

# Terms of Service

## Definitions

“Agreement” means the conditions and terms defined in this Terms of Service document, including all materials referred to or linked to from within this Terms of Service document and including policies, terms of service, user agreements, etc. of Third Parties linked to from within this Terms of Service Document.

“The Platform” means all of Treble’s applications, tools, and platforms to which access is provided upon completion of an Order and payment of fees due in an Order. “The Platform” also includes ancillary services or products provided as part of The Company accessing and using The Platform, such as Customer Support.

“Treble” means the provider of The Platform; [Treble.ai](https://treble.ai), INC as registered and incorporated in Delaware, United States and located in 2035 Sunset Lake Road, Suite B2, Newark, DE 19702; the owner of all intellectual property related to The Platform.

“Signee” means the employee or Third Party of The Company that signs the Order to initiate this Agreement between Treble and The Company.

“The Company” means the person or entity using The Platform and identified in the Order.

“Account” describes the segmented access to The Platform and the segmented data associated with that access and only accessible to Users.

“User(s)” means employees, Third Parties, contractors, representatives, or other legal agents who are authorized to access and use The Platform on behalf of The Company and have unique user identifications and passwords.

“Term” means the initial term of The Company’s subscription to The Platform as specified on The Company’s Order(s) and each subsequent Order or renewal.

“Contact(s)” means a single or number of individuals, other than Users, whose contact information is uploaded to, stored by, or otherwise interacted with by The Company in The Platform

“Fee(s)” means the amount payable for usage of The Platform and as described in the Order.

“Downtime” means any critical or severe outage that leads to an inability to access or use in its entirety or significantly inhibits the use of The Platform as a result of a failure in the underlying technologies within Treble’s control and access.

“Third Parties” means any entity or person that works with either party to directly or indirectly provide the service associated with The Platform or to directly use The Platform.

“Order” means the Treble approved form or document that describes the duration of the Agreement and associated costs and is signed by the Signee on behalf of The Company to enter The Company and Treble into this Agreement.

## Bindings & Limitations of this Agreement

By subscribing, using, or otherwise accessing any of the services provided by Treble ("The Platform") you agree to be bound by the terms and conditions of this agreement. Subscription, usage, or access to The Platform is not available for persons who are not legally eligible to be bound by these terms.

In entering into the Agreement the Signee agrees that they have sufficient legal representative authority of The Company to enter The Company into agreement with Treble.

Subscription, usage, or access to The Platform is entirely non-exclusive, non sublicensable, and non-transferable except in instances of merger, sale of all (or substantially all) assets, or other legal change of ownership to The Company.

This Agreement only describes the relationship between Treble and The Company, and does not describe any agreement between either of those two parties and any Third Parties.

By entering into This Agreement through subscription, usage, or access to The Platform both parties agree that they are entering into a contractor relationship - not a merger, joint venture, or any other agency relationship.

Both parties understand and agree that subscription to The Platform represents a contract of services, not a sale of goods.

The conditions and terms outlined in this Agreement represent the entirety of the agreement and relationship between Treble and The Company. Treble refuses, rejects, and disclaims any agreements (written or verbal) not specified in this Agreement including those provided in writing by employees or Third Parties of Treble.

## Use of Services

### Access

Access to The Platform is restricted to employees of The Company and contractors hired to perform a function of an employee ("Users") provided that all such access by Users is subject to and in compliance with the Agreement and that The Company agrees that it remains liable for compliance with The Agreement for any User that they have permitted to access their Account.

The Company may only provide access to The Platform to Users who are of age 16 or older.

The Company may not provide access to The Platform to anybody that in good judgment and in good faith could be considered a competitor to Treble.

The Company or any User may not access The Platform for purposes of monitoring The Platform's availability, performance, functionality, or other benchmarking or competitive research.

The Company or any User may not use automations on or within The Platform except for those which are provided by Treble as part of The Platform.

The Company must notify Treble of any unauthorized access to their Account or access to their Account for any unauthorized usage or by any User not permitted as described within this Agreement within 24 hours of becoming aware of the unauthorized access.

### Features & Functionality

The Company may only access features and functionality as described in the initial Order or any subsequent Orders.

Access or usage of all features and functionality described in the initial or any subsequent Orders is bound by this agreement.

The Company is not permitted to access or use features or functionality not described in the initial or subsequent Orders.

## Uptime

Treble uses all commercially reasonable efforts to ensure maximum uptime of The Platform. In instances of Downtime that exceeds 1 hour in a given month Treble will credit a number of conversations the following month that is proportional to the amount of Downtime divided by the expected Uptime of the month in which the Downtime occurred.

This does not include Downtime caused by factors outside of Treble's control, such as but not limited to Acts of God, sudden or unpredictable changes in government regulation, downtime of Third Parties, etc.

In instances of planned downtime ("Maintenance Time") Treble will communicate the anticipated hours that The Platform will be unavailable with 7 days notice. In the event that Maintenance Time exceeds the communicated hours, the additional downtime will be considered unplanned Downtime and The Company will be credited as such.

## Modifications

Treble reserves the right to alter the look or functionality of the platform with no notice so long as those alterations are considered in good faith and with good judgement by Treble minor alterations that will not significantly affect the usage of The Platform by The Company.

Any alterations or modifications to The Platform that cannot in good faith or good judgment be considered minor will be communicated via email with 30 days of notice.

## Customer Support

As part of the services delivered with The Platform Treble provides communications channels for The Company and Users to contact a Customer Support team through the following channels:

- <https://support-treble.atlassian.net/servicedesk/customer/portals>

The office hours for Customer Support are

- Monday - Friday: 8:30am COT - 5:30pm COT

Treble aims to provide responses within 24 hours of receiving a request through the previously described channels.

## Acceptable Use

Users may only use the services provided by The Platform to communicate with Contacts that have knowingly given their contact details and explicitly opted in to receiving communications from The Company.

The Company may not upload Contacts to The Platform that were obtained through purchased lists, or lists generated without the express knowledge and agreement of the contacts within the list.

The Company may not upload to The Platform or use the The Platform to contact Contacts that are under the age of 16 years old.

Users may not use the services provided by The Platform for any communications deemed illegal in their jurisdiction or the governing jurisdiction (such as terrorism, hate speech, harassment, etc.,) to send or receive sensitive information (such as credit card information, personally identifying or communication information of legal minors, etc.,) or to send or receive data that is regulated by industry specific regulations (such as HIPAA, FISMA, etc.)

The Company and all Users using the WhatsApp feature and functionality within The Platform must adhere to the WhatsApp API Usage Policy.

By accessing and using The Platform The Company agrees to make a reasonable effort to be responsive to Treble's communicate with them, including but not limited to

- Responding to emails, whatsapp messages, or other electronic or written communications.
- Attending meetings such as onboarding meetings, benchmark meetings, or other virtual meetings.

By accessing and using The Platform The Company acknowledges that they are responsible for ensuring that they have the necessary credentials to use the channels, such as but not limited to WhatsApp API verification and that they are responsible for configuring and using The Platform to achieve their goals.

## Fees

The Company agrees to pay in full the Fees as described in the Order and for the duration of the Term as part of continuing the Agreement with Treble.

## Adjustment of Fees

Treble may at any time adjust up or down the fees associated with The Platform.

Treble will communicate the change in fees through electronic written communication with 30 days notice. These adjusted fees will take effect at the new renewal Term.

If The Company is not in agreement with the adjusted Fees they must communicate their disagreement prior to the start date of the new renewal Term.

## Payment of Fees

The Company agrees to make full and complete payment of the invoices within 30 days of the invoice send date.

In cases where The Company's payment information is stored by Treble or by a Third Party contracted by Treble for the safe storage of payment details The Company agrees to allow Treble or the contracted Third Party to automatically deduct the invoice cost from the stored payment method.

## Accuracy of Payment Information

In cases where Treble or a Third Party contracted by Treble is storing the The Company's payment details The Company agrees to ensure that they are always accurate and up to date.

## Taxes & Withholding Taxes

If, when purchasing the services offered by treble Platform, the Company is required to pay any tax or withholding tax by the regulation of the Country where it is domiciled, the Company will pay the full amounts of treble's invoices, free and clear of any deduction or withholding tax applicable to those invoices. In those cases where such deduction or withholding tax is required by law, the Company will pay such amounts in addition to the full amount of the invoices due to treble for its Platform, without applying any deduction or withholding tax and paying fully the amounts specified in treble's invoices.

## Term and Termination of Agreement

### Term

The Term of the contract between Treble and The Company is as defined in the Order. This agreement is subject to automatic renewal for a subsequent term equal in length to the initial term, as specified in the Order, unless either party provides written notice of their intention not to renew at least 30 days before the end of the current term. Such notice must be communicated via email. Notwithstanding the above, The Company retains the right to terminate the agreement at any point for any reason with 30 days written notice prior to the end of the Term. This notice must be provided in writing and sent via email. The 30-day notice period commences from the date the written notice is sent by The Company.

### Notice of Non-Renewal

In cases where The Company does not wish to continue the Agreement with Treble The Company agrees to provide written notice of their desire to not renew the Term with 30 days notice from the end of Term as measured from the received date.

Once notice of non-renewal has been received The Company agrees to pay any outstanding Fees within 14 days of the non-renewal notice.

### Suspension for Prohibitive Usage

Treble may suspend The Company's and all associated Users' access to The Platform without notice for

- Failure to adhere to the WAPI commerce policy as described at <https://www.whatsapp.com/legal/commerce-policy?lang=en>
- Failure to adhere to local, state, federal, or international laws
- Repeat instances of alleged trademark or copyright infringement
- Repeat complaints of abuse of the system from any recipient of messages
- Any single effort to undermine the security of the platform or access unauthorized accounts or URLs.
- Uploading or sending through any channel provided by the platform any content that is or may be
  - libelous, defamatory, bigoted, fraudulent or deceptive;
  - illegal or unlawful, that would otherwise create liability;
  - infringe or violate any patent, trademark, trade secret, copyright, right of privacy, right of publicity or other intellectual or other right of any party
  - private information of any third party (e.g., addresses, phone numbers, email addresses, Social Security numbers and credit card numbers)
  - Viruses, corrupted data or other harmful, disruptive or destructive files or code.
- Using The Platform in any manner that could interfere with, disrupt, negatively affect or inhibit other Users from using The Platform or that could damage, disable, overburden or impair the functioning of The Platform

- Impersonating or posting on behalf of any person or entity or otherwise misrepresent your affiliation with a person or entity
- Collecting any personal information about other users, or intimidate, threaten, stalk or otherwise harass other users of The Platform
- Creating an account or posting any content of Users are not over 16 years of age
- Permitting the creation of an account or the publication of any content for Users that are not over 16 years of age
- Any Circumvention or attempt to circumvent any filtering, security measures, rate limits or other features designed to protect The Platform, Users of The Platform, or Third Parties
- Sending mass or repeated promotions, political campaigning or commercial messages directed at Contacts who have not given explicit permission to receive such communications ("SPAM")

Treble takes intellectual property rights seriously. In accordance with the Digital Millennium Copyright Act ("DMCA") and other applicable law, Treble has adopted a policy of terminating, in appropriate circumstances and, at our sole discretion, access to The Platform for Users who are deemed to be repeat infringers.

Treble may also suspend The Company's and all associated Users' access to The Platform without notice for any violation of this Agreement as judged by Treble's good judgment and in good faith.

## Suspension for Non-Payment

The Company agrees to pay outstanding Fees within 30 days of invoice send date. Failure to complete payment within this time will result in The Company's access to The Platform being suspended.

Access will be granted again once complete payment of the outstanding Fees has been made.

Treble agrees to not suspend The Company's access to The Platform while fees are being reasonably disputed by writing. "Reasonably" will be determined by Treble using good judgment and in good faith.

In cases where The Company's payment information is securely stored by Treble or by a Third Party contracted by Treble, Treble will suspend access after 3 failed payment attempts. Treble will make a reasonable effort to notify The Company of the failed payments after each failed payment.

## Data Security & Privacy

Treble adheres to GDPR and uses it as a guideline when managing all User or Contact data. See Treble's GDPR policy for more information:

[https://www.treble.ai/wp-content/uploads/2021/08/GDPR\\_Policy.7afe9716.pdf](https://www.treble.ai/wp-content/uploads/2021/08/GDPR_Policy.7afe9716.pdf)

## Access

Treble will not access, disclose, view or process The Company's and Users' data stored on The Platform except as provided for in this Agreement, as authorized or instructed by The Company in writing, as required to perform its obligations under this Agreement, or as required by applicable law.

Treble may access anonymized or aggregated data of The Company's and Users' data stored in The Platform as part of research of usage of The Platform.

## Communications Laws

The Company holds all responsibility for ensuring that their usage of The Platform adheres to laws within their jurisdiction, including but not limited to laws related to the use of automated communications and recording communications.

The Company agrees that it will not hold Treble liable for any violation of law that occurred due to The Company's use of The Platform.

## Communication Restrictions

Treble agrees that it will only access and communicate with The Company, Users, or other employees of The Company and that it will not access or communicate with any Contacts that The Company has uploaded to The Platform.

## Data Collection

Treble uses cookies, sessions, and other technologies to track usage of The Platform. All usage data of The Platform is tracked and stored in accordance with [Treble's GDPR policy](#).

Treble may use anonymized or aggregated data for legitimate business purposes such as evaluating, analyzing, or otherwise understanding usage of The Platform.

## Privacy Policy

Treble stores data related to Users of The Platform.

Treble agrees to use best practices to securely store this data and only to use this data in providing the service of The Platform.

Treble agrees to delete or anonymize any personally identifying information upon request from The Company and in accordance with [Treble's GDPR policy](#).

## Intellectual Property & Proprietary Rights

### Ownership of Content

Treble retains all rights and ownership to all designs, content, source code, and developments of The Platform.

The Company retains and owns all rights to all designs, content, and concepts created within or uploaded to the Treble platform, including

- Contact lists
- Logos
- Conversation designs
- Images, videos, PDFs or other rich media content.

## Confidential Information

Treble and The Company agree to treat all information shared between them as strictly confidential and to only share with Third Parties as required to deliver the service of The Platform in accordance with this Agreement or in accordance with law.

## Publicity

As part of subscribing, accessing, or using The Platform The Company agrees that Treble can use The Company's logo and branding as part of any promotional content, including but not limited to presentations, online or print advertisements, email or other digital communications, on its website, etc.

Treble agrees to get written permission if it is to use any personally identifying information of any User or employee or contractor of The Company, such as name of the Signee, or any User or any direct quotes from the Signee or any User.

## Indemnity

Treble shall be liable hereunder only for its own gross negligence, willful misconduct or bad faith. The Company agrees to indemnify Treble and save it harmless against any and all liabilities, including judgments, costs and reasonable counsel fees, for anything done or omitted by Treble in the execution of this Agreement, except as a result of the Treble's gross negligence, willful misconduct or bad faith.

Treble will notify The Company within 30 days of becoming aware of any such claims. The Company and Treble agree that The Company will have sole control of the defense or settlement of such a claim and Treble will provide (at The Company's expense) any and all information and assistance reasonably requested by The Company to handle the defense or settlement of the claim.

The Company agrees that it will not accept any settlement that imposes any obligation on Treble or requires Treble to make any admission or imposes any liability on Treble not covered by these indemnifications or places any restriction on Treble without Treble's written consent.

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY OR ITS THIRD PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, DATA OR BUSINESS OPPORTUNITIES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

## Limitations of Liability

### Governing Law

The validity of this Agreement and the rights, obligations, and relations of the parties under this Agreement will be construed and determined under and in accordance with the laws of the State of Delaware, without regard to conflicts of law principles.

### Jurisdiction



The Company agree that exclusive jurisdiction for any dispute with The Platform or relating to The Company's use of it, resides in the courts of the State of Delaware and The Company further agrees and expressly consents to the exercise of personal jurisdiction in the courts of the State of Delaware located in Newark, State of Delaware in connection with any such dispute including any claim involving The Platform. The Company further agrees that The Company and The Platform will not commence against the other a class action, class arbitration or other representative action or proceeding.

## Performance Warranty

Treble warrants that the Platform will be provided in a manner consistent with generally accepted industry standards, and that Treble will not knowingly introduce any viruses or other forms of malicious code into The Platform.

In cases where such cases do occur Treble will use commercially reasonable efforts to correct the non-conformance within sixty days ("Remedy Period.") If Treble cannot rectify the non-conformance The Company may terminate this Agreement by providing written notice within 30 days of the Remedy end period as measured by notice received date.

If The Company terminates this Agreement in this manner Treble agrees to waive any outstanding fees due.

Treble is not responsible for any non-conformance that results from (i) failure of any hardware, software, equipment, or data not provided by Treble or (ii) modification to The Platform by anyone other than Treble or (iii) modification to The Platform as requested by The Company or (iv) use of The Platform by The Company not in accordance with this Agreement.

THIS SECTION STATES TREBLE'S ENTIRE LIABILITY AND THE COMPANY'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM PROVIDED FOR UNDER THIS SECTION.

## Disclaimer of Warranties

EXCEPT AS SET FORTH IN THE 'PERFORMANCE WARRANTY' SECTION AND WITHOUT LIMITING OBLIGATIONS IN THE 'DATA SECURITY & PRIVACY SECTION' OF THIS AGREEMENT, TREBLE AND IT'S EMPLOYEES AND IT'S CONTRACTED THIRD PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, SECURITY, ACCURACY OR COMPLETENESS OF THE PLATFORM, DATA SYNCHED TO OR MADE AVAILABLE FROM THE PLATFORM. APPLICATION PROGRAMMING INTERFACES (APIS) MAY NOT BE AVAILABLE AT ALL TIMES. TO THE EXTENT PERMITTED BY LAW, THE PLATFORM IS PROVIDED "AS IS" WITHOUT WARRANT OR CONDITION OF ANY KIND. WE DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE PLATFORM INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

## Third Party Products

WE AND OUR THIRD PARTIES DISCLAIM ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS THAT YOU USE. OUR LICENSORS WILL HAVE NO LIABILITY OF ANY KIND UNDER THIS AGREEMENT.

## Force Majeure

In no event shall Treble be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services;

it being understood that the Treble shall use reasonable efforts which are consistent with accepted practices in the software-as-a-service industry to resume performance as soon as practicable under the circumstances.

## Agreement to Liability Limitation

THE COMPANY UNDERSTANDS AND AGREES THAT ABSENT THE COMPANY AGREEMENT TO THIS LIMITATION OF LIABILITY, TREBLE WOULD NOT PROVIDE ACCESS, USAGE, OR SUBSCRIPTION OF THE PLATFORM TO THE COMPANY.

## Actions Permitted

Except for actions for nonpayment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than one (1) year after the cause of action has accrued.

## Changes to this Agreement

We reserve the right to modify these Terms at any time and for any reason including but not limited to the release of new features or functionality within The Platform.

Any changes to this Agreement are effective 2 months after Treble published such revised Terms (indicated by revision date at the top of this Agreement) or after The Company's acceptance should we provide a mechanism for The Company's immediate acceptance of the revised Agreement (such as a click-through confirmation or acceptance button).

The Company agrees that it is their responsibility to check [treble.ai](https://treble.ai) for changes to this Agreement.

The Company agrees that it is their responsibility to check linked agreements for changes, including but not limited to the Meta's WhatsApp Commerce Policy.

If The Company continues to The Platform after the revised Agreement go into effect, then The Company agrees to and is bound by the changed to Agreement.