

Terms and conditions

Last updated on February 15, 2021

These terms and conditions ("Agreement") set forth the general terms and conditions of your use of the "Thrivey" mobile application ("Mobile Application" or "Service") and any of its related products and services (collectively, "Services"). This Agreement is legally binding between you ("User", "you" or "your") and Thrivey ("Thrivey", "we", "us" or "our") only. Thrivey is solely responsible for this application and the content thereof. Thrivey is a Dutch software company with an office at Jonkerbos 145, 2715 ST, Zoetermeer.

By accessing and using the Mobile Application and Services, you acknowledge that you have read, understood, and agree to be bound by the terms of this Agreement. If you are entering into this Agreement on behalf of a business or other legal entity, you represent that you have the authority to bind such entity to this Agreement, in which case the terms "User", "you" or "your" shall refer to such entity. If you do not have such authority, or if you do not agree with the terms of this Agreement, you must not accept this Agreement and may not access and use the Mobile Application and Services. You acknowledge that this Agreement is a non-transferable contract between you and Thrivey, even though it is electronic and is not physically signed by you, and it governs your use of the Mobile Application and Services.

Accounts and membership

You must be at least 16 years of age to use the Mobile Application and Services. By using the Mobile Application and Services and by agreeing to this Agreement you warrant and represent that you are at least 16 years of age.

If you create an account in the Mobile Application, you are responsible for maintaining the security of your account and you are fully responsible for all activities that occur under the account and any other actions taken in connection with it.

Billing and payments

You shall pay all fees or charges to your account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. Where Services are offered on a free trial basis, payment may be required after the free trial period ends, and not when you enter your billing details (which may be required prior to the commencement of the free trial period). If auto-renewal is enabled for the Services you have subscribed for, you will be charged automatically in accordance with the term you selected. Sensitive and private data exchange happens over a SSL secured communication channel and is encrypted and protected with digital signatures. We reserve the right to change products and product pricing at any time. We also reserve the right to refuse any order you place with us.

Accuracy of information

Occasionally there may be information in the Mobile Application that contains typographical errors, inaccuracies or omissions that may relate to product descriptions, pricing, availability, promotions and offers. We reserve the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information in the Mobile Application or Services is inaccurate at any time without prior notice (including after you have submitted your order). We undertake no obligation to update, amend or clarify information in the Mobile Application including, without limitation, pricing information, except as



required by law. No specified update or refresh date applied in the Mobile Application should be taken to indicate that all information in the Mobile Application or Services has been modified or updated.

Prohibited uses

In addition to other terms as set forth in the Agreement, you are prohibited from using the Mobile Application and Services or Content: (a) for any unlawful purpose; (b) to solicit others to perform or participate in any unlawful acts; (c) to violate any international, federal, provincial or state regulations, rules, laws, or local ordinances; (d) to infringe upon or violate our intellectual property rights or the intellectual property rights of others; (e) to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability; (f) to submit false or misleading information; (g) to upload or transmit viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Mobile Application and Services, third party products and services, or the Internet; (h) to spam, phish, pharm, pretext, spider, crawl, or scrape; (i) for any obscene or immoral purpose; or (j) to interfere with or circumvent the security features of the Mobile Application and Services, third party products and services, or the Internet. We reserve the right to terminate your use of the Mobile Application and Services for violating any of the prohibited uses.

Disclaimer of warranty

You agree that such Service is provided on an "as is" and "as available" basis and that your use of the Mobile Application and Services is solely at your own risk. We expressly disclaim all warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement. We make no warranty that the Services will meet your requirements, or that the Service will be uninterrupted, timely, secure, or error-free; nor do we make any warranty as to the results that may be obtained from the use of the Service or as to the accuracy or reliability of any information obtained through the Service or that defects in the Service will be corrected. You understand and agree that any material and/or data downloaded or otherwise obtained through the use of Service is done at your own discretion and risk and that you will be solely responsible for any damage or loss of data that results from the download of such material and/or data. We make no warranty regarding any goods or services purchased or obtained through the Service or any transactions entered into through the Service unless stated otherwise. No advice or information, whether oral or written, obtained by you from us or through the Service shall create any warranty not expressly made herein. The party providing your mobile OS has no obligation whatsoever to furnish any maintenance and support services with respect to this application.

Limitation of liability

To the fullest extent permitted by applicable law, in no event will Thrivey, its affiliates, directors, officers, employees, agents, suppliers or licensors be liable to any person for any indirect, incidental, special, punitive, cover or consequential damages (including, without limitation, damages for lost profits, revenue, sales, goodwill, use of content, impact on business, business interruption, loss of anticipated savings, loss of business opportunity) however caused, under any theory of liability, including, without limitation, contract, tort, warranty, breach of statutory duty, negligence or otherwise, even if the liable party has been advised as to the possibility of such damages or could have foreseen such damages. To the maximum extent permitted by applicable law, the aggregate liability of Thrivey and its affiliates, officers, employees, agents, suppliers and licensors relating to the services will be limited to an amount greater of one dollar or any amounts actually paid in cash by you to Thrivey for the prior one-month period prior to the first event or occurrence giving rise to such liability. The limitations and exclusions also apply if this remedy does not fully compensate you for any losses or fails of its essential purpose.



Intellectual property rights

"Intellectual Property Rights" means all present and future rights conferred by statute, common law or equity in or in relation to any copyright and related rights, trademarks, designs, patents, inventions, goodwill and the right to sue for passing off, rights to inventions, rights to use, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, rights to claim priority from, such rights and all similar or equivalent rights or forms of protection and any other results of intellectual activity which subsist or will subsist now or in the future in any part of the world.

This Agreement does not transfer to you any intellectual property owned by Thrivey or third parties, and all rights, titles, and interests in and to such property will remain (as between the parties) solely with Thrivey. All trademarks, service marks, graphics and logos used in connection with the Mobile Application and Services, are trademarks or registered trademarks of Thrivey or its licensors. Other trademarks, service marks, graphics and logos used in connection with the Mobile Application and Services may be the trademarks of other third parties. Your use of the Mobile Application and Services grants you no right or license to reproduce or otherwise use any of Thrivey or third-party trademarks.

Assignment

You may not assign, resell, sub-license or otherwise transfer or delegate any of your rights or obligations hereunder, in whole or in part, without our prior written consent, which consent shall be at our own sole discretion and without obligation; any such assignment or transfer shall be null and void. We are free to assign any of its rights or obligations hereunder, in whole or in part, to any third party as part of the sale of all or substantially all of its assets or stock or as part of a merger.

Indemnification

You agree to indemnify and hold Thrivey and its affiliates, directors, officers, employees, agents, suppliers and licensors harmless from and against any liabilities, losses, damages or costs, including reasonable attorneys' fees, incurred in connection with or arising from any third party allegations, claims, actions, disputes, or demands asserted against any of them as a result of or relating to your Content, your use of the Mobile Application and Services or any willful misconduct on your part.

Severability

All rights and restrictions contained in this Agreement may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to be limited to the extent necessary so that they will not render this Agreement illegal, invalid or unenforceable. If any provision or portion of any provision of this Agreement shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the parties that the remaining provisions or portions thereof shall constitute their agreement with respect to the subject matter hereof, and all such remaining provisions or portions thereof shall remain in full force and effect.

Non-Export

You may not use or otherwise export or re-export the Licensed Application except as authorized by United States law and the laws of the jurisdiction in which the Licensed Application was obtained. In particular, but without limitation, the Licensed Application may not be exported or re-exported (a) into any U.S.-embargoed countries or (b) to anyone on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Department of Commerce Denied Persons List or Entity List. By using the Licensed Application, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture, or production of nuclear, missile, or chemical or biological weapons.



Dispute resolution

The formation, interpretation, and performance of this Agreement and any disputes arising out of it shall be governed by the substantive and procedural laws of Netherlands without regard to its rules on conflicts or choice of law and, to the extent applicable, the laws of Netherlands. The exclusive jurisdiction and venue for actions related to the subject matter hereof shall be the courts located in The Hague in The Netherlands, and you hereby submit to the personal jurisdiction of such courts. You hereby waive any right to a jury trial in any proceeding arising out of or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

Changes and amendments

We reserve the right to modify this Agreement or its terms relating to the Mobile Application and Services at any time, effective upon posting of an updated version of this Agreement. When we do, we will send you an email to notify you. Continued use of the Mobile Application and Services after any such changes shall constitute your consent to such changes.

Third Party Beneficiary

Your mobile OS is a third-party beneficiary of this Agreement, and, upon your acceptance, such third-party beneficiary will have the right (and will be deemed to have accepted the right) to enforce this agreement against you.

Data and Privacy

You agree that Thrivey may collect data to provide the Service to you. Thrivey does so in accordance with its privacy policy, which can be found here: <https://thrivey.app/privacyverklaring.pdf>.

Acceptance of these terms

You acknowledge that you have read this Agreement and agree to all its terms and conditions. By accessing and using the Mobile Application and Services you agree to be bound by this Agreement. If you do not agree to abide by the terms of this Agreement, you are not authorized to access or use the Mobile Application and Services.

Contacting us

If you would like to contact us to understand more about this Agreement or wish to contact us concerning any matter relating to it, you may send an email to [maarten\[at\]thrivey.app](mailto:maarten[at]thrivey.app).

