

Motixo

Service Terms and Conditions

Last updated: April 11, 2022

Terms and conditions applicable to the use of the Services

The platform accessible through the www.motixo.com domain name (the “**Site**”) and the services offered through the Site are provided by MOTIXO INC. (hereinafter referred to as “**us**”, “**we**” or the “**Company**”), a Canadian corporation incorporated under the Canada Business Corporations Act, with its principal place of business in Montreal, Quebec, Canada. You may contact us by sending an email to help@motixo.com.

This document, together with the Privacy Policy and any other policies or guidelines posted at motixo.com (and associated websites) is a contract between you and MOTIXO INC. (and, where applicable, its affiliates) concerning the conditions associated with your use of the motixo.com website (and associated websites). By using or accessing the websites you agree to all the terms and conditions stated in this agreement. If, at any time, you do not or cannot agree to the terms of this agreement, you must stop accessing or using the websites.

1. General

These Service Terms and Conditions (“**STC**”) govern the use of the services offered by us, consisting in the creation of online resources—the “quizzes” and “refreshers”—the subsequent collection, storage and related information management, and any other services as may be offered by us from time to time (the “**Services**”). Terms of Use are included into this STC by reference.

In order to be able to use the Services, you will need to create an Account (as this term is further described in section 2.a below) and comply with other requirements set forth in these STC.

2. Access to the Services; Account Creation

a) Eligible individuals

Services are offered to individuals and companies, either conducting business activities on their own or acting as consumers. For purposes of these STC, ‘consumer’ shall be interpreted as any individual or company using the Services for a purpose other than to conduct a business or commercial activity. If you are creating an account for your company, you understand and agree that said company will be understood to be the owner of the Account and, hence, any contents created using the Services, and any data collected through the Services will be understood to belong to your company, unless otherwise agreed between you and your company.

The Services are only addressed to individuals being sixteen (16) years of age or older. By filling out the registration forms and requesting into our Services, you warrant and represent that you have that legal age.

b) Account creation

In order to access the Services, you will need to register and create an account in the Site (the “Account”). To this end, you must provide true, current, complete, and accurate information, as requested during the registration process, that refers to you. You cannot sign up or otherwise create an account with us on behalf of a third party.

If you are a company, you should create a business Account, which will allow you to use the Services under a company/group name. In that case, you warrant and represent that you can legally enter into these STC on behalf of your company. Note that account sharing is not permitted under these STC and, thus, you should obtain as many seats as needed for each individual using an Account within your organization.

If you create an Account, you will be able to opt for any of the plans described in the [Pricing](#) section. Among other functionalities, these plans enable you to manage shared workspaces with as many Accounts as you have selected in your plan, by sending an invitation to collaborate with other users owning an Account with us. The owner of the paid plan will have limited admin rights to control contents created and managed from the rest of Accounts. It is your duty to make sure that the other users understand the impact for their privacy and content ownership when accepting to be part of your plan, and you shall indemnify, defend, and hold us harmless of any costs or damages directly or indirectly related to these matters.

Services definition may vary from time to time and further and more detailed information on the current features and functionalities of the Service is provided during the signup process.

Account ownership is based on the data provided when signing up and, to this end, it is important as mentioned above that all information you have submitted is true, accurate, current, and complete. You undertake to notify us of any changes to the information submitted upon sign-up or thereafter so as to keep any information we may have in our records current and accurate. Note that when you are providing your information and accepting these STC, you are entering into an agreement with us which describes which are the obligations we have with regards to each other. If you have problems accessing or logging in into the Services, please contact us at help@motixo.com.

c) Provision of the Services

Once an Account has been successfully created, Services will be available and ready to use. Note, however, that certain features are only available to certain plans and are subject to prior payment of the corresponding fees, so access to and use of certain functionalities and Services under said Accounts is subject to said payment requirements.

3. Use of your Account and Services, and Your Contents

a) Account security and credentials

Accounts are to be used by you, and it is strictly forbidden to share or allow others to use it. You must keep credentials for your Account secured at all times. It is strictly forbidden to share said sets of data with any third parties, or to write them down for recovery purposes. Should you suspect that your Account or your credentials have been or are being used by a third party, or have been compromised, you must contact us immediately at help@motixo.com. Otherwise, we may attribute all use of your Account to you, and you agree to be responsible for all activities that occur under your Account.

b) Use of your Account and Services

You must use your Account and the Services complying with law and public order. In particular but without limitation, you shall not:

- Access the Site, Accounts and/or the Services by any means other than through interfaces provided by us and as otherwise expressly authorized under these STC;
- Use the Services as a hosting service or hosting system only;
- Use the Services, or any responses or media within the Services to create web pages or for hosting or supporting online resources, or as a data repository;
- Avoid, bypass, remove, deactivate, impair, descramble or otherwise tamper the security measures, usage rules or other protection measures implemented by us, our service providers or any third parties to protect the Site, the Accounts or the Services, as well as the restricted features or functionalities available for given categories of Accounts other than the one you are holding, or to attempt to do any of those actions;
- Access, tamper with, or use non-public areas of the Service or the Site, the computer systems of the Company, or the technical delivery systems of our providers;
- Use any metatags or other hidden text or metadata in the Site or Services, as well as forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Service;
- Use, display, mirror, or frame the Site or Services, any individual element within the Site or Service, the layout and design of any portion of the Service or the Site, or the intellectual property rights and other proprietary rights of the Company;
- Attempt to access or search the Services or Site, or scrap or download content from the Services or Site, or otherwise use, upload content to, or create new links, reposts, or referrals in the Services or Site through the use of any engine, software, tool, agent, device or mechanism (including automated scripts, spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by us or other generally available third party web browsers or search engines;

- Reverse engineer, decompile or disassemble software used in connection with resources, Site or Services;
- Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services or the Site;
- Reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purpose any portion of the Site or the Services, or your access to or use of the Site or Services;
- Impersonate or misrepresent your affiliation with any person or entity, as well as stalk or harass other users or third parties, or share or use offensive or pornographic materials;
- Activities such as vulnerability scanning, load testing, penetration tests or bypassing our security measures in any intended way are strictly prohibited to be carried out on our platform without our previous written approval;
- Use the Services and, in particular, the functionalities aimed at ensuring interaction of the Services and our product to monitor the availability, performance or functionality of our Services or the Site, or for benchmarking or other competitive purposes;
- Collect credit card information, passwords or similar login credentials;
- Send electronic communications that are not expressly requested or authorized by the recipients, or sending mass and/or repetitive electronic communications (spam). In this sense, you must not use the Services to send any communications in a way not permitted by or compliant with any applicable laws or industry standards, or to any recipient who has opted out, unsubscribed, or otherwise objected to receiving such messages from you or another party on whose behalf you may be mandated; or/and

Otherwise, use the Account, Site or Services in a manner contrary to the rights and legitimate interests of the Company or any other third party, or in any other manner that may tamper, disrupt, overload, or otherwise damage the Site or the Services. You may let us know about any abuse by contacting us at help@motixo.com.

For avoidance of doubt, you—or any third party authorized by you—may carry out any action that enables the Services to interoperate and communicate with a given software program, provided that any such integration has been developed by means of the public APIs and related products and services provided by us as part of our range of technical products for developer and integrator users. You understand that we do not control the use of any information collected by third parties—regardless of whether said collection of information took place in the past, is taking place in the present, or is intended to be carried out in the future—by means of said integrations and that further third parties' terms and conditions may apply to your use of APIs. Therefore, you understand and agree that we shall not defend, indemnify, or hold you harmless for any and all costs or damages arising from those third party actions and integrations.

c) Usage limits

You shall only use the Services in full compliance with the conditions set forth in these STC and according to the contracted plan limits as described in the [Pricing](#) section, which include, among others, limitations to the number of features that can be used or the number of authorized users.

Up to certain limits, you may opt to purchase add-ons to your plan at any time to increase, for instance, add other features. These add-ons can be purchased in the 'Settings' menu of your Account, and are valid upon activation and for a period of time equal to the subscription you have purchased (i.e. monthly / yearly).

d) Beta Services

You may be offered to take part in early access programs to use so-called alpha or beta versions of the Services ("**Beta Services**"). Beta Services may not work in accordance with the documentation we may provide you with, or they may contain errors, defects or bugs, as you acknowledge and agree. Beta Services are not covered under any service level commitments under these STC, and, as an exception to the provisions in sections 8, 9 and 10, we do not make any sort of representations and warranties, and disclaim any liabilities regarding Beta Services. Beta Services may be discontinued at any time, for no reason and without prior notice, and nothing in these STC shall be construed as requiring us to release Beta Services as part of our regular Services.

f) Materials available in the Services or the Site

The Site and the Services may include information, graphics, text, images, and other materials uploaded by other Account holders or third parties. Said materials are solely for your use in connection with the Site and Services, and their legality, accuracy, and completeness are the sole responsibility of the party that has uploaded them to or provided as part of the Site or the Services. Use of the materials may be subject to specific terms and conditions or license terms, and you are responsible to obtain any required licenses or authorizations, and to comply with any licenses or terms and conditions applicable to them.

g) Services and third-party service providers

To ensure you are provided with high-quality Services, from time to time we may rely on third party service providers. You understand that those providers act beyond our reasonable control and that we shall not be held liable for any damages caused by an action or omission attributable to them.

Also, you may decide to use third parties to process the information you may collect through the Services (e.g. by using analytics). In all those cases, you acknowledge and agree that those third parties are beyond our reasonable control, and that we will not be liable for any damages arising from the use of said information by them. We recommend that you carefully review any terms and conditions governing the use of those third parties' services and any integration tools they may offer before you start using their services.

h) Your contents

We do not claim ownership on the contents you may upload or otherwise use in connection with the Site or Services. However, to ensure we can provide you with the Services or access to the Site, you grant us a worldwide, royalty-free, transferable, sublicensable, non-exclusive license to use, reproduce, distribute, communicate and public perform or display (including, among others, the rights to broadcast and transmit), transform and modify, and/or adapt your contents in connection with the operation of the Site and/or the Services. This license is limited to the extent necessary to provide you with the Services only, and we shall not use your contents for any other purposes. You represent and warrant that you have the rights necessary to grant the license hereunder, and that your contents do not infringe the law or third party rights or interests.

Please note that by submitting content (photos) into the Service, said contents are made publicly available to third parties. Please evaluate whether you want to share said content under those conditions before submitting them as part of the Services.

i) Third parties' intellectual property & other proprietary rights

Without prejudice to section 3.b above, you accept not to upload into the Services or the Site, or post, email, transmit, share, or otherwise use, in conjunction with, or related in any manner with the Services or the Site, content for which you do not have the prior authorization of their titleholders. We are not responsible for said content nor the actions you may take with respect to the content, and you shall not use third party content unless you have first obtained the permission of its owner.

By way of example, you shall not use photographs, music, text, graphics, information, trademarks, trade names, or other content protected under intellectual property rights that are not yours, except when the corresponding owner has expressly given its approval. It is strictly forbidden to use the Services to circumvent the rights of any titleholder upon its intellectual property or other exclusive rights, such as, for instance, providing through the Services links to P2P platforms including infringing materials.

Notwithstanding section 11 below, we may delete at any time any content that breaches this section, without prior notice and accepting no liability for any such deletion.

j) Review of your contents

You acknowledge that, in order to ensure compliance with legal obligations, prevent phishing or fraud, or when unlawful content is reported to us, we may be required by third parties to review certain content submitted by you to determine whether it is illegal or whether it breaches these STC. We may at our sole discretion modify, prevent access to, delete, or refuse to display content that we believe violates the law or these STC. However, you acknowledge that we have no obligation to monitor or review any content submitted by you.

k) Obligations vis-à-vis Users

Your use of the Services may result in the collection and further processing and analysis by you of information belonging to third parties (the “Users”). Any contractual relationship existing with Users is entered into between you and them. You are fully responsible for meeting any applicable obligations when contacting Users and processing their data.

I) Collaboration with us

You undertake to comply with any instructions or recommendations given by us or by any individual acting on behalf of the Company in connection with the use of the Site, your Account, or the Services.

4. Fees and payments

a) Fees

Upon signing up for an account, you will be presented with the “**Fees**” that will be charged to you for use of the Services to create and publish resources. The Fees are “**Subscription Fees**” which are monthly or annual Fees paid for access to the Services; The details of the Subscription Fees and their payment schedules can be found further in this section.

The Fees displayed to you are firm and in United States dollars, which may be converted to other currencies at the time of payment processing, depending on your country of origin and/or credit card account agreement. Fees may not include applicable taxes, which shall be displayed when your credit card is charged, depending on your location.

By signing up for an account you agree to pay the Fees presented to you upon signing up, plus any applicable taxes.

b) Billing Information and Payment Processing

In order for you to pay the Fees to use the Services, you will be required to enter the credit card holder name, credit card number, credit card expiry date, card security code (CVV), and billing address. This may be referred to in these STC or the Privacy Policy as “**Billing Information**”. Your Billing Information must match the information associated with your credit card for your payments to be processed.

All payments for Fees using a secure https:// connection, and payment processing is handled through the “**Third-Party Payment Processors**”, such as [Stripe](#) though these are subject to change without notice. The Third-Party Payment Processors currently accept certain credit and debit cards as payment options, but these are subject to change without notice. Once transactions are accepted by a Third-Party Payment Processor, they are processed in accordance with their program rules and procedures and Terms of Use. The Company and the Third-Party Payment Processors are unaffiliated companies and The Company has no influence on the operations of the Third-Party Payment Processor.

All Billing Information is collected by the Third-Party Payment Processors, on their own secured servers. The Company does not have access to any credit card information, nor can it be responsible for any breach of information caused by faulty programming or malicious users on the servers of the Third-Party Payment Processors. Non-financial information will, however, be available to the Company for invoice-making and record-keeping purposes.

c) Subscription Fees

You will be charged the Subscription Fees on the day you sign up for an account or on the day following the end of your free trial period if a free trial period is applicable and clearly stated upon signing up (the “**Initial Billing Date**”). The Subscription Fees shall subsequently be charged on the monthly or yearly anniversary of the Initial Billing Date, as applicable. The payment period of your subscription, whether a month or a year, shall be referred to in the present STC as a “**Billing Period**”.

Your subscription automatically renews at the end of every Billing Period. If you wish to cancel your account and avoid paying the Subscription Fees for the next Billing Period, you must do so prior to the end of the current Billing Period so that your credit card or other payment method will not be charged again. You can cancel your account and avoid paying the Subscription Fees by emailing help@motixo.com.

If you cancel your account prior to the end of the Billing Period, you shall not be entitled to any refund of any Subscription Fees already paid for that Billing Period.

d) Failure of Automatic Payment

Should automatic payment of any Subscription Fees fail to occur for any reason, your account will be suspended, and the Company will issue you an electronic invoice via email indicating that you must proceed manually, within a certain deadline date, with the full payment of the Fees as indicated on the invoice. Your account will be reactivated upon receipt of the payment.

e) Modification of the Fees

The Company, in its sole discretion and at any time, may modify the Subscription Fees. Any Subscription Fees will become effective at the end of the then-current Billing Period. The Company will provide you with a reasonable prior notice of any change in Subscription Fees to give you an opportunity to terminate your account before such modification(s) becomes effective. Your continued use of the Services after the Subscription Fees modification(s) comes into effect constitutes your agreement to pay the modified Subscription Fees.

5. Term

The Services shall be accessible from the moment the subscription process is finalized, and shall be available to you unless you terminate your Account by sending a written request to help@motixo.com. Paid plans are subject to a particular term, as selected by you when signing up for said Services, and shall automatically renew on monthly or annual periods, depending on

the term contracted, unless you, at any time, decide to cancel their renewal through the “Settings” section. In any such cases, except if you decide to cancel your entire Account, the subscription you have paid for will run for the entire contracted term, and your Account will be downgraded and with read-only permissions.

In the event that you cancel your subscription, your Account and resources will still be accessible, however, you will only have read-only permissions. Read-only permissions allow organization administrators to share existing resource links and view basic analytics reports. Additionally, if your account has been inactive for more than one (1) year, we may, with or without notice to you, suspend access or close the account.

As mentioned above, you may terminate your Account at any time, and we reserve the right to terminate your Account under the conditions set forth in section 6 below. These STC apply as long as you have an Account through our Site, regardless of the type of Account you held at each moment.

This section shall not prevent the rights you have as a consumer in connection with the cancellation of, or withdrawal from, your Account. For further information please refer to section 7 below.

The content will be made available to you and at your disposal at the end of the Term, but if you terminate your Account, everything will be erased (including the content) as indicated in section 6.b below.

6. Suspension and termination of the Account

a) Termination or suspension by the Company

We are entitled to suspend your Account in the event that you provide us with untrue, inaccurate, not current, or incomplete information when creating your Account, as well as when you fail to comply with these STC or other mandatory provisions by law. Upon occurrence of any of these, we will contact you and request you to remedy your breach of these STC.

We are entitled to terminate your Account in the event you fail to redress any STC breach in the non-extendable term of ten (10) calendar days from notification date. Additionally, your Account may be terminated in the event you substantially breach these STC, including without limitation any case in which the Account is used to commit fraud (e.g. to carry out phishing attacks) or willfully addressed to breach the law. Account termination may result in data loss.

Finally, we may terminate your Account should you oppose the appointment of any sub-processor, as further detailed in our Privacy Policy.

b) Termination by you

You may terminate your Account at any time by using the account termination option. If you terminate your Account you may still be able to access the Site, but you will not have access to

the Services, features and content that are available to Account holders. Please note that this may result in data loss.

7. Cancellation of your subscription - withdrawal right

The Services are available upon completion of the signup process and creation of your Account (except for those functionalities subject to any of the subscription plans provided by us). By creating your Account and expressly requesting the Services, you waive to your withdrawal right, if applicable.

8. Representations and warranties. Disclaimer of warranties and damages

In addition to any other representations and warranties included in these STC, we both warrant and represent that we have the full power and authority to enter into these STCs, and that any approvals, consents and permissions, if any, have been obtained. In addition, you further warrant and represent that you will (i) use the Services in accordance with the provisions of these STC as well as any reasonable instructions delivered by the Company—or by any of our authorized representatives— from time to time; (ii) any contents or data used in connection with the Services will be uploaded, processed or otherwise used and acquired having obtained any necessary approvals, authorizations or licenses, and complying with any applicable laws, rules, regulations, directives and governmental requirements in the field of privacy, intellectual property and/or image rights; and (iii) provide your reasonable cooperation in the event that we need any evidence to prove before competent authorities and/or courts about the satisfaction of the requirements or consents referred therein.

To the fullest extent permitted by applicable law, the Site and the Services are provided “as is”, “with all faults” and “as available” and the entire risk of use and performance remains with you. The Company disclaims any representations, warranties, or conditions, express, or implied, or statutory, including, without limitation, (i) the implied warranties of merchantability, fitness for a particular purpose, and non-infringement; and (ii) that the Services and the Site will be available or provided on an uninterrupted, error-free, timely, or secure basis, will be free be error-free or free from viruses, worms, or other harmful or malicious components. You may have additional rights under your local laws that these STC cannot supersede and, in any such cases, the Company’s liability is limited in accordance with and to the extent permissible under said local laws.

9. Limitation of liability

To the maximum extent permitted by applicable law, in no event will the Company be liable for any indirect, consequential, incidental, exemplary, punitive, or special damages, including without limitation any damages to or for loss of data, revenue, profits, goodwill, or other intangible losses arising from or relating to these STC, your Account, or the Services. To the maximum extent permitted under applicable law, this limitation will apply to all claims under all theories of law and equity.

Subject to sections 9 and 10 above, Company's maximum, aggregate or cumulative liability to you, for direct damages or under these STC (including under sections 9 and 10 above or any other contractual obligations), tort (including negligence and statutory duty) or otherwise shall not exceed \$100. The above limitations of liability will not be affected if any remedy provided herein shall fail its essential purpose.

Limitation and/or exclusion of liability and warranties may be limited in certain jurisdictions. To the extent that the limitations and exclusions in sections 9, 10 and 11 cannot be enforced or are considered void or illegal, either in whole or in part, said sections shall be construed and enforced in the sense of limiting the scope, duration and/or extent of the liability and/or warranty provision at issue. Nothing in these STC shall be understood to limit or exclude your liability for the price owed in excess of any liability caps hereunder.

10. Indemnity

You shall defend, indemnify and hold harmless the Company from and against any and all losses, settlements, damages, liabilities, judgements, obligations, fines or sanctions, costs, and expenses (including reasonable attorney's fees) (collectively "Losses"), arising out of any claim, proceeding, demand, suit or action (collectively "Actions") brought by a third party related to (a) your use of the Site or the Services, and activities occurring under your Account; (b) any violation of these STC; or (c) your violation of any other party's rights or applicable law.

11. Amendments to the STC

We may modify these STC from time to time. We will provide you with reasonable prior written notice of any substantial change. If you do not agree to any amendments to the STC, you shall (as your sole remedy) stop using the Site and the Services. By continuing to use the Services or the Site, you are providing your agreement to be bound by the updated terms of the STC.

12. Modifications and updates of the Services

Due to the constant updates and changes made by the Company to improve the Services and ensure that you can use them in a seamless way and that the Services can interoperate with third-party platforms, we may add, alter, or remove functionalities from a Service at any time. Moreover, the Company may implement any updates to the Services (including security updates) which will be applicable to some or all users collectively at any time. Any modifications implemented hereunder will be applied for free.

13. Miscellanea

The illegality, invalidity, nullity, or unenforceability of any of the sections of these STC will not affect the validity of its other provisions, which shall remain in full force and effect. Such sections are to be replaced or integrated into others that, in accordance with law, correspond to the objective of the substituted sections.

If, at any time, we fail to respond to a breach of these STC by you, that failure will not waive our right to act with respect to subsequent or similar breaches. A waiver will only be binding on the Company if it is in writing and signed by the Company. These STC constitute the entire agreement between you and the Company with respect to your Account and the Services. Both you and the Company, warrant to each other that, in entering these STC, neither the Company nor you have relied on or will have any right or remedy based upon any statement, representation, warranty, or assurance other than those expressly stated in these STC.

The rights and obligations set forth in these STC (or, otherwise, of the Account) cannot be assigned to any third party without the prior written consent of the Company. Moreover, any decisions taken by the Company are final and binding.

You grant to the Company a perpetual, worldwide, royalty-free, transferable, sublicensable, non-exclusive, irrevocable license to use, reproduce, modify or transform, distribute, communicate to the public, and otherwise exploit any suggestions, ideas, enhancement requests, feedback, recommendations or other information or ideas provided by you or any third party on your behalf relating to the Services, Site, platform, deliverables, images or the software.

If you are a company, we may use your trade name and trademarks on our Site and any other promotional materials produced by us from time to time. To this extent, you grant to us a non-exclusive, non-sublicensable, royalty-free, worldwide license to use said intellectual property, it being understood, however, that we shall use said intellectual property in accordance with the industry standards.

The Services have a legal warranty period from its delivery. If an incident occurs in the contracted Services, you may communicate it to the Company by any of the means of support indicated in the following clause, and we will make a diagnosis of the incident, proceeding to its resolution.

In the event of any conflict between the provisions of these STC and the Terms of Use, the Privacy Policy, the Data Protection Agreement or any other terms included by reference into these STCs, the terms of the STCs shall take precedence.

14. Support, Contact and Complaints

You can contact us in case you have any doubts, comments or concerns by any of the following means:

By email:
help@motixo.com

15. Applicable law and jurisdiction

a. General

These terms and conditions shall be governed by and construed by the laws of the Province of Quebec, Canada and the laws of Canada applicable to contracts between Quebec residents and to be performed in Quebec. The parties hereby irrevocably submit and attorn to the jurisdiction of the Courts of the district of Montreal, Province of Québec. If a particular provision of these terms and conditions is held to be invalid by a court of competent jurisdiction, the provision shall be deemed severed from this agreement and shall not affect the validity of this agreement as a whole. The Parties have expressly requested that this Agreement be drawn up in English and that all modifications thereof can be made in this language.