

TERMS OF USE

Welcome, and thanks for using ThoughtExchange!

These Terms of Use (the “Terms”) govern use of our online platform and use of our websites and the resources we make available on our websites, such as our guides, videos and more. We refer to our platform, websites and resources collectively as the “ThoughtExchange services”.

Please take a few moments to read these Terms carefully before using the ThoughtExchange services. This is important, because by using the ThoughtExchange services, you are accepting these Terms and entering into a legal agreement with us. These Terms may be updated or amended from time to time.

Other terms may also apply to your use of the ThoughtExchange services, and those terms can be found here: thoughtexchange.com/terms-of-use/.

If you enter into a separate agreement with us in connection with your subscription to the ThoughtExchange services, the agreement may contain additional terms and conditions and information applicable to the services you are ordering.

1. WHO WE ARE

When these Terms use the terms “we” or “us,” it is referring to Fulcrum Management Solutions Ltd. That’s us.

If you reside in Canada or in another country other than the United States, your agreement is with us. If you reside in the United States, your agreement is with our U.S. subsidiary (also referred to as “us”). The legal name and address of the U.S. corporation can be found on our website at ThoughtExchange.com.

2. WHAT THOUGHTEXCHANGE IS

ThoughtExchange allows one person to create and facilitate a direct online conversation with a group of people. We call these conversations “Exchanges”. We call the person who leads an Exchange a “leader” and the people who participate in an Exchange “participants.” When you use ThoughtExchange, you are acting as a leader, a participant, or both.

When we refer to “you” in this agreement, we refer to you in your role as a leader and / or as a participant. Some of the obligations under this agreement only apply to leaders. This agreement makes it clear when that’s the case. If you are only acting as a participant, those obligations do not apply to you.

Leaders create Exchanges and then invite or provide access to participants who participate in the Exchanges. The leader’s identity (as provided to us) is displayed clearly, so each participant should know who the leader is for each Exchange.

Whether you are here as a leader, a participant, or both, we are happy that you are here.

3. WHAT THOUGHTEXCHANGE IS NOT

ThoughtExchange is an online platform that has been created by and is owned by us. ThoughtExchange is not software that you download, copy or install on your computers, mobile devices or networks. Access to ThoughtExchange is through an internet browser for which you have a separate license. Your use of ThoughtExchange does not include the transfer of or license to any of our software or other intellectual property.

ThoughtExchange is not freely available for anyone to use. If you are a leader, your right to use ThoughtExchange is subject to any scope and usage limitations identified in the applicable customer agreement. The scope and usage limitations may include limits on the number of users, use solely by an internal department, team or other division within your organization, or

administrative, management or other service features. You agree to use ThoughtExchange within the scope and usage limitations.

4. THE THOUGHTEXCHANGE SERVICES

Leader subscriptions. Access to the ThoughtExchange services is by subscription. Customers can subscribe to the ThoughtExchange services by signing up for one of our subscription plans and paying the applicable fees.

Service availability. Once a customer has subscribed and paid, we will make the purchased ThoughtExchange services available to the leaders designated by the customer and the leader's participants in accordance with our standard Service Level Agreement or, if the customer has purchased additional support services, any separate service level agreement that we have entered into with the customer. However, please note that we cannot be responsible for any unavailability of the ThoughtExchange services caused by circumstances beyond our reasonable control, such as internet outages or issues with your computer systems or devices.

New service features. We may share information about our future product plans because we like transparency. Our public statements about those product plans are an expression of intent but should not be relied on for making a purchase. If a leader decides to buy our services, that decision should be based on the functionality or features we have made available today and not on the delivery of any future functionality or features.

Website and Resource Content. Our websites and resources provide general information about us and the ThoughtExchange services. They may not always be accurate or complete. Resources on our websites may be varied or discontinued from time to time.

5. LEADER AND PARTICIPANT ACCOUNTS

Acknowledgment of ownership. In order to lead and in some cases participate in an Exchange you will need a user account. Your user account is created for you and may be based on your email address. By providing us

with your email address, or using the account created for a particular email address, you acknowledge that you are the owner or authorized user of it.

Account information. Your account may also include your first and last name. You may revise or remove the name from your account. You agree that your account information will be truthful. You agree that you will use your real name for your account. You will not create a false identity for your account, and you will not steal, impersonate or otherwise intentionally use the identity or the account of any other person.

Unauthorized access or misuse. As between you and others, your account belongs to you. You agree to: (1) not transfer any part of your account and (2) follow the law and these Terms. You are responsible for anything that happens through your account unless you report misuse and we've had a reasonable amount of time to disable your account or otherwise remedy the misuse. If you discover or suspect any unauthorized access to or use of your user account, please notify us immediately.

6. FREE VERSIONS OF THE THOUGHTEXCHANGE SERVICES

At our discretion, we may offer a trial version of the ThoughtExchange services during a pre-determined evaluation period. We may also make the ThoughtExchange services available to certain of our partners at no cost. The version of the ThoughtExchange services that is available for a free trial may not be available to all members of a particular organization and may not include access to all features or functions. Any Exchanges or information that leaders and participants enter into the ThoughtExchange services during a free trial will be lost at the end of the evaluation period unless a subscription to the ThoughtExchange services is purchased prior to the end of the evaluation period.

We don't receive payment for free trials, so we need to place certain limitations on our obligations to you during an evaluation period. With that in mind, please pay careful attention to the following statement as it impacts your legal rights.

During a free trial, the ThoughtExchange services are provided “AS IS” and “as available” without any warranty that may be included elsewhere in these Terms. FULCRUM DISCLAIMS ANY IMPLIED WARRANTIES INCLUDING WITHOUT LIMITATION MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FULCRUM’S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO ANY USE OF A FREE TRIAL IS \$100.

(Sorry for shouting. We want to make sure you see this.)

7. ACCEPTABLE USE POLICY

You, whether you are a leader or a participant, agree that you will comply with our thoughtexchange.com/acceptable-use-policy and all laws. You acknowledge that we have the right to monitor your use of the ThoughtExchange services in order to ensure your compliance with these Terms and the Acceptable Use Policy, or to comply with any law, order, or requirement of any court or government authority. We reserve the right to restrict, suspend, or terminate your account if we believe that you may be in breach of these Terms, the Acceptable Use Policy or law, or are otherwise misusing our services.

8. PRIVACY

We’re on a mission to make “make groups gooder.” For a ThoughtExchange to work best, we need you and others like you -- as many as possible -- to participate fully. As much as possible, we want to remove reasons for you not to participate. One important way of doing this is to reassure you that we are being responsible with the information we collect as part of an Exchange. Please review our thoughtexchange.com/privacy-policy for more information on how we collect and use your data in connection with your use of the ThoughtExchange services.

9. OWNERSHIP OF THOUGHTEXCHANGE AND YOUR CONTENT

We own ThoughtExchange. You agree that we own ThoughtExchange. We reserve all intellectual property rights in ThoughtExchange and its related services, including all patent, copyright, trade secret, trademark and other proprietary rights. For example, “ThoughtExchange” and the ThoughtExchange logo and our other trademarks, service marks, graphics, and logos used in connection with ThoughtExchange are trademarks or registered trademarks belonging to us. We are granting you a limited license to access and use the ThoughtExchange services. That right is conditioned on, among other things, your agreement to comply with these Terms and all laws.

You own your information. Our fundamental starting point is that, as a participant, you own all the information and the thoughts and other input that you provide to us. You only grant us a license to use your information.

Because you own your input, identity and association information and we only have non-exclusive rights to it, you may choose to make any or all of it available to others. If you do choose to share it, or even if you mistakenly share it, we have no obligation under these Terms of Use for any of the information shared.

Your license to us. You grant to us a worldwide, non-exclusive right to use, copy, distribute, publish, process and delete the information that you provide without any further consent, notice or payment. Your license to us is limited in the following ways:

- Except with your consent or as required by law or moral obligation, your identity information, which is known by us and the leader’s organization, will not be shared with any other person or organization.
- Except with your consent or as required by law or moral obligation, we will not share your association information with any other person, including the leader.
- While we may translate and make formatting changes to your content prior to publishing (such as modifying the size, layout or file

type or removing metadata), we will not intentionally modify the meaning of your words.

- We will not use or share your thoughts, content and personal information in any way that is inconsistent with these Terms of Use.

For more information on your rights and how we handle your data, please see our thoughtexchange.com/privacy-policy.

Leader responsibility for Exchange content. If you are a leader, you agree that you, and not us, are responsible for the content of all visual, written, or audible communications and any other material produced by you, your participants, or anyone else who may access the ThoughtExchange services under your subscription. You agree that you have all the rights, licenses, and permissions from third parties to use, reproduce, publish, and display content belonging to others. You agree that we are not liable for any loss or damages due to use of the ThoughtExchange services by you or your participants.

Your suggestions on how we can improve. The more suggestions our leaders and participants make, the better ThoughtExchange gets. If you send us any feedback or suggestions regarding our services, there is a chance we will use it, so you grant us an unlimited, irrevocable, perpetual, sublicensable, transferable, royalty-free license to use any such feedback or suggestions for any purpose without any obligation or compensation. If we choose not to implement the suggestion, please don't take it personally.

Your use of third-party services. We may offer integrations with third-party services that you may choose to use with ThoughtExchange, such as email or messaging services. Your relationship with the third-party service provider is an agreement between you and them and is not governed by these Terms. We are not responsible for those third-party services.

10. TERM AND TERMINATION

Leader account access. If you are a leader, you may only access the ThoughtExchange services for so long as the customer that authorized your account maintains a valid subscription. Cancellation, termination or failure of the customer to renew their subscription will result in suspension of your

leader account access at the time of cancellation or termination or at the end of the customer's paid term, as applicable.

Your right to cancel your account. We hope you'll love ThoughtExchange as much as we do, but if you wish to stop using the Thoughtexchange services, you may do so at any time.

Our right to terminate your account. We may terminate or suspend your access to the ThoughtExchange services if you violate these Terms or any law. We may also terminate your subscription if we discontinue the ThoughtExchange services. We will do our best to notify you in advance of any suspension or termination; however, there may be some cases where we need to suspend access immediately.

Coaching and other Professional Services. If you are a leader, we may provide you services such as general coaching in facilitated conversations, specific coaching in the use of ThoughtExchange leader and participant features. We may also provide professional services to you under a separate agreement. Professional services and support are only available to you as a leader while the customer's subscription that authorized your account is active. If the customer's subscription is terminated for any reason, our commitment to provide additional services will terminate on the effective date of termination of the subscription.

Provisions that survive termination. Sections 6 and 9 through 13, inclusive, of these Terms survive any termination or expiration of these Terms.

11. LEGAL LIMITS

Now we get to some agreements that are legal sounding and not that easy to read. These are also important. Some of these agreements change our legal rights and yours. Some of it is in all capital letters. That apparently is also important. And it might feel like we are shouting at you. You may want to ask an attorney why this is. (We have.)

Again, if you feel that you cannot agree to these terms, do NOT subscribe to our services, do NOT access or participate in a ThoughtExchange and do NOT create an Exchange as a leader or otherwise use any of our services.

We don't guarantee device compatibility. ThoughtExchange is designed to work on any desktop and mobile devices with a standard browser and access to the internet. In addition, we will from time to time develop and release ThoughtExchange applications designed to support a specific device and / or operating system, such as a windows desktop or a mobile app. However, we don't guarantee that we will support any particular device or operating environment.

We don't guarantee service availability in every country. We may change or discontinue any of our services for any reason or no reason at all. To the extent allowed under law, these changes may be effective upon notice provided to you. We can't guarantee the availability of our services in all countries and they may not be available for use in a particular location. You are responsible for following the laws in your state or country. We don't accept responsibility for the consequences of server unavailability, backups, software bugs or missing features. ThoughtExchange is not a storage service. You agree that we have no obligation to store, maintain or provide you a copy of any content or information that you or others provide.

Google Translate. Google's Attribution Requirements require us to make the following disclaimer available to participants: THIS SERVICE MAY CONTAIN TRANSLATIONS POWERED BY GOOGLE. GOOGLE DISCLAIMS ALL WARRANTIES RELATED TO THE TRANSLATIONS, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF ACCURACY, RELIABILITY, AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

(See. Even Google shouts.)

No Warranty. TO THE EXTENT ALLOWED UNDER LAW, FULCRUM (AND THOSE THAT WE WORK WITH TO PROVIDE OUR SERVICES) (A) DISCLAIM ALL IMPLIED WARRANTIES AND REPRESENTATIONS (E.G.

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF DATA, AND NONINFRINGEMENT); (B) DO NOT GUARANTEE THAT OUR SERVICES WILL FUNCTION WITHOUT INTERRUPTION OR ERRORS, AND (C) PROVIDE OUR SERVICES (INCLUDING CONTENT AND INFORMATION) ON AN “AS IS” AND “AS AVAILABLE” BASIS.

SOME LAWS DO NOT ALLOW CERTAIN DISCLAIMERS, SO SOME OR ALL OF THESE DISCLAIMERS MAY NOT APPLY TO YOU.

Exclusion of Liability. These are the limits of legal liability we may have to you.

TO THE EXTENT PERMITTED UNDER LAW (AND UNLESS WE HAVE ENTERED INTO A SEPARATE WRITTEN AGREEMENT THAT SUPERSEDES THIS AGREEMENT), FULCRUM (AND THOSE THAT WE WORK WITH TO PROVIDE OUR SERVICES) SHALL NOT BE LIABLE TO YOU OR OTHERS FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY LOSS OF DATA, OPPORTUNITIES, REPUTATION, PROFITS OR REVENUES, RELATED TO OUR SERVICES (E.G. OFFENSIVE OR DEFAMATORY STATEMENTS, DOWN TIME OR LOSS, USE OR CHANGES TO YOUR INFORMATION OR CONTENT).

IN NO EVENT SHALL OUR LIABILITY (AND THOSE THAT WE WORK WITH TO PROVIDE OUR SERVICES) EXCEED, IN THE AGGREGATE FOR ALL CLAIMS FROM ANY PARTICIPANT, US \$1000, OR FROM ALL CLAIMS FROM ANY LEADER, AN AMOUNT EQUAL TO THE SUBSCRIPTION FEES PAID OVER THE PRECEDING 12 MONTHS.

THIS LIMITATION OF LIABILITY IS PART OF THE BASIS OF THE BARGAIN BETWEEN YOU AND US AND SHALL APPLY TO ALL CLAIMS OF LIABILITY (E.G. WARRANTY, TORT, NEGLIGENCE, CONTRACT, LAW) AND EVEN IF WE HAVE BEEN TOLD OF THE POSSIBILITY OF ANY SUCH DAMAGE, AND EVEN IF THESE REMEDIES FAIL THEIR ESSENTIAL PURPOSE.

SOME LAWS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY, SO THESE LIMITS MAY NOT APPLY TO YOU.

(OK. Enough shouting.)

12. DISPUTE RESOLUTION

In the unlikely event that we end up in a legal dispute, the dispute will be resolved in Washington courts, applying Washington law, if you are a US resident. If you are a resident of Canada or a resident of any jurisdiction other than the US, the dispute will be resolved in the courts of British Columbia applying Canadian law. You agree that the laws of the British Columbia, Canada, excluding its conflict of laws rules, shall exclusively govern any dispute relating to this Agreement and/or the Services. We both agree that all of these claims can only be litigated in the courts of British Columbia, Canada or, only if you are a resident of the US, the federal or state courts of King County, Washington, USA, and we each agree to personal jurisdiction in those courts.

13. GENERAL TERMS

Here are some important details about how to read this Agreement.

Severability. If a court with authority over these Terms finds any part of it not enforceable, you and we agree that the court should modify the terms to make that part enforceable while still achieving its intent. If the court cannot do that, you and we agree to ask the court to remove that unenforceable part and still enforce the rest of this agreement. To the extent allowed by law, the English version of this agreement is binding and other translations are for convenience only.

Waiver. If we don't act to enforce a breach of these Terms, it does not mean that we have waived our right to enforce the Terms. You may not assign or transfer the Terms or your account to anyone without our consent. However, you agree that we may assign these Terms to our affiliates or a party that buys us without your consent. There are no third-party beneficiaries to these Terms.

Entire Agreement. These Terms (including additional terms that may be provided by us when you engage with a feature of our services) is the only agreement between us regarding our services and supersedes all prior agreements for the services.

Notice. You agree that the only way to provide us legal notice is at the addresses for physical mail provided immediately below.

Changes to these Terms. We reserve the right to change these Terms (and any additional agreements or policies incorporated by reference), effective as of the time we notify you of the revision as part of an update to the ThoughtExchange services. Notifications may be made in the product and / or as part of product release notifications. If you don't agree to changes that we make, you should NOT visit our websites, use our apps or otherwise use our services unless and until we've reached agreement. Using our services after changes have been posted by us is your agreement to the changed terms or practices. You acknowledge and agree that it is your responsibility to review these Terms from time to time, and to familiarize yourself with any modifications.

14. CONTACT US

Customer Support. We provide support by telephone and email to you whether you are a leader or a participant. Our support hours are to Friday, 9 am to 5 pm Pacific Time excluding statutory holidays. We will make our best efforts to resolve your problems and address your questions in a timely manner. Web-based training and support materials are provided "as-is."

Questions or Comments. If you have questions or comments, concerns about these Terms or their implementation, or you wish to make a complaint about matters arising from these Terms please contact us at feedback@thoughtexchange.com or other contact information displayed on our website at ThoughtExchange.com or by physical mail at:

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Attn: Terms of Use Issues
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