

1. Scope of Application

- 1.1. These General Terms and Conditions (**GTC**) apply to the business relationship between Nukipa Labs GmbH, Gunta-Stölzl-Straße 7, 80807 Munich, registered in the Commercial Register of the Munich Local Court under HRB 301802 (**Nukipa**) and our users (**Users**) in the version valid at the time our services are provided via our website "<https://www.nukipa.com/>" (**Website**).
- 1.2. A User may be any entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law (**Entrepreneur**). By registering (Clause 2.1), the User confirms that they use the services exclusively within the scope of their commercial or self-employed professional activity.
- 1.3. Any deviating, conflicting or supplementary terms and conditions of the User shall not be recognised unless Nukipa has expressly agreed to their validity. This shall also apply if Nukipa provides services without reservation whilst being aware of conflicting or deviating terms and conditions of the User.
- 1.4. Legally relevant declarations and notifications by the user in relation to the contract (e.g. setting of deadlines, notification of defects, termination, withdrawal or reduction) must be made in writing, i.e. in written or text form (e.g. letter, email, fax). Statutory formal requirements and further evidence, in particular where there is doubt as to the legitimacy of the person making the declaration, remain unaffected.
- 1.5. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions therefore apply insofar as they are not directly amended or expressly excluded in these Terms and Conditions.
- 1.6. Nukipa reserves the right to amend these Terms and Conditions at any time with future effect. The user will be notified of any amendments in writing (e.g. by email) at least 30 days before they come into force. If the user does not object to the amended Terms and Conditions within 14 days of receiving the notification of amendment, the amended Terms and Conditions shall be deemed accepted. In the notification of changes, Nukipa shall inform the user that their silence shall be deemed to constitute consent to the amended Terms and Conditions. In the event of a timely objection, the user relationship shall end automatically and without the need for notice upon expiry of the billing period applicable during this period.

2. Account creation and access

- 2.1. In order to access Nukipa's services, the user requires a user account. The user may either create such an account themselves on the website or have it created by Nukipa. In either case, the following details are required: company name, name of the user/contact person, registered office/address for service, email address and payment details. The user is responsible for ensuring that their details are accurate, up to date and complete.
- 2.2. By creating a user account, the user accepts these Terms and Conditions.
- 2.3. Once the account has been created, the user will receive a confirmation link from Nukipa sent to the email address provided. The account will be activated following successful confirmation by the user and successful payment processing.
- 2.4. The contractual relationship comes into effect upon activation of the user account.
- 2.5. Use of the user account is expressly limited to the contractual purposes. The user is entitled to create sub-accounts for use within their organisational unit. Unless expressly provided otherwise below, the disclosure of access data or any other transfer of use to third parties is not permitted (see Section 6.1.2.).

3. Description of Services

- 3.1. Nukipa provides users with an AI-powered, cloud-based Software-as-a-Service platform (**the Platform**) designed to support and automate online marketing processes. The Platform is accessed via the internet. No installation by the user is required.

3.2. Scope of the Platform's functions

In particular, the Platform enables the user to

- the automated creation of marketing content using artificial intelligence, in particular texts such as blog articles, social media posts, landing pages and similar content,
- the editing, management and organisation of this content within the Platform,
- the publication and distribution of content on digital channels and platforms connected by the user,
- support in optimising the visibility of content in search engines and AI-powered search systems, as well as
- the setup and execution of automated marketing processes and workflows.

3.3. Agency services provided by Nukipa

- 3.3.1. Where expressly agreed, Nukipa shall create, publish and manage the content described in clause 3.2 on behalf of and under the responsibility of the user on the basis of the platform (agency services).

- 3.3.2. The agency services are performed at Nukipa's discretion. However, Nukipa must take into account the User's legitimate interests and instructions, provided that they serve the purpose of the contract and do not conflict with applicable law or public policy.

3.4. Use of the Platform by Agencies

- 3.4.1. The use of the platform and the creation, publication and management of the content described in section 3.2 may be carried out by agencies. Agencies are provided with their own user account for this purpose (see section 2).

- 3.4.2. The agency's clients each require their own user account, which are listed as sub-accounts within the agency's account. This user account may be created by the client themselves or by the agency on their behalf; the agency is granted unrestricted access to its clients' accounts. The clients likewise agree to the validity of these Terms and Conditions.

- 3.4.3. The agency and the users consent to the associated transfer of data (including personal data where applicable).

- 3.4.4. The Agency is obliged to agree any rights and obligations, in particular any liability provisions, directly with the respective user. Nukipa assumes no responsibility or liability whatsoever for the Agency's services and merely provides the platform with the scope of functions described in Section 3.2. As a precautionary measure, the Agency indemnifies Nukipa against all claims by the User, insofar as these are not demonstrably based on a breach by Nukipa.

- 3.5. The specific scope of functions and services and the respective prices are set out in the service description on the website valid at the time the contract is concluded.

- 3.6. The functionality of the platform and the provision of services, in particular agency services, require that the user duly fulfils their obligations (see Section 6). The quality and suitability of the generated content depend significantly on the information, inputs and parameters provided by the user.

- 3.7. Nukipa does not guarantee any specific economic or content-related success. The same applies to a specific search engine ranking, a specific reach or any other measurable success.

- 3.8. Nukipa is entitled to update or expand the platform as part of its ongoing development, or to restrict individual functionalities, provided that the scope of functions contractually owed remains essentially unchanged.

- 3.9. The servers used by Nukipa are located in the European Union. Data processing is carried out in accordance with Regulation (EU) 2016/679 (GDPR).

4. Third-party providers

- 4.1. Nukipa uses services provided by third-party providers to deliver individual functions of the platform, in particular AI services, social media interfaces and other programming interfaces.

- 4.2. The availability and functionality of features based on third-party services depend on the respective availability and terms of use of these third-party providers. Nukipa has no direct influence over this. The user acknowledges that the respective terms of use of these third-party providers may also apply to the use of their services. It is the user's responsibility to familiarise themselves with

the applicable terms of use of the third-party providers and to comply with them.

- 4.3. Unless Nukipa is responsible for them, Nukipa shall not be liable for disruptions, outages, restrictions or changes caused by third-party providers. In particular, Nukipa shall not be liable for the temporary or permanent unavailability of individual functions or for changes to third-party interfaces, terms of use or services.

5. Use of Artificial Intelligence (AI)

- 5.1. The content provided by Nukipa is generated, in whole or in part, automatically using artificial intelligence systems. The user is aware that AI-generated content may, by its very nature, be flawed, incomplete, inaccurate or legally inadmissible (**AI risks**). Use of the platform and the range of services is therefore at the user's own risk; reference is made to the user's obligations under clause 6.
- 5.2. The user is obliged to independently check all generated content for accuracy, completeness, appropriateness and legal admissibility prior to its use, publication or disclosure. AI-generated content may contain inaccuracies, errors or incorrect information. The user's specific application of the content contributes significantly to the outcome of the AI-generated content.
- 5.3. Nukipa accepts no liability whatsoever for the accuracy, completeness, timeliness or suitability of the AI-generated content for a specific purpose. Nukipa accepts no liability whatsoever for actions, decisions or damages made or caused on the basis of AI-generated content, unless otherwise specified in clause 12.

6. Obligations and responsibilities of the user / the agency

- 6.1. The user (including an agency as defined in clause 3.4) is obliged to
- 6.1.1. provide truthful and complete information during registration (Clause 2.1) and when using the platform (Clause 3), and to keep this information up to date at all times;
- 6.1.2. to treat their login details (username, password) as confidential and not to disclose them to third parties. The user is liable for all activities carried out using their login details;
- 6.1.3. provide Nukipa with the necessary authorisations, information and access (in particular to the subdomain, DNS entries, etc.) in good time for the purpose of using the platform and publishing content, and to grant any necessary access;
- 6.1.4. not to use the platform for the creation, distribution or publication of content that contravenes applicable law or public decency, in particular content that infringes copyright, trademark rights, personal rights or other rights of third parties;
- 6.1.5. not to use the platform for the creation, distribution or publication of extremist, discriminatory, defamatory, violence-glorifying, pornographic or otherwise unlawful content;
- 6.1.6. not to make uploaded or linked data and content available in a manner that infringes the rights of third parties.
- 6.2. The user bears sole responsibility for all content created using the platform and published on other channels. In particular, the user is obliged to check the content and data for legal admissibility prior to publication. The user remains solely liable to third parties and the operators of the respective channels for the published content.
- 6.3. The user indemnifies Nukipa against all claims by third parties asserted against Nukipa on the basis of a breach of the obligations set out in clauses 6.1 and 6.2. The obligation to indemnify also covers the costs of the necessary legal defence, including reasonable legal fees.
- 6.4. In the event of a breach of the aforementioned obligations, Nukipa is entitled to suspend services and deny the user access to the platform – at least temporarily. This does not affect Nukipa's right to terminate the contract extraordinarily in accordance with clause 8.2.
- 6.5. The User must also fulfil the obligations to cooperate set out in this Section 6 vis-à-vis agencies (Section 3.4) to the extent necessary for the provision of services in each case.

7. Intellectual Property and Rights of Use

- 7.1. All rights to the platform, the underlying software, the models, algorithms, prompt templates, the documentation and all materials provided by Nukipa remain with Nukipa.

- 7.2. The user is granted a non-exclusive, non-transferable right, limited to the duration of the relevant contract, to use the platform for its intended purpose within the scope of the services booked.
- 7.3. Insofar as copyright or other intellectual property rights arise in the content created via the platform and these are attributable to Nukipa under applicable law, they shall remain with Nukipa.
- 7.4. Nukipa grants the user a simple right of use, unlimited in terms of territory and time [and limited in time to the duration of the contract], to the content created within the framework of the contractual relationship. The right of use includes, in particular, the use of the content for the user's own business purposes. Upon termination of the contractual relationship, the right of use shall expire, unless expressly agreed otherwise.
- 7.5. Insofar as the user is entitled to rights in the content provided by the user or generated through the use of the platform, the user grants Nukipa a simple, non-exclusive right of use, unlimited in terms of territory and time, to use this content
- 7.5.1. for the provision of the contractual services,
- 7.5.2. to maintain and improve the platform, and
- 7.5.3. to develop new functions and services
- . Use for marketing or reference purposes shall take place exclusively in anonymised form, unless the user has expressly consented.

8. Term and termination

- 8.1. Unless otherwise agreed, our services are provided on a subscription basis. The term of the subscription is generally one month and begins upon activation of the user account (Clause 2.4.). The subscription is automatically renewed for a further month unless the contract is terminated by us or the user in writing (e.g. by email) or via the platform under "Manage subscription" at least ten days before the end of the current term.
- 8.2. The minimum term for our services under clauses 3.3. and 3.4. is 12 months. The contract is extended for a further 12 months in each instance unless it is terminated by either party with one month's notice to the end of the respective term.
- 8.3. The right of both parties to terminate the contract extraordinarily for good cause remains unaffected. Good cause shall be deemed to exist in particular if
- 8.3.1. the user breaches an obligation or duty under these Terms and Conditions and fails to remedy the breach within a reasonable period despite receiving a warning. A warning is not required in the case of breaches of clause 6.1.4.;
- 8.3.2. the user is in default of payment of the fee under clause 9;
- 8.3.3. the user breaches the terms of use of third parties (see Clause 4) and Nukipa cannot reasonably be expected to maintain the contractual relationship, taking into account the mutual interests.
- 8.4. In the event of termination, access to the platform shall cease at the end of the last paid billing period. Fees already paid for the current billing period shall not be refunded.
- 8.5. In the event of extraordinary termination, the contractual relationship shall end upon receipt of the notice of termination by the user. If the user is responsible for the extraordinary termination, fees already paid for a current billing period shall not be refunded.
- 8.6. The rights of use granted to the user under Clause 7 in respect of created content shall expire upon termination of the contractual relationship.

9. Prices and Terms of Payment

- 9.1. Unless expressly agreed otherwise, the services under clauses 3.2 and 3.4 are subject to a monthly usage fee, payable in advance at the start of each billing period (clause 8.1) and automatically collected by Nukipa.
- 9.2. Payments are generally processed via the payment service provider Stripe Technology Company Limited (STC), One Wilton Park, Wilton Place, Dublin 2, D02 FX04, Ireland (hereinafter "Stripe"). For payments processed via Stripe, their Terms and Conditions and their Privacy Policy apply, available at <https://stripe.com/de/legal/imprint>.

- 9.3. If payment on account is agreed, the relevant invoice amount must be paid within 14 days of receipt of the invoice.
- 9.4. Unless expressly agreed otherwise, the amount of the usage fee is determined by the price list valid on the website at the time of the respective booking. This can be viewed at "<https://nukipa.com/pricing>".
- 9.5. Services under clause 3.3 are generally invoiced in accordance with a specific agreement. If no such agreement exists, invoicing is on an hourly basis at EUR 150 per hour. Nukipa may invoice the services on a monthly basis. The invoice must include a breakdown of the hours worked, specifying the respective services.
- 9.6. Nukipa is entitled to adjust the prices for the use of the platform at its reasonable discretion (Section 315 of the German Civil Code (BGB)) to take account of changes in costs relevant to the provision of services (in particular costs for third-party services, server costs, energy costs, personnel costs, general price trends). This applies to both price increases and reductions to the extent of the respective changes. Price adjustments shall be communicated to the user via the platform and in writing at least 30 days before they come into effect. In the event of a price increase of more than 10%, the user is entitled to terminate the contract with one month's notice from the date on which the price increase takes effect.
- 9.7. Where services are provided in the area of placing, managing or optimising paid advertisements, in particular via Google Ads, a variable fee is payable in addition to the monthly usage fee. The following applies in this regard:
- 9.7.1. Unless expressly agreed otherwise, this amounts to 20% of the advertising budget (*ad spend*) used by the user during the relevant billing period. For the purposes of this provision, the advertising budget is defined as the total amount actually invoiced for advertisements via the relevant advertising platforms (in particular Google Ads) during the respective period, regardless of whether the invoicing is carried out directly by the user or via Nukipa.
- 9.7.2. The variable remuneration is calculated at the end of each billing period and is due upon invoicing.
- 9.7.3. Nukipa is entitled to retrieve the data required for billing from the linked advertising accounts or to request the relevant supporting documentation from the user.
- 9.7.4. The user is obliged to provide Nukipa with full and accurate access to the relevant advertising accounts as well as the information required for billing.
- 9.8. If the user defaults on a payment, Nukipa is entitled to temporarily suspend access to the platform after setting a reasonable grace period and giving notice of the intended suspension. The obligation to pay the usage fee remains unaffected.
- 9.9. The user may only set off claims against Nukipa's claims with undisputed or legally established claims.

10. Deletion of user data

- 10.1. Upon termination of the contractual relationship, all customer-related content (in particular posts created, blog entries and other materials generated via the platform) will be stored for a period of 180 days.
- 10.2. Upon expiry of this period, the content will be irrevocably deleted, provided that no statutory retention period precludes such deletion.
- 10.3. The user is responsible for backing up their content before the expiry of the retention period specified in clause 10.1. Nukipa will provide an export option for this purpose upon request, provided this is technically feasible.

11. Availability

- 11.1. Nukipa provides the platform with availability in line with industry standards. It is not obliged to ensure availability at all times, uninterrupted or error-free.
- 11.2. Availability may be restricted in particular due to
- 11.2.1. necessary maintenance and repair work,
- 11.2.2. technical faults,
- 11.2.3. force majeure. Force majeure includes, in particular, natural disasters, war, strikes, official orders, pandemics and power cuts, or

- 11.2.4. circumstances beyond Nukipa's control, in particular failures of third-party services or telecommunications connections.
- 11.3. Where possible, the user will be given advance notice of scheduled maintenance work, which will preferably be carried out outside normal business hours.
- 11.4. No specific minimum availability is guaranteed, unless expressly agreed otherwise.

12. Liability

- 12.1. Nukipa shall be liable without limitation for
- 12.1.1. fraud, wilful misconduct or gross negligence,
- 12.1.2. within the scope of a guarantee expressly assumed by it,
- 12.1.3. for damages resulting from injury to life, limb or health,
- 12.1.4. under the Product Liability Act.
- 12.2. In all other cases, Nukipa shall be liable – unless expressly provided otherwise – only in the event of a breach of a fundamental contractual obligation, the fulfilment of which is essential for the proper performance of the contract and on the observance of which the user may regularly rely (so-called cardinal obligation), and such liability shall be limited to compensation for foreseeable and typical damage.
- 12.3. To the extent permitted by law, liability is excluded in all other cases.
- 12.4. In particular, Nukipa shall not be liable for
- 12.4.1. damages arising from the use or publication of incorrect, incomplete or infringing AI-generated content;
- 12.4.2. lost profits, lost business opportunities, indirect or consequential damages of any kind;
- 12.4.3. disruptions, failures or changes to third-party services;
- 12.4.4. damages resulting from improper or non-contractual use of the platform or by the user, in particular arising from a breach of duty under clause 6;
- 12.4.5. data loss, insofar as the user has failed to take reasonable data backup measures.
- 12.5. Nukipa's total liability arising from the contractual relationship – regardless of the legal basis – is limited to the amount paid by the user to Nukipa in the twelve (12) months prior to the event giving rise to the damage. This limitation does not apply in the cases set out in clauses 12.1 or 12.2.
- 12.6. The above limitations and exclusions of liability also apply in favour of Nukipa's legal representatives, vicarious agents and employees.
- 12.7. To the extent permitted by law, the User's claims for damages against Nukipa shall become time-barred within twelve (12) months from the date on which the claim arose and the User became aware of the circumstances giving rise to the claim, or should have become aware of them without gross negligence. This does not apply to claims under clause 12.1.

13. Data Protection

- 13.1. The collection and processing of personal data is carried out in accordance with the GDPR and the relevant national data protection regulations.
- 13.2. Details regarding data processing are set out in Nukipa's privacy policy, available at "<https://www.nukipa.com/legal/privacy-policy>".

14. Confidentiality

- 14.1. Both contracting parties undertake to treat all confidential information disclosed in the course of the business relationship as strictly confidential and to use it only for the purposes of fulfilling the contract.
- 14.2. The following shall be deemed confidential in particular:
- Trade and business secrets;
 - Technical data, plans, calculations and concepts;
 - Strategic planning and corporate direction;
 - Personal data;

- Information marked as confidential.

14.3. The duty of confidentiality does not apply to information which:

- is or becomes publicly known without this being due to a breach of duty;
- were already lawfully known to the receiving party prior to disclosure;
- have been lawfully disclosed by third parties without any duty of confidentiality;
- must be disclosed due to legal obligations or an official order.

14.4. The duty of confidentiality shall continue for a period of two (2) years after the termination of the contractual relationship.

14.5. Nukipa may only name the user as a reference with the user's prior express consent.

15. Final Provisions

15.1. The contractual relationship shall be governed exclusively by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

15.2. The exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship is Nukipa's registered office in Munich. Nukipa is also entitled to bring legal proceedings against the user at the user's general place of jurisdiction.

15.3. Amendments and additions to these General Terms and Conditions must always be made in writing (Section 126b of the German Civil Code (BGB)). The written form requirement is deemed to have been met if the User is notified of amendments and additions via the platform in such a way that an objective third party would reasonably be expected to take note of them.

15.4. The User may only transfer rights and obligations arising from this contractual relationship to third parties with the prior express consent of Nukipa. Nukipa is entitled to transfer rights and obligations arising from this contractual relationship to affiliated companies without the User's consent.

15.5. Should any provision of these Terms and Conditions, or any provision subsequently incorporated into them, be or become wholly or partially void or unenforceable, or should a loophole be found in these Terms and Conditions, this shall not affect the validity of the remaining provisions (severability). The invalid provision shall be replaced by mutual agreement between the contracting parties with a legally valid provision that most closely approximates the economic meaning and purpose of the provision. The foregoing provision shall apply mutatis mutandis to gaps in the provisions. If the invalidity of a provision is based on a specified level of performance or a specified period of time (deadline or date), the provision shall be deemed to have been agreed with a legally permissible level that comes closest to the original level (deemed replacement). If the presumption of replacement is not possible, a provision or rule shall be agreed in accordance with the substance of the preceding sentence to replace the void or unenforceable provision or to fill the gap (presumption of replacement).