mindjet”).

MINDJET PERMITS YOU TO ACCESS THE SERVICE ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THESE TERMS OF SERVICE. PLEASE READ THESE TERMS OF SERVICE CAREFULLY. THESE TERMS OF SERVICE GOVERN YOUR ACCESS TO THE SERVICE. YOU ACKNOWLEDGE AND AGREE THAT BY CLICKING ON THE “ACCEPT” BUTTON OR SIMILAR BUTTONS OR LINKS AS MAY BE DESIGNATED BY MINDJET, THAT YOU HAVE READ, UNDERSTOOD, AND AGREED WITH THESE TERMS OF SERVICE AND THAT YOU AGREE TO BE BOUND BY THEM. IF YOU ARE ENTERING THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES (AS DEFINED BELOW) TO THESE TERMS OF SERVICE, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY OR IF YOU DO NOT AGREE TO (OR CANNOT COMPLY WITH) THESE TERMS OF SERVICE, THEN MINDJET IS UNWILLING TO PERMIT YOU TO ACCESS THE SERVICE, AND YOU SHOULD CLICK ON THE “CANCEL” OR SIMILAR BUTTON AND DECLINE TO USE THE SERVICE.

Last Updated: September 2011

1. TERMS OF SERVICE.

- 1.1. The Service. The Service is a collaborative work management tool enabling you and other Users (as defined below) to collaborate, manage meetings, share information, coordinate work, and store documents. You can create and edit Content (as defined below) with your account and if you choose to do so, you can share and post such Content. These Terms of Service (the “**Terms**”) govern your rights to use the Service and are effective between you and Mindjet as of the date you accept these Terms. Unless explicitly stated otherwise, any new features that may be added to the Service shall be subject to these Terms. Terms that are capitalized are defined in the body of these Terms. During the Subscription Term (as defined below), as set forth in an Ordering Document (as defined below), Mindjet grants to you and those individuals authorized by you or on your behalf (“**Users**”) a nontransferable, nonexclusive, worldwide right to access and use the Service subject to these Terms for: (i) personal or (ii) internal business purposes only. Mindjet shall make the Service available to you pursuant to this Agreement and the relevant Ordering Document during a Subscription Term. The **Service**, as used herein, may include Mindjet Connect Free (the “**Free Service**”) and/or Mindjet Connect Business (the “**Paid Service**”). You agree that your purchase of the Paid Service hereunder is neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Mindjet regarding future functionality or features. An “**Ordering Document**,” as used herein, shall mean a document which states what Services are being purchased, the payment terms, and any additional terms and conditions regarding the use of the Service which may amend or modify those terms set forth herein (e.g., including, but not limited to, quotes, purchase orders, or e-commerce store receipts/confirmations).
- 1.2. Modifications of These Terms. Mindjet reserves the right to modify, add to, change, or remove any part of these Terms at any time, with notice to you. Notice will be delivered to the email address

provided by you during the registration process and you consent to Mindjet sending such notifications of modifications of these Terms to your email address. In case of any material change to these Terms, Mindjet will place a link on the Service login page (<https://connect.mindjet.com>) entitled "Terms of Service Updated XX/XXXX" for no less than thirty (30) days. Except as outlined above, all changes to these Terms will be effective when posted (after a notice is sent to your email address), and your continued use of the Service after the sending of such notice will constitute your acceptance of, and your agreement to be bound by, those changes. If you do not agree to (or cannot comply with) the Terms as amended, your sole remedy is to stop using the Service. While Mindjet may endeavor to notify you prior to making changes to the Service, Mindjet reserves the right to add, modify, discontinue, remove, or suspend temporarily, the Service (or any part thereof), including features and specifications of products described or depicted on the Service, in the Help Documentation, or the Mindjet website, at any time, with or without notice. "**Help Documentation**" as used herein, shall mean the description of the Services as set forth in the "Help" function of the Service.

- 1.3. **No High Risk Use.** The Service is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. You shall not use the Service in any application or situation where failure of the Service could lead to death or serious bodily injury of any person, or to severe physical or environmental damage including, but not limited to, aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, or weaponry systems.

2. USERS, ACCOUNT, AND FREE AND PAID SERVICES.

- 2.1. **Users.** There are four (4) types of Users of the Service; different types of Users have different rules that apply to them. Each Ordering Document defines the number of Users for the Paid Service, and you shall at all times ensure that its use does not exceed the number of Users.
 - 2.1.1. If you set up a Service account, you are an "**Account Owner**." If you set up a Paid Service account, the Account Owner is solely responsible for and manages all payment obligations, if any, of an account.
 - 2.1.2. If you are a User of the Paid Service, you are an "**Account Member**." Some Account Members have additional rights and privileges within the Paid Service. An Account Owner has full access to the functionality of the Paid Service and may manage or delegate some or all functionality within the Paid Service to other Account Members. An "**Account Administrator**" has full access to the functionality of the Paid Service, except for payment obligations, and may manage or delegate some or all functionality, within the Paid Service to other Account Members. All other Account Members, who are not the Account Owner or are not Account Administrator(s), have access to certain functionalities of the Service as determined by the Account Owner and Account Administrator(s).
 - 2.1.3. If you are invited to participate in an existing account of the Service (the "**Share**" functionality), you are an "**Account Guest**". Account Guests have limited access to the functionality of the Service as set forth in the Help Documentation. Account Owners and Account Members who use the Share functionality to invite Account Guests may elect to provide Account Guests with either: (i) read-only privileges of Shared Content (as defined below); or (ii) read/write privileges of Shared Content, meaning that such Account Guest will have the ability to edit by creating, reading, updating, and deleting such Shared Content.
 - 2.1.4. When these Terms refer to "**you**" or a "**User**", it applies to you regardless of your status as an Account Owner, Account Administrator, Account Member, or Account Guest. If a particular term applies only to Account Owners, Mindjet will specify that. Each User must register and accept these Terms.
- 2.2. **Free Service.** The Free Service contains a limited subset of the functionality of the Paid Service, including, but not limited to, limiting the number maps you can create and Share with read/write privileges and limiting the amount of available storage for Content (as defined below). Limitations are set forth in further detail in the Help Documentation. Mindjet may impose limits on the use of or access to the Free Service, in any case and without notice or liability. Mindjet reserves the right to change the terms of the Free Service at any time. Mindjet may terminate your right to access and use the Free Service at any time with thirty (30) days prior written notice to you. You agree that

Mindjet shall not be liable to you or any third party for any modification, removal, disabling access to, or cessation of the Free Service. If you desire additional services beyond the scope and limitations of the Free Service, then you must subscribe to the Paid Service. Mindjet reserves the right to suspend or terminate your account and refuse any and all current or future use of the Free Service for any reason at any time or to terminate your Free Service account that is inactive for a continuous period of one hundred twenty (120) calendar days. In the event of such termination, Mindjet reserves the right to delete all Content that was created and stored in the Free Service with prior notice to allow you to backup any Content stored therein. Mindjet will provide you prior notice of such termination by email. .

- 2.3. Modification of the Service. From time to time, Mindjet will update or upgrade the Service. Mindjet will not materially reduce the functionality of the Service during your Subscription Term (as defined below) for the Paid Service. You agree that Mindjet shall not be liable to you or to any third party for any modification or temporary suspension of the Service. Such modifications shall be in Mindjet's sole discretion.

3. SPECIAL FUNCTIONALITY.

- 3.1. Storage Limits. Mindjet will limit the amount of Content (as defined below) by the amount of aggregate storage per account. The storage limits for the Free Service and the Paid Service are set forth in the Help Documentation. The Service provides real-time information to enable Account Owners and Account Administrators to monitor your compliance with such limitations.
- 3.2. The Post Functionality and Security. The Service may allow Users to post Content (as defined below) to external mass platforms (e.g., MapsForThat.com, Twitter, LinkedIn, Google, and Evernote) (the "**Post**" functionality). If you Post Content, the Service will save a copy of a User's Content at a moment in time, create a unique external link (URL) to the Content hosted on Mindjet's servers, and publish such URL to the applicable external mass platform. Content that a User Posts will not automatically synch or update as a User revises the original Content at a later time. If a User Posts a map, the map will be displayed via an Internet browser as a .swf (shockwave flash) file, provided the browser has an Adobe Flash plug-in installed. You acknowledge that the Post functionality within the Service is not intended as a secure means of Content transfer. Using this functionality makes the Content public in nature, Content will not be password protected, and Content will be discoverable and may be downloadable on the Internet via web browser by any person who possesses the applicable URL. By using the Post functionality within the Service, you assume the risk that the Content may be discovered by third parties who you did not intend to view the Content. The Post functionality is not designed for use with materials that are highly confidential in nature. The copy of a User's Content will be applied towards the amount of aggregate storage for such account.

4. EXTERNAL SITES OR RESOURCES. The Service may contain features designed to interoperate with external sites or resources (e.g., MapsForThat.com, Twitter, LinkedIn, Google, and Evernote). To use such features, you may be required to obtain access to such external sites or resources from their providers. Your use of such external sites or resources is subject to the terms and conditions of such external sites or providers. If such provider ceases to make their external sites or resources available for interoperation with the corresponding Service features on reasonable terms, Mindjet may cease providing such Service features without entitling you to any refund, credit, or other compensation. You acknowledge and agree that Mindjet is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available from such third party web sites or resources. You further acknowledge and agree that Mindjet shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Content, goods, or services available on or through any such site or resource.
5. COMMUNICATIONS AND NOTICES. The Service requires that you receive certain communications from Mindjet such as service announcements and administrative messages. Since these communications are considered to be a part of the Service, you will not be able to opt-out of receiving them other than by terminating your use of the Service. Mindjet may provide you with notices, including those regarding changes to these Terms, by email or regular mail and Mindjet may also post such changes within the Service.

6. YOUR RESPONSIBILITIES.

- 6.1. **Connectivity.** The Service is provided by Mindjet from a data center facility to which Users have remote access via the Internet. You may connect to the Service using any Internet browser supported by the Service. You are solely responsible for obtaining and maintaining appropriate equipment and ancillary services needed to connect to, access, or otherwise use the Service, which may include computers or other devices, operating systems, web browsers, payment of third-party fees (such as Internet service provider fees or airtime charges). You shall ensure that the equipment complies with configurations and specifications set forth in the Help Documentation.
- 6.2. **Use of the Service.** You shall: (i) be responsible for compliance with these Terms by Account Members and Account Guests; (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Service, and notify Mindjet promptly of any such unauthorized access or use; and (iii) use the Service only in accordance with the Help Documentation, including the obligation to not access the Service by any means other than those provided by Mindjet for use in accessing the Service.
- 6.3. **Restrictions on Use.** You shall not: (i) make the Service available to anyone other than Account Members and Account Guests; (ii) access the Service for purposes of monitoring the Service's availability, performance, functionality, or for any other benchmarking or competitive purpose (iii) sell, license, sublicense, distribute, rent, lease or lend access to the Service, or otherwise transfer in whole or in part access to the Service to another party; (iv) use the Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (v) use the Service to store or transmit Malicious Code; (vi) interfere with or disrupt the integrity or performance of the Service; (vii) create, develop, license, install, use, or deploy any third party software or services to circumvent, enable, modify, or provide access, permissions, or rights to work around any technical limitations of the Service and these Terms, or otherwise attempt to gain unauthorized access to the Service, their related systems, or networks; (viii) remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that are contained in or on the Service. "**Malicious Code**" as used herein shall mean viruses, worms, time bombs, Trojan horses, and other harmful or malicious code, files, scripts, agents, or programs.
- 6.4. **Registration Obligations.** In order to access the Service, you will be required to register with Mindjet by creating a login and password. You must be human. Bots and other automated methods are not permitted for registration purposes. You must provide your legal full name, a valid email address, and any other information requested. You may establish one (1) Free Services account for your personal use and one (1) Free Services account for your internal business purposes. Please note that you may maintain only one (1) Free Services account with a particular Mindjet ID. You represent and warrant that you are at least eighteen (18) years old, or the applicable age of majority in the jurisdiction in which you reside. Additionally, you agree to provide and maintain true, accurate, current, and complete information about yourself when you register for the Service ("**Registration Data**") and to update this information to keep it accurate and complete. If you provide any information that is inaccurate or incomplete, or Mindjet has reasonable grounds to suspect that such information is inaccurate or incomplete, Mindjet reserves the right to suspend or terminate your use of the Service. When you register to use the Service, you will create a unique username and a password (e.g., firstname.lastname@mindjet.com). You are solely responsible for maintaining the confidentiality of your username and password and are responsible for all activities that occur under your username. You agree that your username and password may be used only by you. User subscriptions are for designated Users only. You may not share your username and password with anyone else or set up a shared account (e.g., department@mindjet.com). Notwithstanding the foregoing, you may reassign seats to new Users replacing former Users who no longer require ongoing use of the Service provided that the prior User discontinues use of the Service and the new User registers and accepts these Terms. You agree to immediately notify Mindjet of any unauthorized use of your username or password or any other breach of security. You also agree to ensure that you exit from the Service at the end of each session. Mindjet will not be liable for any loss or damage that arises as a result of your failure to comply with this section.

7. **SUPPORT.** As part of the Service, Mindjet provides free online technical support services for the Service as described at www.mindjet.com/us/support/support_center/index.php.

8. **PRIVACY.** Registration Data and certain other information about you are subject to Mindjet's Privacy Policy and the related Mindjet Connect Privacy Notice. Each User's Registration Data, including a User's first name, last name, and email address will be viewable to every User of your Account within the Service, including any Account Guests. You acknowledge, consent, and agree that Mindjet may access, preserve, and disclose your Registration Data and Content (as defined below) if required to do so by law or in a good faith belief that such access, preservation, or disclosure is reasonably necessary to: (i) comply with legal process; (ii) enforce these Terms; (iii) respond to claims that any Content violates the rights of third parties; (iv) respond to your requests for customer support; (v) protect the rights, property, or personal safety of Mindjet, Users, and the public; or (vi) to comply with requirements of Mindjet's agreements with its suppliers. You understand that through your use of the Service, you consent to the collection, storage and use of this information including, without limitation, credit card information. You acknowledge and agree that Mindjet's provision of the Service may require Mindjet to transfer, process, or store your personal data and to transmit such data internally within Mindjet or to Mindjet's Affiliates (as defined below) in the United States and other countries. Such processing, storage, and transaction shall only be to the extent necessary for, and for the sole purpose of, enabling Mindjet and its service providers, with whom it may be necessary to share such information all of whom are under obligations of confidentiality to Mindjet, to perform its obligations hereunder and may take place in any of the countries in which Mindjet and its Affiliates conducts business, which may include countries outside of the European Economic Area. Mindjet affirms to you that Mindjet LLC currently abides by the safe harbor framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of data from the European Union.

9. **USER CONTENT.** You own any data, information, or material, including, maps, contacts, files, originated by you that you create or store within the Service in the course of using the Service (the "**Content**"). Mindjet has no ownership rights in or to your Content. You shall be solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to the Content. Content must conform to the Mindjet Content Standards, which are hereby incorporated by reference. You agree that any loss or damage of any kind that occurs as a result of the use of any Content that you upload, Post, transmit, display or otherwise make available through your use of the Service is solely your responsibility. You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. You are responsible for all Content posted and activity that occurs under your account (even when Content is posted by others who have access to your Account). ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH CONTENT, WHETHER CAUSED BY VIRUS OR OTHERWISE. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, MINDJET SHALL NOT BE LIABLE FOR ANY UNAUTHORIZED USE OF ANY CONTENT OR ANY USE OF THE SERVICE TO DEVELOP, DISTRIBUTE, OR USE ANY MATERIAL THAT IS DEFAMATORY, SLANDEROUS, LIBELOUS, OR OBSCENE, THAT PORTRAYS ANY PERSON IN A FALSE LIGHT, THAT CONSTITUTES AN INVASION OF ANY RIGHT TO PRIVACY, OR AN INFRINGEMENT OF ANY RIGHT TO PUBLICITY, THAT VIOLATES OR INFRINGES ANY THIRD PARTY'S RIGHTS, OR THAT VIOLATES ANY FOREIGN, FEDERAL, STATE, OR LOCAL STATUTE, OR REGULATION.

10. **MINDJET'S GENERAL PRACTICES REGARDING USE AND STORAGE OF CONTENT AND DATA.** Mindjet reserves the right to limit file download and/or bandwidth capacity of any or all sites related to the Service in its sole discretion if it deems such limitation to be in the best interests of the operating performance. Mindjet may also establish general practices and limits concerning use of the Service, including, without limitation, the maximum number of days that uploaded Content will be retained by the Service following termination of an account and the maximum disk space that will be allotted on Mindjet's servers on your behalf or with respect to a Paid Service and Free Service account. You agree that Mindjet has no responsibility or liability for the deletion or failure to store any Content maintained or transmitted by the Service. You acknowledge that Mindjet reserves the right to log off Users that are inactive for an extended period of time. You further acknowledge that Mindjet reserves the right to modify these general practices and limits from time to time. When an account has reached its storage limit, no further materials will be able to be submitted to the Service for storage.

11. **SECURITY.**
 - 11.1. Mindjet shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of your Content. Mindjet shall not (i) modify your Content;

(ii) disclose your Content except as compelled by law; or (iii) access your Content except to provide the Service and prevent or address service or technical problems, at your request, in connection with customer support matters, or as otherwise provided for in these Terms. You understand that the technical processing and transmission of the Service, including your Content, may involve transmissions over various networks and changes to conform and adapt to technical requirements of connecting networks and devices. You understand that the Service may include security components. You agree not to attempt to override or circumvent any of the usage rules or security features embedded into the Service.

11.2. YOU ACKNOWLEDGE THAT NEITHER MINDJET, NOR ITS THIRD PARTY PROVIDERS, CONTROLS THE TRANSFER OF DATA OVER THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, MINDJET AND ITS SUPPLIERS SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY LOSS SUFFERED AS A RESULT OF SUCH A FAILURE OF THE SERVICE OR A BREACH OF SECURITY INVOLVING THE SERVICE, WHETHER OR NOT SUCH LOSS OR BREACH RESULTS FROM THE DELIBERATE, RECKLESS, OR NEGLIGENT ACTS OF ANY PERSON OR MAY HAVE BEEN FORESEEABLE. MINDJET ASSUMES NO RESPONSIBILITY, AND SHALL NOT BE LIABLE FOR, ANY DAMAGES TO, OR VIRUSES THAT MAY DAMAGE, YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY ON ACCOUNT OF YOUR ACCESS TO OR USE OF THE SERVICE.

12. HOSTED SERVICE AVAILABILITY. System Availability of the Service shall be at least 99% over any calendar month for the Paid Service. Should Mindjet fail to achieve 99% System Availability in each of two (2) consecutive calendar months, an Account Owner shall have the right to terminate his or her subscription for cause, in which case Mindjet will refund to the Account Owner any prepaid fees for the remainder of the Subscription Term (as defined below) after the date of termination. Claims under this service level agreement must be made in good faith and by submitting a support case to Mindjet's Customer Support Team within ten (10) business days after the end of the relevant period. "**System Availability**" means the percentage of total time during which the Service is available, excluding Scheduled Downtime and Emergency Maintenance. "**Scheduled Downtime**" means downtime of the Service during periods Mindjet will publish on Mindjet's website from time to time. "**Emergency Maintenance**" means downtime of the Service outside of Scheduled Downtime hours due to the application of urgent patches or fixes or other urgent maintenance.

13. INDEMNITY. You agree to indemnify and hold Mindjet and its subsidiaries, Affiliates (as defined below), officers, directors, agents, employees, partners, independent contractors, and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Content you submit, Post, transmit, or otherwise make available through the Service, your use of the Service, your connection to the Service, your violation of these Terms, or your violation of any rights of another person or entity.

14. WARRANTIES AND DISCLAIMER OF WARRANTIES.

14.1. Mindjet Warranties. Mindjet warrants that: (i) Mindjet has validly entered into these Terms and has the legal power to do so; (ii) the Paid Service shall perform materially in accordance with the Help Documentation; (iii) the functionality of the Paid Service will not be materially decreased during a Subscription Term (as defined below); and (iv) the Paid Service will be provided in a manner consistent with generally accepted industry standards.

14.2. Your Remedies. You must notify Mindjet of any breach of its warranties within thirty (30) calendar days from the performance of the relevant Paid Service in order to receive warranty remedies. For breach of the express warranty set forth above, your sole and exclusive remedy shall be re-performance of the deficient Paid Service.

14.3. Your Warranties. You warrant that: (i) you have validly entered into these Terms and have the legal power to do so; (ii) you will not upload any file containing Malicious Code into the Service; and (iii) you will comply with all local rules regarding online conduct and acceptable Content; specifically, you will comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

14.4. Disclaimer of Warranties. MINDJET AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES WITH RESPECT TO PERFORMANCE, SECURITY, CAPABILITY, CURRENTNESS, OR THAT: (i) THE

SERVICE WILL MEET YOUR REQUIREMENTS; (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE COMPLETE, ACCURATE, OR RELIABLE; (iv) THE QUALITY OF ANY SERVICES, INFORMATION, OR OTHER MATERIAL(S) OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS; OR (v) ANY ERRORS OR DEFECTS IN THE SERVICE OR MINDJET TECHNOLOGY (as defined below) WILL BE CORRECTED. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN THIS SECTION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, MINDJET AND ITS SUPPLIERS PROVIDE THE SERVICE TO YOU ON AN "AS IS" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. THE ABOVE WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THESE TERMS, OR COMMUNICATION WITH YOU INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. UNDER NO CIRCUMSTANCES SHALL MINDJET AND ITS SUPPLIERS BE LIABLE FOR ANY UNAUTHORIZED USE OF THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM MINDJET OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

15. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, YOU CAN RECOVER FROM MINDJET AND ITS SUPPLIERS ONLY DIRECT DAMAGES UP TO THE AMOUNT YOU PAID FOR THE SERVICE. YOU CANNOT RECOVER ANY OTHER DAMAGES, INCLUDING LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, or EXEMPLARY DAMAGES. This limitation applies to (i) anything related to the Service, Content, or third party programs, sites, and resources; and (ii) claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law. It also applies even if (i) any remedy fails of its essential purpose; (ii) Mindjet knew or should have known about the possibility of the damages; or (iii) Mindjet has been advised of the possibility of such damages. Some countries and states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you, in which case Mindjet shall be entitled to the maximum limitations on damages and liability available at law and in equity by such applicable law in such particular circumstance.

16. **MINDJET'S INTELLECTUAL PROPERTY.** All right, title, and interest in and to the Service, the Help Documentation, and the Mindjet Technology and in all related copyrights, trade secrets, patents, trademarks, and any other intellectual and industrial property and proprietary rights, including registrations, applications, renewals, and extensions of such rights, remains the property of Mindjet and its suppliers. "**Mindjet Technology**" means all of Mindjet's proprietary technology including, but not limited to, software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs, underlying structure, and other tangible or intangible technical material or information made available to you by Mindjet in providing the Service. You agree to keep the Mindjet Technology that is not publicly known confidential to yourself and not to disclose such information to others without Mindjet's prior written approval. You are not granted any intellectual property rights, including, but not limited to, any trademarks or service marks of Mindjet or its suppliers. Mindjet retains all rights not expressly granted to you in these Terms. You shall not: (i) modify or create derivative works based upon the Service or Mindjet Technology; or (ii) reverse engineer, decompile or disassemble, or otherwise attempt to derive source code, object code, or underlying structure, ideas, or algorithms of the Service or Mindjet Technology, in whole or in part except and only to the extent that applicable law expressly permits.

17. **TERM AND TERMINATION.**
 - 17.1. **Term.** The term of these Terms of Service shall commence on the day you accept these Terms and terminate when you terminate your use of the Service. Your subscription term to the Paid Service shall commence on the day you receive access to the Paid Service and continue for the term set forth in an Ordering Document (the "**Subscription Term**").

 - 17.2. **Termination for Convenience.** You may terminate your use of the Service at any time, which shall become effective upon Mindjet's receipt of notice from you. If you should desire to cancel the Service at any time, please contact Mindjet Customer Support Team, who will terminate future

automatic renewals and charges. You acknowledge and understand that Mindjet will not refund you any pre-paid fees in the event of termination for convenience.

17.3. Termination for Cause. A party may terminate this Agreement for cause upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors. You agree that Mindjet may terminate your use of the Service for any violation of these Terms including, without limitation, failure to pay for the Service.

17.4. Effect of Termination. Termination of your Service includes: (i) removal of access to all offerings within the Service; (ii) deletion of your password and all related information, files, and Content associated with or inside your account (or any part thereof); and (iii) barring of further use of the Service. Note that if an Account Owner's use of the Service is terminated, one or more of such Account Owner's accounts will be terminated, affecting all Account Members within such account or accounts. Upon termination, any fees owed for the remainder of the Subscription Term will become immediately due and payable. Mindjet will not refund any pre-paid fees for the Paid Service in accordance with Section 18.4 (No Refunds or Credits). In the event of termination of your account for any reason (other than by reason of your breach of these Terms), Mindjet will make available to Account Owners a file of the Content for a period of time. Upon expiration of this period, or in the event of termination of your account by reason of your breach, Mindjet shall have no obligation to maintain or forward any of your Content. Mindjet may charge a separate fee for the return of Content in certain circumstances. Mindjet will only provide Content to Account Owners following termination of an account.

17.5. Survival. The disclaimer in Section 9 (User Content), Sections 11.2 (Security), 13 (Indemnity), 14.4 (Disclaimer of Warranties), 15 (Limitation of Liability), 16 (Mindjet's Intellectual Property), 17.4 (Effect of Termination), 19 (Feedback), 20 (Confidential Information), 21 (General), and 22 (Special Provisions for Residents of Member States of the European Economic Community) shall survive termination.

18. PAYMENT.

18.1. Monthly Billing. The Paid Service is sold as an annual subscription. The minimum Subscription Term shall be one (1) calendar year. If you elect to pay monthly, you are making installment payments. For the avoidance of doubt, monthly billing does not relieve you from liability to pay for an annual subscription. If you pay monthly and terminate the Paid Service for convenience prior to the expiration of your Subscription Term, you will be invoiced/charged at the time of termination for the remaining balance due for your Subscription Term.

18.2. Paid Service Fees. Unless otherwise specified in the applicable Ordering Document: (i) Paid Services are purchased as Account Member subscriptions and may be accessed by no more than the specified number of Account Members; (ii) additional Account Member subscriptions may be added during the applicable Subscription Term prorated for the remainder of the Subscription Term in effect at the time the additional Account Member subscriptions are added; and (iii) the added Account Member subscriptions shall terminate on the same date as the pre-existing subscriptions. Only the Account Owner is responsible for paying for Paid Service fees for an account. Account Administrators, Account Members, and Account Guests are not responsible for any fees related to the account. You will provide Mindjet with valid and updated credit card information, a valid purchase order, or an alternative document reasonably acceptable to Mindjet. If you provide credit card information to Mindjet, you authorize Mindjet to charge such credit card for all Paid Services set forth in an Ordering Document for the initial Subscription Term and any renewal Subscription Terms. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the Ordering Document. If the Ordering Document specifies that payment will be by method other than credit card, Mindjet will invoice you in advance or otherwise in accordance with the Ordering Document. Unless otherwise stated in the Ordering Document, invoiced charges are due net thirty (30) calendar days from the invoice date. Unpaid invoices that are not the subject of a written good faith dispute are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is greater plus all reasonable expenses of collection. You are responsible for providing complete and accurate billing and contact information to Mindjet and notifying Mindjet of any changes to such information. Your credit card or other form of payment will be charged or otherwise debited in accordance with payment terms set forth in an

Ordering Document. Mindjet will store your payment information (e.g., credit card number) so that it can charge you for the Service in accordance with your payment choice.

- 18.3. Renewal. Mindjet will notify you by email prior to expiration of your current Subscription Term. Your Subscription Term to the Service will be automatically renewed annually for one (1) year subscriptions and you will be charged or invoiced unless you notify Mindjet at least thirty (30) days prior to the renewal date that you do not wish to renew. Mindjet may modify Service fees for any automatic renewal term upon thirty (30) days' prior written notice; provided that any increase in fees noticed during an automatic renewal term shall not take effect until the beginning of the next automatic renewal term. Payment must be made on time to avoid a lapse in the Paid Service. Mindjet reserves the right to terminate or suspend your access to the Paid Service pursuant to Section 17.3 (Termination for Cause) if you fail to make timely payments.
- 18.4. No Refunds or Credits. All fees are non-cancellable, non-refundable, and no credits will be given for partial months of the Paid Service or months unused of a Paid Service Subscription Term.
- 18.5. Taxes. Mindjet's fees are exclusive of any taxes, levies, or duties. You are wholly responsible for any taxes that may arise out of your use of the Service.
19. FEEDBACK. You agree that any feedback or ideas you provided to Mindjet regarding the Service or any suggested improvements thereto (together, the "**Feedback**") will be the exclusive property of Mindjet. To the extent you own any rights in the Feedback, you agree to assign, and hereby does assign, to Mindjet all right, title and interest in and to the Feedback. You agree to perform all acts reasonably requested by Mindjet to perfect and enforce such rights. Mindjet will reimburse you for direct out of pocket costs incurred in complying with its requests.
20. CONFIDENTIAL INFORMATION.
- 20.1. Confidential Information. Each party (the "**Receiving Party**") understands that the other party (the "**Disclosing Party**") has disclosed or may disclose Confidential Information. "Confidential Information" means information of a confidential nature disclosed by a Disclosing Party to a Receiving Party hereunder, irrespective of the medium or form in which such information is disclosed. Confidential Information shall be information that: (a) is designated as being confidential to the Receiving Party by the Disclosing Party; (b) under the circumstances surrounding disclosure should be treated as confidential by the Receiving Party; or (c) by reason of its nature would be treated as confidential by a reasonable Receiving Party. For the avoidance of doubt, your Content and registration information, the Service, Help Documentation, and these Terms are Confidential Information.
- 20.2. Exclusions. The Confidential Information of the Disclosing Party expressly excludes any information that the Receiving Party can demonstrate: (i) is already known by the Receiving Party at the time of disclosure by the Disclosing Party; (ii) was rightfully disclosed to the Receiving Party by a third party; (iii) is in the public domain at the time of disclosure or subsequently becomes a part of the public domain through no fault of the Receiving Party; (d) was independently ascertained or developed by or for the Receiving Party without use of or reference to any Confidential Information of the Disclosing Party; (iv) was approved for public release by written authorization of the Disclosing Party; or (v) is required by law.
- 20.3. Care of Confidential Information. The Receiving Party shall: (i) restrict access to the Confidential Information of the Disclosing Party to only those persons who require such Confidential Information in order to fulfill a party's obligation hereunder (in the case of disclosure to third parties, such third parties must sign confidentiality agreements with the Receiving Party containing protections no less stringent than those herein); (ii) protect the Confidential Information of the Disclosing Party against unauthorized use or disclosure with at least the same degree of care as the Receiving Party normally exercises to protect its own information of like character and importance, but no less than reasonable care; and (iii) not duplicate or reproduce the Confidential Information except as necessary. Upon termination or at any time upon the request of the Disclosing Party, any Confidential Information in the Receiving Party's possession or subject to its control must be returned or destroyed at the request of the Disclosing Party.
21. GENERAL.

- 21.1. Entire Agreement. These Terms, any addendum or amendment, the Ordering Document, the Privacy Policy, the Mindjet Connect Privacy Notice, the Mindjet Content Standards, other policies, the terms for supplements, updates, and support services that you use, contain the complete understanding between the parties with respect to the subject matter hereof, and supersede all prior or contemporaneous agreements or understandings, whether oral or written.
- 21.2. Headings. Headings under these Terms are intended only for convenience and shall not affect the interpretation of these Terms.
- 21.3. Waiver and Modification. No failure or delay of either party to exercise or enforce any of its rights under these Terms will act as a waiver of those rights. These Terms may only be modified, or any rights under it waived, by a written document executed by the party against which it is asserted. You agree that any varying or additional terms contained in any purchase order or other written notification or document issued by you in relation to the Service shall be of no effect.
- 21.4. Severability. If any provision of these Terms is found illegal or unenforceable, it will be enforced to the maximum extent permissible, effect should be given to the parties' intentions as reflected in the provision, and the legality and enforceability of the other provisions of these Terms will not be affected.
- 21.5. Relationship of the Parties. The parties are independent contractors. You and Mindjet agree that you are not agents, partners, or joint venturers, franchisee/franchisor, employee/employer, and that these Terms do not create any fiduciary duty or comparable relationship of trust between the parties.
- 21.6. No Third-Party Beneficiaries. You agree that, except as otherwise expressly provided in these Terms, there shall be no third-party beneficiaries to these Terms.
- 21.7. Export Restrictions. The Service is subject to United States export laws and regulations ("Export Controls"). You must comply with all domestic and international export laws and regulations that apply to the Service. These laws include restrictions on destinations, end users, and end use. You agree by using the Service that: (i) you or your Users do not reside in a country subject to embargo or export controls by the U.S. Government; (ii) you or your Users are not on the List of Denied Persons as published by the U.S. government; and (iii) you or your Users will not use the Service for any illegal purpose. Because the Service and related technical data are subject to U.S. export controls, you agree that you shall not upload, export, or "re-export" (transfer) the Service unless you have complied with all applicable U.S. export controls.
- 21.8. Assignment and Transfer. Mindjet may assign these Terms in whole or in part. In the event of a merger, acquisition, or sale of the Service by Mindjet or its Affiliates, your continued use of the Service signifies your agreement to be bound by these Terms, privacy policy, and other policies of the subsequent owner or operator of the Service. With Mindjet's prior written consent, you may assign your rights under these Terms to an assignee who agrees in writing to comply with all of the terms and conditions of these Terms. Any attempt to assign these Terms in violation of this Section shall be void. Subject to the foregoing, these Terms will be binding upon and will inure to the benefit of the parties' permitted successors and assignees. As used herein, an "**Affiliate**", with respect to your legal entity, shall mean another legal entity that controls, is controlled by, or is under common control with, your legal entity. "**Control**" shall mean 50% or greater voting power.
- 21.9. Force Majeure. A party is not liable for failure to perform the party's obligations if such failure is as a result of: (i) an act of war, hostility, or sabotage; (ii) act of god; (iii) electrical, internet, or telecommunications outage that is not caused by the obligated party; (iv) government restrictions (including the denial or cancellation of any export or other license); or (v) other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than one (1) calendar month, either party may cancel unperformed Services upon written notice. This section does not excuse either party of its obligations to take reasonable steps to follow its normal disaster recover procedures or your obligation to pay for the Services provided.
- 21.10. Remedies. You agree that any unauthorized use of the Service or the Mindjet Technology contained therein would result in irreparable injury to Mindjet, for which money damages would be inadequate. Therefore, in such event Mindjet shall have the right, in addition to other remedies available at law and in equity, to immediate injunctive relief against you and to prevent any

unauthorized use. Nothing contained in this section or elsewhere in these Terms shall be construed to limit remedies available pursuant to statutory or other claims that Mindjet may have under separate legal authority. You understand and agree that your cancellation of your Mindjet account is your sole and exclusive right and remedy with respect to any dispute with Mindjet.

21.11. Governing Law. If you are located in Europe (excluding the UK and Ireland), the Middle East or Africa, these Terms shall be governed by the laws of Germany. If you are located in the United Kingdom or Ireland, these Terms shall be governed by the laws of the United Kingdom. If you are located in Japan, these Terms shall be governed by the laws of Japan. If you are located anywhere else, these Terms shall be governed by the laws of the State of California. These Terms will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

21.12. Legal Effect. These Terms describe certain legal rights. You may have other rights under the laws of your state or country. You may also have rights with respect to the party from whom you purchased the Paid Service. These Terms do not change your rights under the laws of your state or country if the laws of your state or country do not permit it to do so.

21.13. Other. Mindjet and Mindjet Connect are registered trademarks of Mindjet LLC in the United States and/or various jurisdictions.

22. SPECIAL PROVISIONS FOR RESIDENTS OF MEMBER STATES OF THE EUROPEAN ECONOMIC COMMUNITY.

22.1. Warranty for Users Residing in a Member State of the European Community. If you are located in a Member State of the European Community, and you usually reside in such a country, then Sections 14.1 (Mindjet Warranties) and 14.4 (Disclaimer of Warranties) do not apply. Instead, Mindjet warrants for the Subscription Term that the Service provides the functionalities set forth in the Help Documentation (the "agreed upon functionalities"). Non-substantial variation from the agreed upon functionalities shall not be considered and does not establish any warranty rights. To make a warranty claim, you must discontinue use of the Service and provide proof of purchase to the location where you obtained it. If the functionalities of the Service vary substantially from the agreed upon functionalities, Mindjet is entitled – by way of re-performance and at its own discretion – to repair the Service. If this fails, you are entitled to a refund for any prepaid fees for the remainder of your Subscription Term after the date of termination.

22.2. Limitation of Liability for Users Residing in a Member State of the European Community. If you are located in a Member State of the European Community, and you usually reside in such a country, then Section 15 (Limitation of Liability) does not apply. Instead, except as provided in this paragraph, Mindjet's statutory liability for damages shall be limited as follows: (i) Mindjet shall be liable only up to the amount of damages as typically foreseeable at the time you entered into the Ordering Document in respect of damages caused by a slightly negligent breach of a material contractual obligation; and (ii) Mindjet shall not be liable for damages caused by a slightly negligent breach of a non-material contractual obligation. The aforesaid limitation of liability shall not apply to any mandatory statutory liability, in particular, to liability caused by wrongful intent or gross negligence, liability under the German Product Liability Act, liability for assuming a specific guarantee, or liability for culpably caused personal injuries. You are required to take all reasonable measures to avoid and reduce damages, in particular, to make back-up copies of your Content and computer data subject to the provisions of these Terms.

Should you have any questions concerning these Terms of Service, or if you desire to contact Mindjet for any reason, please email legal@mindjet.com or write to: Mindjet, 1160 Battery Street East, 4th Floor, San Francisco, California 94111 USA, ATTN: Legal Department.