

Terms of Service

Version 2.0 – December 2025

1 Scope

1.1 The Services

These Terms of Service (the "**Terms**") apply to the usage of the software made available on nexoya.io (the "**Platform**") and related services such as support, service levels, campaign optimization, or other services indicated on the applicable subscription order confirmation (the "**Subscription Order Confirmation**") (collectively referred to as the "**Services**").

1.2 The Parties

1.2.1 Nexoya

The Services are provided by nexoya Ltd., a company organized under the laws of Switzerland, having its registered office and principal place of business at Konradstrasse 32, 8005 Zurich, Switzerland, and registered with the Commercial Register of the Canton of Zurich under number CHE-427.024.248 ("**Nexoya**").

1.2.2 Customer

These Terms, together with the Subscription Order Confirmation, constitute a legally binding agreement (the "**Agreement**") between Nexoya and the company or organization which has subscribed to Nexoya Services as indicated on the Subscription Order Confirmation (the "**Customer**") (each a "**Party**" and together the "**Parties**").

1.2.3 User

Subject to these Terms, the Customer's employees, affiliates, agencies, freelancers, or partners (the "**Users**") may access and use the Services in accordance with this Agreement. All rights and obligations of Customer relating to the use of the Services shall apply equally to each User that uses the Services, and Customer shall be solely responsible for ensuring that all Users comply with the Agreement. If any dispute arises out of the performance of this Agreement or in

connection with this Agreement, including the alleged failure of a User to comply with the conditions of this Agreement, Nexoya shall have the right to solve the dispute directly with the Customer, without any obligation to first pursue action against, or recovery from, the User who is alleged to have caused a breach of this Agreement.

2 Conclusion and Amendments

2.1 Conclusion

The Agreement takes effect when the Customer confirms its consent electronically by means of an electronic signature, by clicking on the 'Accept' button, or by reference in a written order agreement. The date of entering into the Agreement is indicated on the applicable Subscription Order Confirmation and will be referred to as the "**Effective Date**".

2.2 Amendments to this Agreement and the Services

2.2.1 Scope of Functional Changes

Nexoya has the right to make changes to the functionality of the Services from time to time in sole discretion, including where Nexoya considers this necessary: (a) to address the needs of customers and/or users; or (b) to comply with any applicable laws.

2.2.2 Notice for Material Changes

If Nexoya determines that such change in functionality is material, Nexoya will provide the Customer not less than 30 calendar days written notice including a description of the change, except where a change is required to be made sooner to comply with applicable laws or to deal with a security concern or other issue that could cause material risk to Nexoya or its customers, in which case Nexoya will use reasonable endeavours to give the Customer as much notice as reasonably possible.

2.2.3 Customer Rights in Case of Disadvantage

If the Customer can reasonably demonstrate to Nexoya that the change materially disadvantages them, the Customer may terminate the Agreement on written notice at any time within this 30-calendar day notice period and receive a pro rata refund in respect of any fees paid in advance. This termination and

refund right is the Customer's sole and exclusive remedy if object to any changes to the Services. If the Customer continues to use the Services after the notice period expires, the Customer will be deemed to have accepted any notified changes.

3 Provision of the Services

3.1 Use of Platform

Subject to Customer's compliance with this Agreement including, without limitation, its payment of all applicable Fees (as defined in Section 4.1), Nexoya will provide Customer with a limited, revocable, non-exclusive, non-transferable, non-sublicensable right to access and use the Platform and related services during the Term (as defined in Section 8) in accordance with this Agreement.

3.2 Support

Nexoya shall provide the Customer with the support as reasonably required (i) to connect the marketing tools to the Platform and (ii) for the resolution of problems with the day-to-day usage of the Platform.

3.3 Campaign Services

Nexoya shall provide the automated attribution, optimization and management of ad campaigns for Users as specified in a Subscription Order Confirmation (the "**Campaign Services**"). For such Campaign Services, the following additional provisions apply:

- The User acknowledges and agrees that the outcome of any ad campaign is uncertain and that the Campaign Services are provided on a best effort basis without warranty of any specific improvement or outcome.
- Nexoya solely interacts with ad publishers on behalf of the User, and the User maintains a direct contractual relationship with such publisher.
- The User is solely responsible for the payment of fees of publishers, maintaining sufficient funds, and setting spending limits on publisher platforms.
- Nexoya monitors the spending for a specific campaign in accordance with the instructions of the User as reasonably possible. However, Nexoya does not guarantee that any spending limits can be observed and is not liable for any overspending.
- The User acknowledges and agrees that ad campaigns may be affected by a wide range of issues such as suspension in case of technical issues or violations of ad policies. Nexoya is under no circumstances liable for any type of damages, including but not limited to loss of profit, in case of

suspension, limitation, faulty placement, or other issues related to the ad campaigns.

4 Payment Terms

4.1 Fee Payment

The provision of the Services to the Customer is subject to payment of the fees set forth in the Subscription Order Confirmation (the "**Fees**"). Fees are non-cancellable, non-refundable, and based on the Services purchased and not on usage unless otherwise indicated on the applicable Subscription Order Confirmation.

4.2 Payment Terms

Each Fee is invoiced in advance for the respective period (e.g., activation phase, monthly or yearly subscription) agreed upon in the Subscription Order Confirmation.

The Customer shall pay the Fees set forth in each applicable Subscription Order Confirmation within fourteen (14) days of the invoice date unless otherwise indicated on the applicable Subscription Order Confirmation.

Payments more than thirty (30) days late are subject to an interest of eight percent (8%) per year. After notice of non-payment and thirty (30) days to cure, non-payment can result in Nexoya's suspension or termination of this Agreement and the Customer account.

All Fees quoted, unless expressly stated otherwise, are exclusive of any sales, value-added or similar taxes. If Nexoya has the legal obligation to collect such taxes, the amount will be added to the Fees and paid by the Customer. Customer shall indemnify Nexoya for any liability or expense incurred by Nexoya as a result of Customer's failure or delay in paying taxes due.

4.3 Set-Off Right

Any right to set off, retain, deduct, counterclaim, and/or withhold any payments due under this Agreement vis-à-vis Nexoya is hereby expressly waived and excluded.

5 Customer Obligations

5.1 Duty of Cooperation

The Customer is required to connect its marketing tools to the Platform to enable Nexoya to perform its obligations under this Agreement. The Customer shall ensure that the marketing tools are properly connected to the Services for the duration of the Term. Customer acknowledges that failure to comply with its duty of cooperation will result in Nexoya's inability to provide the Services, but does not entitle Customer to a refund, as stipulated in Section 4.1, nor to an extraordinary termination right on the basis of material breach, as stipulated in Section 8.

5.2 Security

Customer shall not circumvent or attempt to circumvent any security protection on the Services. User shall not upload anything to the Services which contains viruses, Trojan horses, worms, keystroke loggers, spyware, adware, or any other harmful programs or similar computer code designed to adversely affect the operation of any website, computer software, or hardware.

5.3 Reverse Engineering

Customer shall not decompile, reverse engineer, modify, translate or disassemble the Services in whole or in part or create derivative works based on the whole or any part of the Services.

5.4 Lawful Usage

Customer shall not use the Services in ways which are unlawful or fraudulent or have any unlawful or fraudulent purpose or effect.

5.5 Information and Assistance

Customer shall inform Nexoya as soon as reasonably practicable if it becomes aware that itself, a User, or another Customer is or may be in breach of any of the above points.

The Customer shall comply with Nexoya's reasonable directions with respect to remedying any breach of the above points.

6 Representations and Warranties

Except as expressly set forth herein, Nexoya makes no warranties of any kind, express or implied, guarantees or conditions with respect to the use of the Services, including, without limitation, any warranty with respect to a potential loss of Raw Data or Derived Data (as defined in Section 9.2), fitness for a particular purpose, or satisfactory quality.

Nexoya provides the Services "as is" and "as available" and makes no warranty as to their accuracy, timeliness, correctness, reliability, completeness, use, or performance. Nexoya does not warrant the performance or results that may be obtained by using the Services. The Customer assumes the entire risk for the use, results, and performance of the Services.

The Services may contain links to websites governed by separate terms of use. To the extent possible, Nexoya disclaims responsibility for such websites linked to, including but not limited to the contents of such websites or the use of such websites.

7 Liability & Indemnity

Neither Customer nor User may recover from Nexoya, regardless of the legal reason, any amount with respect to loss of profit, data, or goodwill, or any consequential, incidental, indirect, punitive, or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated.

For direct damages, Nexoya's liability is limited to the amount of the Fees paid for the provision of the Services in the twelve (12) months prior to the occurrence of the damaging event.

The limitations in this Section 7 will not apply to losses or damages caused by wilful misconduct or gross negligence or to the extent prohibited by applicable law or to bodily harm or damage to physical property.

Neither Customer nor User may make a claim or bring proceedings relating to the Services or otherwise under this Agreement against any of Nexoya's auxiliaries, members, shareholders, directors, officers, partners, principals, or employees. Claims may be made, or proceedings brought only against Nexoya.

Neither Party shall be liable for breach of this Agreement (other than payment obligations) caused by circumstances beyond its reasonable control (force majeure).

Customer will defend, indemnify and hold Nexoya harmless against any and all claims, liability, loss, costs, penalties, and damages, including reasonable attorney fees, arising out of Customer's breach of Section 5 (Customer Obligations) and/or Section 11 (Data Privacy).

8 Term and Termination

8.1 Initial Term

Unless indicated otherwise in the Subscription Order Confirmation, this Agreement commences on the Effective Date, continues for a period of twelve (12) months (the "**Initial Term**"), and is thereafter automatically renewed for an additional twelve (12) months periods unless terminated pursuant to this Section 8 (each a "**Renewal Term**", together the "**Term**").

8.2 Ordinary Termination

Either Party may terminate this Agreement by providing written notice in accordance with this Agreement no later than thirty (30) days prior to the end of the Initial Term or a Renewal Term.

8.3 Special Termination Right

The Parties may agree in the Subscription Order Confirmation on a special termination right ("Special Termination Right") linked to an extraordinary milestone (e.g., a predefined result to be achieved by a specified date) during the Initial Term. If the milestone is not met, either party may terminate this contract in writing, ending on the last day of the current calendar month.

The extraordinary milestone shall only be deemed to have been not met if the Customer has fulfilled all conditions precedent that are necessary to enable Nexoya to duly perform its contractual obligations under the Agreement and the Subscription Order Confirmation.

8.4 Extraordinary Termination

Either Party may terminate this Agreement with immediate effect in any of the following events:

- **Material breach:** Either Party may terminate this Agreement if the other Party is in material breach of this Agreement, and such breach has continued without a cure for a period of thirty (30) days following written notice of the such breach.
- **Compliance:** Nexoya may, at its sole discretion and at any time, suspend or discontinue Customer's use of the Services without prior notice, and without any liabilities of any kind, in case it reasonably suspects or determines that Customer's use of the Services is fraudulent, or if needed to comply with the law or requests from public authorities.
- **Security and substantial liability:** Nexoya may, at its sole discretion and at any time, and without any liabilities of any kind, suspend or discontinue Customer's use of the Services with immediate effect, in case Nexoya suspects or determines that Customer's use of the Services could subject Nexoya or a third party to substantial liability, or if Customer becomes the subject of bankruptcy, dissolution, liquidation or similar.

8.5 Account Suspension

Nexoya may suspend any or all Services or the Customer's account based upon Nexoya's reasonable determination of the occurrence or potential for the occurrence of illegal or wrongful activity, fraudulent use, or attempted fraudulent activity by the Customer. In case of a suspension, the Customer remains liable for all charges and fees incurred during the suspension period.

9 Intellectual Property Rights and License

9.1 Platform

Nexoya and its licensors own all rights, title, and interest (including all intellectual property rights) and other rights in and to the Platform, including but not limited to the AI models trained with Raw Data (as defined in Section 9.2) and any changes, optimizations, modifications or corrections thereto.

Nexoya grants the Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable right to access and use the Platform during the Term in accordance with this Agreement. Any other use of the Platform, including, without limitation, commercialization, distribution, reproduction, modification, display, or transmission, in whole or in part, without Nexoya's prior written consent, is strictly prohibited.

9.2 Raw Data

Customer grants Nexoya a non-exclusive right to access and use the data provided or made accessible by the Customer (the "**Raw Data**") during the Term in order to operate, provide, improve, and develop the Services, to prevent or investigate fraudulent or inappropriate use of the Services, and for research and development purposes. Nexoya shall have no rights in such Raw Data other than the limited license granted by Customer.

9.3 Derived Data

Customer retains all rights, title, and interest (including all intellectual property rights) in and to the aggregated data generated by the Services after the input of the Customer's Raw Data, including, without limitation, statistics and analytics (the "**Derived Data**"). For the avoidance of doubt, the algorithms and AI improved and trained with the Raw Data are exclusively owned by Nexoya.

Customer grants Nexoya a non-exclusive, perpetual and irrevocable right to access and use fully anonymized Derived Data for its business, research, and marketing purposes.

10 Confidentiality

Each Party ("**Discloser**") may disclose confidential information to the other Party ("**Recipient**"), including information about the Services and the content of this Agreement (the "**Confidential Information**"). The recipient will protect Discloser's Confidential Information using the same degree of care it uses to protect its own information of like nature, but no less than a reasonable degree of care. The recipient will use Discloser's Confidential Information internally solely as necessary to perform its obligations under the Agreement or as may be agreed upon in writing by Discloser. The recipient will disclose Confidential Information only to employees having a need to know in order for the Recipient to perform its obligations under the Agreement and who are subject to binding use and disclosure restrictions at least as protective as those described in the Agreement.

Confidential Information does not include information that: (a) is now or subsequently becomes public knowledge through no breach on the part of Recipient; (b) Recipient can demonstrate was rightfully in its possession before receipt from Discloser; (c) Recipient independently develops without using any confidential information; or (d) Recipient obtains from a third party without breach of a confidentiality obligation.

The recipient may disclose Discloser's Confidential Information pursuant to a valid order or requirement of a court or government agency if the Recipient gives prompt written notice to Discloser to provide Discloser with the opportunity to prevent the disclosure or protect Discloser's Confidential Information.

11 Data & Privacy

Nexoya's privacy policy (the "**Privacy Policy**") explains how and for what purposes Nexoya collects, uses, retains, discloses, and safeguards the Personal Data that the Customer provides to Nexoya. The Customer agrees to the terms of the Privacy Policy, which Nexoya may update from time to time.

These Terms incorporate by reference Nexoya's data processing agreement (the "**Data Processing Agreement**")¹. Nexoya will process any personal data provided by the Customer in accordance with Nexoya's Data Processing Agreement .

Customer represents and warrants that the processing of the data provided directly or through the connection of marketing tools by Nexoya in accordance with this Agreement does not breach any third-party rights, the Federal Act on Data Protection, or any other applicable local, national, or international privacy law or regulation.

The Customer represents and warrants that it is now and will continue to be compliant with all applicable laws governing the privacy, protection, and use of Personal Data and has obtained all necessary rights and consents under applicable laws to disclose to Nexoya and allow Nexoya to use any personal data that Customer provides to Nexoya or provides Nexoya access to.

If Nexoya becomes aware of any unauthorized disclosure or loss of personal data on its systems, it shall notify the Customer consistent with its obligations under applicable law.

For Customers subject to the EU Data Act, these Terms incorporate by reference Nexoya's Data Act Addendum².

¹ <https://www.nexoya.com/data-processing-agreement/>

² <https://www.nexoya.com/eu-data-act-addendum/>

12 Miscellaneous

12.1 Notice

Notices sent via e-mail or physical mail are deemed to be written notices for the purposes of this Agreement. All notices made or given must be in English or German language.

Notices to Nexoya can be sent to info@nexoya.com.

Nexoya will send notices to the email address provided by the Customer. It is the Customer's responsibility to keep the email address associated with its account current.

12.2 Severability

If any part of this Agreement is held invalid or unenforceable, that portion of the Agreement will be construed to reflect the Parties' original intent. The remaining portions will remain in full force and effect. Any failure on the part of Nexoya to enforce any provision of the Agreement shall not be considered a waiver of its right to enforce such provision.

12.3 Assignment

Nexoya may assign or delegate this Agreement, in whole or in part, to any person or entity at any time with or without the Customer's consent.

Customer may not assign or delegate any rights or obligations under the Agreement without Nexoya's prior written consent, and any unauthorized assignment and delegation by Customer are void.

12.4 Entire Agreement

This Agreement constitutes the complete agreement between the Parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement, including all appendices and attachments hereto.

13 Choice of Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the substantive laws of Switzerland under the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

All disputes arising out of or in connection with the present Agreement, including disputes on its conclusion, binding effect, amendment, and termination, shall be resolved by the courts in Zurich, Switzerland.