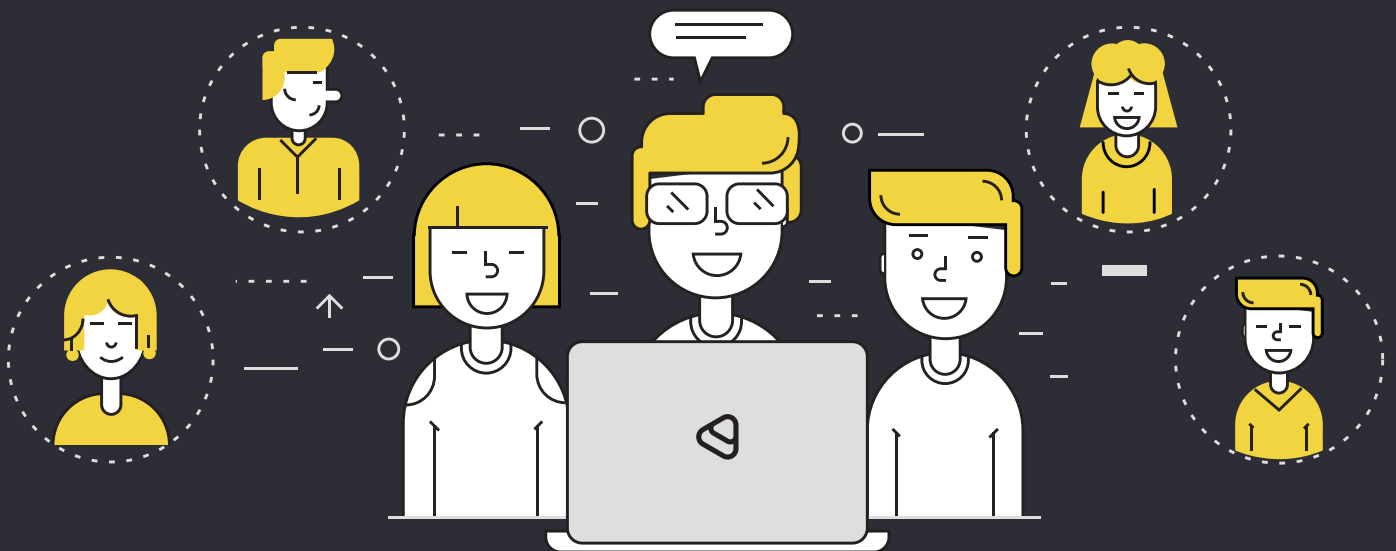




# General Terms & Conditions



## Article 1 - General

1. These GT&C are applicable to all Proposals and Agreements between Triggre and Customer and to the use of the Designer, Applications and Services delivered by Triggre.
2. An Agreement is concluded when Customer accepts a Proposal. Customer guarantees that it is authorized to conclude an Agreement with Triggre.
3. If any provision in these GT&C is null or nullified the other provisions in these GT&C remain in full effect. Parties will agree on an alternative provision which replaces the null or nullified provision. Customer cannot reject a reasonable Proposal for an alternative provision by Triggre.
4. These GT&C may be amended by Triggre in order to comply with applicable law and/or to adjust them to technical developments. New versions of the GT&C are accepted by the Customer through the continued use of the Designer and Application(s). New versions of these GT&C will be published on Triggre's website: <http://www.triggre.com>.

## Article 2 - Definitions

- Agreement: accepted Proposal by Customer.
- Application(s): an application created using the Designer by or on behalf of Customer.
- Customer: the organization which is willing to use the Designer, Applications or Services of Triggre.
- Data: all data processed by Customer and Users using the Application.
- Designer: the web-based, internet accessible Designer, developed by Triggre for designing and testing Applications and the processing of Data.
- GT&C: the present terms and conditions, also referred to as "Triggre General Terms and Conditions".
- Guide: an expert employed and/or trained by Triggre who is qualified to support Customer in using the Designer;
- Kick-off session: first meeting in a Project.
- Proposal: the offer of Triggre to the Customer for a Subscription and/or the purchase of Services.

- Party/Parties: Triggre and Customer, either jointly or each of them separately;
- Project: agreed upon Services between Triggre and Customer, as described in a Proposal.
- Proposal: offer for Services and/or Subscription(s).
- Service: Triggre's support in the use of the Designer and creating Applications;
- Subscription: the right to use the Designer and Application(s);
- Triggre: Triggre Netherlands B.V., having its registered office in the Netherlands;
- Subscription Fee: the fee to be paid by Customer for the use of the Designer and Applications;
- User: End user, affiliated to Customer, using the Application with or without by Customer provided login credentials.

## Article 3 - Access to the Designer

1. The use of the Designer is reserved to employees of Customer.
2. Customer will refrain from giving third parties the log-in details for the Designer.
3. Customer is fully responsible for all activities of its Users. If Customer discovers or suspects unauthorized access to the Designer, Customer will immediately report this to Triggre.

## Article 4 - Intellectual Property

1. Customer gets the non-exclusive and non-transferable right to use the Designer for the duration of the agreement with Triggre.
2. The intellectual property rights of the Designer remain the sole property of Triggre at all times.
3. Any intellectual property developed and/or owned by Customer and implemented with Triggre, will solely remain the intellectual property of Customer.

## Article 5 - Designer and Application use

1. For the duration Customer has a Subscription, Customer is granted the exclusive and non-transferable right to use and adjust the Application(s). Customer may give third parties and their Users the right to use the Applications. Customer ensures that the Designer and Applications are used in accordance with the GT&C.
2. The use of the Designer generates data about how the Designer is used. Customer permits Triggre to use this data to improve the Designer.
3. A "Fair Use Policy" (FUP) applies to the use of the Designer and the Applications. The FUP entails that Triggre may limit the data traffic and calculation capacity assigned to Customer if Users of Customer, as evidenced by Triggre's records, generate 100 percent more data traffic and/or use 100 percent more calculation capacity than average for more than 1 consecutive month. Triggre reserves the right to raise the Subscription Fee appropriately or to suspend the right to use the Designer and/or its Applications.
4. The following subscriptions are available:
  - **Creator**  
Lab environment, 1 Creator account, 5 User accounts, Standard design, Server in Triggre cloud
  - **Start-up**  
Main & Lab environments, 1 Creator account, 10 User accounts, Standard design, Server in Triggre cloud
  - **Small business**  
Main & Lab environments, 2 Creator accounts, 25 User accounts, Standard design, Server in Triggre cloud
  - **Professional**  
Main & Lab environments, 2 Creator accounts, 50 User accounts, Custom company design, Server in Triggre cloud, Single sign-on, Pro-active guidance

- **Enterprise**

Main & Lab environments, 3 Creator accounts, Unlimited user accounts, Custom company design, Dedicated server in Triggre cloud, Single sign-on, Pro-active guidance, Payment services, Escrow & continuity

Creator subscriptions may only be used for non-commercial activities. Start-up subscriptions are only available for non-profit volunteer foundations, non-profit volunteer associations and start-up companies younger than 2 years. Start-up companies may only apply for a start-up subscription for the duration on 1 year.

## Article 6 - Data

1. The Data remain the sole property of Customer. Customer permits Triggre to store and process the Data insofar as required for the performance of the Agreement.
2. With due regard for the state of the technology and costs Triggre will take suitable measures to protect the Data. Triggre makes a daily back-up of the Data.
3. Triggre cannot be held liable for loss of Data or Application functionality caused by Customer's use of the Designer or Applications. Customer is responsible for testing its Applications.
4. Customer is responsible for the Data. Customer indemnifies Triggre against all third party and direct claims to or in respect of the Data, including claims based on privacy legislation.
5. Customer is obligated to assess whether the Data, in view of their ((privacy sensitive) nature, is suitable for processing with the Application. In doing so Customer takes (privacy) legislation into account.

## Article 7 - Notice & takedown procedure

1. Customer guarantees that the use of the Designer and the Application(s) and the processing of the Data by Customer and/or its Users is lawful.
2. Triggre may deny Customer and its Users access to the Designer or remove or hand over Customer's Data if:
  - a. Triggre is required to do so by virtue of a court decision, legislation or an order;
  - b. Triggre is requested to do so by third parties due to Customer's (alleged) unlawful act when using the Designer or Application(s).

## Article 8 - Service levels

1. Triggre will ensure that the Designer is available to Customer for 99.8% of the time, during which period the Customer must be able to use the Designer without loss of standard Designer functionality. For the calculation of this availability percentage the time devoted by Triggre and/or its suppliers to the maintenance of the Designer or the underlying hardware, software and infrastructure is disregarded.
2. Customer may report malfunctions or unavailability of the Designer by e-mail to Triggre at servicedesk@triggre.com. Triggre will confirm receipt of the report within 2 hours between 9 am - 5 pm GMT+1 by e-mail to Customer.
3. Triggre will start to solve the malfunctions or unavailability on workdays between 9 am - 5 pm GMT+1) within 4 hours after receiving Customer's report. Triggre will report every 2 hours to Customer until the malfunctions are solved. The time required for repair of a malfunction as mentioned by Triggre to Customer is always indicative.
4. Malfunctions of the Designer or unavailability will be assessed and remedied as soon as possible by Triggre. Triggre is not obliged to repair malfunctions or unavailability of the Designer or Applications caused by incorrect use of the Designer, the omission of Application testing and/or Customer's design of an Application. Work needed for solving these types of malfunctions can be charged to the Customer.

5. Triggre will report Customer about the details of the malfunctions within three working days after solving the malfunctions.
6. Customer may not claim the agreed service levels in the following situations:
  - a. Diminished availability or malfunctions caused by acts or omissions of Customer, Users or third parties attributable to Customer. This includes the breakdown of hardware, software, infrastructure or diminished connectivity of Customer;
  - b. Diminished availability or malfunctions caused by hackers, sabotage, viruses or any other harmful third-party act;
  - c. Diminished availability or malfunctions caused by DNS issues, problems with VPN connections or SSL certificates beyond the control of Triggre;
  - d. Diminished availability or malfunctions caused by internet or other telecommunication issues;
  - e. Diminished availability or malfunctions because of force majeure;
7. When determining the service level, Triggre's records are leading
8. Customer and Triggre may conclude a service level agreement in addition to the standard service levels mentioned in the GT&C.

## Article 9 - Maintenance

1. Triggre and/or its suppliers regularly perform maintenance on the Designer, the Application(s) and the underlying hardware, software and/or infrastructure. Regular maintenance may be performed on all days between 00.00 and 07.00 am GMT+1 (hereinafter: the Maintenance Window).
2. Triggre and/or its suppliers have the right to perform critical maintenance outside the Maintenance Window if they believe it is necessary. If possible Triggre will notify Customer in advance.
3. During maintenance Customer cannot claim access to the Designer or the Application(s).

## Article 10 - Escrow and continuity

1. Triggre provides an Escrow arrangement with the option of continuation of the hosting to Customer in case Customer has an Enterprise license with Triggre at the time of a default, called conditions of release.
2. By accepting an Proposal, Customer accepts the right to get issued the Triggre source code in case that conditions of release have occurred as stipulated in this Escrow arrangement. Accepting this right does not lead to any obligations for Customer.
3. After conditions of release have occurred, Software Borg will give Customer the opportunity to execute the rights in the escrow arrangement. The escrow arrangement is subject to the terms and conditions as agreed upon between Triggre and Software Borg.
4. After conditions of release have occurred, Software Borg will allow Customer to participate in the SaaS payment continuity arrangement in order to secure the continuity of the SaaS service. This will only be allowed if the Customer has met the resulting financial commitments.
5. The rights resulting from this escrow arrangement can only be executed if, and as long as, Customer has an agreement for use of the Application(s) and Designer and has met any financial commitments towards Triggre and Software Borg.

## Article 11 - Services

1. Services are provided by Guides. The Services that Guides provide to Customer may consist of:
  - a. Support in designing and testing Applications using the Designer;
  - b. Creating business concepts and producing business cases;
  - c. Training courses.
2. Services are taken by the hour. If a fixed number of Services is stated in the Proposal, these hours are invoiced in advance.
3. A request from Customer for Services results in an Agreement when the request is accepted by Triggre. Triggre shall invoice these Services against an hourly rate of EUR 125,-.

4. Triggre has the right to plan execution of Services in good time. If Customer indicates that the requested Services have priority and should be executed on short notice, double the number of hours will be calculated.
5. The number of used Service hours is determined on the basis of Triggre's records, barring evidence to the contrary.
6. Customer will provide the Guide with the work environment, means and information required to properly provide the Services.
7. By participating in a Kick-off meeting for a Project, customer unequivocally accepts the Proposal for the Project.
8. Customer agrees that a Project is completed successfully when all requirements in the Proposal have been met. If a Project is offered as No-cure, No-pay, Customer is only obligated to pay upon successful completion of the Project, regardless of Customer's decision to use the Application(s).

## Article 12 - Payment services

1. Triggre Payment Services (TPS) provide the ability to receive payments in Applications.
2. Triggre uses Stripe.com Connect to provide the Payment Services and by using TPS, Customer agrees to the applicable Stripe.com Connect agreements, as can be found on, but may not be limited to, <https://stripe.com/nl/connect-account/legal>.
3. Customer agrees to pay in full the transaction costs that results from payments done through TPS, as can be found on <https://stripe.com/nl/pricing>.

## Article 13 - Invoicing and payment

1. The Subscription Fee is determined and invoiced annually up-front, unless an explicit Agreement is made between Triggre and Customer for monthly up-front invoicing.
2. All prices and rates quoted and agreed upon are excluding VAT.

3. All invoices addressed to Customer must be paid within 14 days. Customer is not entitled to suspend payment obligations or to set off any amounts owed.
4. Triggre may (partly) suspend Customer's access to the Designer and/or one or more Applications when Customer fails to pay the fees it owes to Triggre in good time.
5. If Triggre performs work regarding Data or the infrastructure of the Customer or its Users by virtue of a request or an authorized order from a government body or a legal obligation, the costs thereof will be charged to Customer.
6. Triggre has the right to annually adjust all agreed prices by applying an index of no more than 2.5%.
7. If Customer exceeds the payment term and ignores 2 warnings it will owe to Triggre 5% interest per annum over the invoice amount without a notice of default being required. In that case, Triggre also has the right to limit Customer's access to the Designer and Applications.
8. Triggre may charge Customer for all debt collection costs caused by Customer's non-payment.

#### **Article 14 - Liability**

1. The Designer and Services are provided "as is". Triggre expressly disclaims all warranties. Warranty of suitability for any particular purpose is hereby excluded. Triggre is not responsible and/or liable for loss of Data or functionality.
2. Before agreeing on this agreement, Customer has reviewed the Designer and its performance and accepts the current status and functionality of the Designer and the Applications that can be made with it. The Customer is responsible for testing of the Applications.
3. Triggre's liability is limited to compensation for direct damages (i.e. for not having the appropriate agreements, necessary for the functionality of the Designer). Such compensation is limited to a maximum, being the Subscription Fee paid for the 12 months prior to the event that caused the damage.

4. Triggre's liability for all consequential losses that may result for Customer from the use of the Designer or the Services is excluded. Consequential losses include but are not limited to consequential damages, loss of profit, lost savings, diminished goodwill, damages resulting from claims from Customer's customers and/or damages in connection with the deployment of means or software prescribed by Customer.

#### **Article 15 - Force majeure**

1. Triggre will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond our reasonable control, including but not limited to acts of God, labor disputes or other industrial disturbances, systemic electrical telecommunications or other utility failures, earthquakes, storms or other elements of nature, blockages, embargos, riots, acts or orders of government, acts of terrorism, or war.
2. If a Party fails to perform due to force majeure and it is evident that performance will remain impossible or a reasonable term for performance has expired, the other Party may terminate the Agreement with immediate effect without being obligated to pay compensation for damages.

#### **Article 16 - Termination**

1. Customer may terminate the use of the Designer at any time with a notice period of one month.
2. Purchased Services hours and pre-paid Subscription Fees will not be refunded upon termination of the agreement by Customer.
3. After termination or dissolution of the agreement Customer no longer has the right to access the Designer or the Applications.
4. Triggre has the right to terminate any agreement with Customer with immediate effect without notice of default being required, without court intervention and without being required to pay compensation for damages if:
  - a. Customer fails to comply with the provisions of these GT&C or the Proposal;

- b. Customer has been granted a temporary or permanent suspension of payments;
  - c. Customer has been declared bankrupt or a petition for its bankruptcy is filed;
  - d. Customer is being wound up or terminated other than for the purpose of reconstruction or merger;
  - e. Execution is levied on a considerable part of the assets of Customer.
5. At the request of Customer and at a reasonable fee, Triggre will send Customer a copy of the Data up to one month after termination.

### **Article 17 - Miscellaneous provisions**

1. All work of Triggre shall be carried out based on an obligation to use best endeavors unless Triggre has promised a result in the Proposal accepted by Customer.
2. Customer is required to provide a single contact person per Project and/or Subscription.
3. Triggre may use the Customer's trade name and/or brand as a reference for marketing purposes.
4. Parties ensure that confidential information received from the other Party remains confidential. The Party that receives confidential data will use them exclusively for the purpose for which they were provided. Customer's Data is considered confidential information.
5. Triggre may hire third parties in its performance of the agreement with Customer.
6. A right not exercised by a Party does not constitute a waiver of that right.
7. Triggre may transfer its rights and obligations under the agreement concluded with Customer to third parties without the prior consent of Customer.
8. Customer is not allowed to transfer to third parties the rights and authorities awarded to it by Triggre, without written permission of Triggre.
9. The end of the Agreement does not affect the rights and obligations existing between Parties that, due to their nature, cover a longer term, such as provisions regarding limitation of liability, confidentiality, and intellectual property rights.
10. The applicability of the UN Convention on Contracts for the International Sale of Goods (Vienna Sales Convention 1980) is expressly ruled out.
11. The Agreements concluded between Parties and the entire legal relationship of Parties, is governed by Dutch law. Disputes will be brought before the court of Utrecht (the Netherlands).