

Terms And Conditions

Please read these terms and conditions of use carefully, they are intended to explain our obligations to you as a service provider, as well as your obligations, as our customer, and are binding on any use of the service from the time that access to the service has been provided to you by Clougistic.

These terms cannot, and are not intended to, answer every question, or address every issue raised by the use of the Clougistic Service. Based on the feedback of users like you, Clougistic will evolve over time, therefore Clougistic reserves the right to change any of these terms and conditions at any time, effective upon the posting of modified terms.

Clougistic will always ensure that every effort is made to communicate these changes to you, be it via email or notification on the website. As it is likely that changes will occur over time, it is your obligation to ensure that you have read, understood and agreed to the most recent terms as set out on the website. These changes can include, but are not limited to, variances in subscription prices over time.

By registering to use the Clougistic service, you acknowledge that you have read and understood, and agree to these terms and conditions and that you have the authority to agree to and act on behalf of any person or entity for whom you are using the service.

1. DEFINITION OF TERMS USED

AGREEMENT: these Terms and Conditions of use.

SUBSCRIPTION FEE: the monthly fee (without inclusion of any taxes and duties) payable by you as set out in the fee schedule on the website. Clougistic reserves the right to vary these subscription fees over time, with notice to you.

CONFIDENTIAL INFORMATION includes all information, be it in writing, electronically or orally, exchanged between the parties to this agreement. This does not include information which is, or becomes, publicly available other than through unauthorised disclosure by the other party.

DATA: any information inputted by you, or by another party acting on your behalf, into the website.

INTELLECTUAL PROPERTY RIGHT: any patent, service mark, copyright, trade mark, moral right, right in a design, and any other intellectual or industrial property rights, anywhere in the world, registered or not.

SERVICE: the system made available by Clougistic via the website. (This may be changed or updated by Clougistic at any time)

WEBSITE: internet site at the domain clougistic.com or to any other relevant site operated by Clougistic.

Clougistic: Clougistic, registered in Landgraaf the Netherlands, as well as to all current and future global subsidiaries of Clougistic.

USER: any person or entity authorised by you, the subscriber, to use the service from time to time.

SUBSCRIBER: the registered user of the service, and includes, where the context permits, any entity on whose behalf that person registers to use the service.

YOU or YOUR: the subscriber, or a user authorised to act on the subscriber's behalf.

2. Use of software

The right to access and use the service via the website, is granted to you by Clougistic. This right is non-transferable, non-exclusive, and limited by and subject to this agreement. You acknowledge and agree that:

- a. The Subscriber determines who is an User, as well as what roles and access that user has;
- b. The use of the service by users is the responsibility of the subscriber;
- c. The level of access to the relevant organisation and service is controlled by the subscriber and may be revoked or changed at the subscriber's discretion at any time;
- d. In case of disputes between a subscriber and an user regarding access to any organisation or service, the subscriber shall decide what, if any, access the user will continue to have. Clougistic will not be held liable for any error resulting from incorrect, irreversible data entry, by the subscriber or an user.

3. YOUR OBLIGATIONS

3.1 PAYMENT OBLIGATIONS

Invoicing for the subscription fee will be issued each month, starting with the month from when you changed your Trial subscription to a subscription plan. Subscription fees are invoiced for the following period of one month of use.

Clougistic will continue to invoice you monthly until such time as this agreement is terminated in accordance with clause 8 of these terms and conditions.

All invoices are made available on the website for download. Payment must be made, or suitable arrangements entered into, of all specified amounts on the invoice, by the due date or within 5 days of the invoice date. Invoices do not include taxes and duties, they remain the sole responsibility of the subscriber. Inactive subscribers will be automatically removed from Clougistic after 3 months of unpaid subscription as a result of subscription cancellation or failed monthly payments. Subscribers on a free trial basis will be removed from Clougistic after 2 weeks from the expiry of the trial date if paid subscription has not been initiated. Cancellation of active subscriptions will not result in the refund of monthly payments. Clougistic asserts the right to vary subscription prices over time.

3.2 DISCOUNTS

Discounts on your subscription fee may be offered to you from time to time as a result of the number of organisations that you have added to the service or that have been added on your authority. Eligibility for any discount is at the discretion of Clougistic and is conditional on your acceptance of responsibility for payment of subscription fees in relation to all organisations added by you.

Without prejudice to any other rights that Clougistic have outlined in these terms, or to any relevant law, Clougistic reserves the right to issue full invoices, without discounts, or to suspend or terminate your use of the service in respect any or all of your organisations, in the event that subscription fees are not paid in full by the due date stated on the invoice.

The cancellation of an active subscription will result in any and all current discounts to be waived and the preceding month's subscription fees will need to be paid in full without discount.

3.3 GENERAL OBLIGATIONS

The use of the service and the website are intended for your own lawful internal business purposes only, in accordance with these terms and any notices or conditions sent directly to you or posted on the website by Clougistic. The service and the website can likewise be used on behalf of others or in order to provide services to others but you must ensure that you have authorisation to do so and that all persons for whom or to whom services are provided comply with and accept all terms of this agreement. Users are the sole responsibility of the subscriber and Clougistic will not be made liable for any actions taken by an user.

3.4 ACCESS CONDITIONS

3.4.1. All usernames and passwords required to access the service must be kept secure and confidential. In the event of an unauthorised use of your password, or any other breach of security, Clougistic is to be notified immediately to reset your password. You must take all other

actions deemed reasonable by Clougistic to maintain or enhance security of Clougistic's computing systems and networks, and your access to the services.

3.4.2. When accessing and using the services, as a condition of these terms, you must:

- a. Not make any attempt to undermine the integrity or security of Clougistic's computing systems or networks, or of any third party's computing systems and networks upon which the services are hosted;
- b. Not impair the functionality of the services or website, other systems used to deliver the services, or any other user of the services, by your use or misuse of the system;
- c. Not attempt to gain unauthorised access to any materials or any computer system on which the services are hosted, other than to those materials you have been given express permission to access;
- d. Not input into the website, or otherwise transmit, any files that may cause damage to any other person's computing devices or software; offensive content; or material that violates any law (including copyright or trade secret law);
- e. Not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used for the delivery of services for operation except as is strictly necessary for normal operation.

3.5 REASONABLE USE POLICY

Clougistic is to be used in reasonable way. If your use of Clougistic is deemed not reasonable or your use is causing performance degradation for other Users, we may impose limits on your use of Clougistic. Where possible, you will be given at least 24 hours prior notice and request for your usage to be reduced before imposing any limits.

Limitations on your use of Clougistic may include (but are not limited to) the quantities and volumes of the following parameters, per account:

- a. storage required to host and backup user data;
- b. sales/purchase transactions per calendar month;
- c. API (application programming interface) calls per five (5) minute period;
- d. page views per five (5) minute period;
- e. bandwidth usage per twenty four (24) hour period;
- f. support tickets opened per calendar month;
- g. users, products and customers.

3.6 COMMUNICATION CONDITIONS

You agree, as a condition of these terms, that any use of communication tools available through the website, such as forum, chat room or message centre, are to be used only for lawful and legitimate purposes. You must not use any such communication tool for posting or

disseminating any material unrelated to the services. This includes, but is not limited to: offers of sale for goods and services, unsolicited commercial email, files that may result in damage to the computing devices or software of other people, offensive content or any content that may be deemed offensive by other users, or content that violates any law, including those of copyright or trade secrets.

It is your obligation to ensure that any communications made on the website are lawful and in accordance with these terms and conditions, as outlined above. As with any other web-based forum, you must exercise caution when using the available communication tools. However, Clougistic does reserve the right to remove any communication it deems breaches these conditions at any time in its sole discretion.

3.7 INDEMNITY

Clougistic shall not be liable for any claims, costs, damages or loss arising from your breach of any of these terms and obligations. Clougistic will not be held responsible for any human-error resulted in incorrect irreversible data entry. We are not liable for any service interruption caused by internal Amazon Web Services platform problems.

4. CONFIDENTIALITY AND PRIVACY

4.1 Confidentiality

Unless the relevant party has the prior written consent of the other or unless required to do so by law:

- a. All confidential information obtained in connection with these terms, must be preserved. No confidential information will be disclosed or made available to any person, or used for benefit, other than as contemplated by these terms, without the prior written consent of the other;
- b. Each party's obligations under this clause will survive termination of these terms.
- c. These provisions shall not apply to any information which is or becomes public knowledge other than by a breach of this clause; is received from a third party who acquires it legally and is under no disclosure restrictions; is independently developed without access to the confidential information

4.2 Privacy

Clougistic's privacy policy is detailed at <http://clougistic.com/privacy>. Acceptance of these terms indicates that you have read, understood and agree to the privacy terms as set out in that policy.

5. INTELLECTUAL PROPERTY

5.1 General

All intellectual property rights in the services, the website and any documentation relating to the services, and all titles, will remain the property of Clougistic and/or its licensors.

5.2 Ownership of Data

Title to, and all intellectual property rights in the data you provide will remain your property. Your access to this information is contingent on payment in full of all subscription fees to Clougistic by their due dates. By accepting these terms you are granting Clougistic permission to use, copy, transmit, store, and back up your information and data to ensure your access and use of the services, and for any other purpose related to the provision of services to you.

5.3 Backup of Data

Clougistic adheres to its best practice policies and procedures to prevent any loss of data, however there can be no guarantee that no loss of data will occur. Clougistic expressly excludes any liability for the loss of data no matter how caused. Clougistic assumes that you maintain copies, or back-ups, of all data inputted into the service.

5.4 Third-party Applications and your Data

You acknowledge that by enabling third-party applications for use in conjunction with the services, you are allowing Clougistic to provide access of your data to those third-parties as required. Clougistic shall not be responsible for any disclosure, modification or deletion of your data resulting from any such third-party access.

6. WARRANTIES AND ACKNOWLEDGEMENTS

6.1 Authority

Where you have registered to use the service on behalf of another person, you agree that you have the authority to act on their behalf and agree to these terms, conditions and obligations. You bind that person or entity to any and all obligations subjects to these terms without limiting your own personal obligations under these terms.

6.2 Acknowledgement

You acknowledge that:

- a. You are authorised to use the services and the website and that you have permission to use and access all information and data that you input into the site, including any input

by others you have authorised to use the service. You are also authorised to access all processed information and data made available to you through your use of the service.

- b. Clougistic has no responsibility to any person other than you and nothing in this agreement confers a benefit on any other person. If you are using or accessing the website on behalf of any other person you agree that you have the right to do so; that you are responsible for any other person given access to information and all requests for information will be provided to your address; that you will indemnify Clougistic against any claims or loss relating to Clougistic's refusal to provide access to your information to any other person in accordance with these terms or Clougistic making your information available to other parties at your request.
- c. Services provided, provisions of, access to, and use of the services is known to be on an "as is" basis and you enter into this agreement at your own risk.
- d. Clougistic cannot guarantee that the use of services will be uninterrupted or error free. Clougistic is not responsible for the operation and availability of systems used for accessing the service, including but not limited to, public telephone services, computer networks, internet or internal Amazon Web Services platforms.
- e. The use of the services does not in any way constitute the receipt of accounting advice. Accounting questions should be directed to a certified accountant.
- f. Determining the suitability of the services to meet the needs of your business are your sole responsibility.
- g. All laws applicable to accounting, tax and other remain solely your responsibility. It is your responsibility to check that storage and access of your data will comply with applicable laws, including those of retaining records.

6.3 No warranties

Clougistic does not provide a warranty for the services. Clougistic does not guarantee that the services will meet your requirements or that it will be suitable for your particular purposes. All implied conditions or warranties are excluded in so far as is permitted by law, including warranties of merchantability, fitness for purpose, title and non-infringement.

6.4 Consumer guarantees

You warrant and represent that you are acquiring the right to access and use the services for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of the services, the website or these terms.

7. LIMITATION OF LIABILITY

7.1 Clougistic excludes, to the maximum extent permitted by law, all liability and responsibility to you in contract, tort, or otherwise, for any loss or damage resulting, directly or indirectly, from any use of, or reliance on, the service or website.

7.2 If loss or damage is found to be a result of negligence by Clougistic or a failure by us to adhere to these terms, any claim made by you will be limited to one incident, or series of connected incidents, to the subscription fees paid by you in the preceding 3 months.

7.3 Your sole and exclusive remedy to dissatisfaction with the service is to terminate these terms in accordance with this agreement.

8. TERMINATION

8.1 Trial Policy

Trial subscriptions are designed for you to assess and evaluate the usefulness of the service for you, with no obligation to sign up or continue use of the service thereafter. If you continue to use the services, you will be billed from the day you first entered your billing details into the service. If you choose not to continue using the service, you can cancel your subscription, with no cost, at your account page on the website.

Trial subscribers will be removed from Clougistic after 2 weeks from the trial expiry date if paid subscription has not been initiated.

8.2 Prepaid Subscriptions

No refund will be provided by Clougistic for any remaining prepaid period for a prepaid subscription fee subscription.

8.3 No-fault Termination

These terms will continue for the period covered by the subscription fee and will continue automatically at the end of each billing period for the same duration, provided you continue to pay the prescribed subscription fee when due. These terms may be terminated by giving notice to the other party at least 30 days before the end of the relevant payment period. If you terminate these terms you shall be liable to pay all relevant subscription fees on a pro-rata basis for each day of the then current period up to and including the day of termination.

8.4 Breach

A breach of these terms and conditions will be considered to have occurred if you:

- a. breach any of these terms, including but not limited to non-payment of account, and do not remedy the breach, where you are able to do so, within 14 days of notice of the breach;
- b. breach any of these terms and the breach is not capable of being remedied, which includes any payment of subscription fees that are more than 30 days overdue;
- c. You or your business become insolvent, goes into liquidation, has a receiver or manager appointed of any assets, make any arrangement with your creditors, or become subject to any similar insolvency event in any jurisdiction;

Clougistic may take any or all of the following actions, at its sole discretion:

- a. Terminate this agreement and your use of the service and website;
- b. Suspend your use of the services and website for any definite or indefinite period of time;
- c. Take either of the actions outlined in subclauses (a) and (b) in respect of anyone authorised by you to access your information or data. If payment of any invoice is not made by the due date, Clougistic may suspend or terminate your use of the service, the authority for all or any of your organisations to use the service, or your rights to access any data.

8.5 Accrued Rights

Termination of these terms is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this agreement you will:

- a. remain liable for any accrued charges and amounts which become due for payment before or after termination; and
- b. Cease use of the services and website immediately.

8.6 Clougistic, in its sole discretion, has the right to suspend or terminate your account and refuse any and all current or future use of the Service for any reason at any time. Such termination of the Service will result in the deactivation or deletion of your Account or your access to your Account, and the forfeiture of all data in your Account. Clougistic reserves the right to refuse service to anyone for any reason at any time. No refund will be provided by Clougistic for any remaining prepaid period for a prepaid subscription fee subscription.

8.7 Expiry or Termination

Clauses 3, 4, 5, 6, 7, 8 and 10 survive the expiry or termination of these terms.

9. HELP DESK

9.1 Technical Problems

It is your responsibility to make all reasonable efforts to investigate and diagnose technical problems before contacting Clougistic. Failing that, please check the support provided online by Clougistic on the website. If technical problems still have not been resolved, please email us at info@clougistic.com

9.2 Service Availability

Clougistic makes every effort to ensure that the services should be available for your use 24 hours a day, 7 days a week, however, occasionally the services or website may be unavailable to permit necessary maintenance or development activity to take place.

If for any reason, Clougistic needs to interrupt services for longer periods, we will take all reasonable steps to ensure that you are notified, by publication on the website, in advance of such activity.

10. GENERAL

10.1 Entire Agreement

Together with the Clougistic Privacy Policy and the terms of any other notices or instructions given you under the terms of use, this agreement supersedes and extinguishes all prior agreements, representation – both written and oral, and understandings. These terms constitute the entire agreement between you and Clougistic in relation to the services and any other matters dealt with herein.

10.2 Waiver

If either party waives any breach of these terms, this will not constitute a waiver of any other breach. Furthermore, no waiver will be considered in effect unless made in writing.

10.3 Delays

Delays or failures in performance of its obligations under these terms which are beyond reasonable control, will not be considered breaches to either party. This clause does not apply to any obligation to pay money owed.

10.4 No Assignment

No rights may be transferred or assigned to any other person without Clougistic's prior express written consent.

10.5 Governing Law and Jurisdiction

If the information or data you are accessing using the services and the website is solely that of a person who is a tax resident in the Netherlands at the time that you accept these terms then Dutch law governs this agreement and you submit to the exclusive jurisdiction of the courts of the Netherlands for all disputes arising out of or in connection with this agreement.

In all other situations this agreement is governed by the laws of the Netherlands and you hereby submit to the exclusive jurisdiction of the courts of the Netherlands for all disputes arising out of or in connection with this agreement.

10.6 Severability

If any part or provision of these terms is invalid, unenforceable or in conflict with the law, that part or provision is replaced with a provision which, as far as possible, accomplishes the original purpose of that part or provision. The remainder of this agreement will be binding on the parties.

10.7 Notices

Any notice given under these terms by either party to the other will only be considered valid if in writing via email. This will be deemed to have been given on transmission. Notices to Clougistic must be sent to or to any other email address which Clougistic provides to you via email for the purpose of correspondence.

Notices to you from Clougistic will be sent only to the email address which you provide on registration and set up to your account and access to this service. Please notify us immediately of any change in your preferred email address.

10.8 Rights of Third Parties

A person who is not a party to these terms, ie is not a subscriber to the service, has no right to benefit under or to enforce any part of these terms of use.