



Terms of Service

Last updated on August 7th, 2023

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Please read this document carefully before using Our Service.

This Agreement is effective as of the date You access our Portal or click to accept the Agreement (the “Effective Date”) when purchasing a Nubovi Subscription.

1 Interpretation and Definitions

1.1 Interpretation

The words of which the initial letter is capitalized have meanings defined under the following conditions. The following definitions shall have the same meaning regardless of whether they appear in singular or in plural.

1.2 Definitions

For the purposes of these Terms of Service:

Affiliate means an entity that controls, is controlled by or is under common control with a party, where "control" means ownership of 50% or more of the shares, equity interest or other securities entitled to vote for election of directors or other managing authority.

Agreement refers to this Terms of Service document.

Account means a unique account created for You to access our Service or parts of our Service.

Country refers to: Netherlands.

Company (referred to as either "the Company", "We", "Us" or "Our" in this Agreement) refers to Nubovi B.V., Schiedamse Vest 154, 3011 BH, Rotterdam.

Customer refers to the organization on behalf of which You are accessing or using the Service.

Customer Data means all information that You or the Customer submits or collects via the Service. Customer Data does not include Company content.

Device means any device that can access the Service such as a computer, a cellphone or a digital tablet.

DPA refers to the Company Data Processing Agreement published on our website.

Feedback means feedback, innovations or suggestions sent by You regarding the attributes, performance or features of our Service.

Free Trial refers to a limited period of time that may be free when purchasing a Subscription.

Portal refers to the Nubovi portal that gives you access to our SaaS solution for cloud spend monitoring.

Privacy Policy refers to the Company privacy policy published on our Website.

Service refers to the Website and Portal.

Service Level Agreement refers to the Company service level agreement published on our Website.

Subscription refer to the service or access to the Service offered on a subscription basis by the Company to You.

Terms of Service (also referred as "Terms") mean these Terms of Service that form the entire Agreement between You and the Company regarding the use of the Service.

Third-party Social Media Service means any services or content (including data, information, products or services) provided by a third-party that may be displayed, included or made available by the Service.

Website refers to Nubovi, accessible from <http://www.nubovi.com>

You means the individual accessing or using the Service, or the Customer, or other legal entity on behalf of which such individual is accessing or using the Service, as applicable.

2 Acknowledgment

These are the Terms of Service governing the use of this Service and the agreement that operates between You and the Company. These Terms of Service set out the rights and obligations of all users regarding the use of the Service.

Your access to and use of the Service is conditioned on Your acceptance of and compliance with these Terms of Service. These Terms of Service apply to all visitors, users and others who access or use the Service.

By accessing or using the Service You agree to be bound by these Terms of Service. If You disagree with any part of these Terms of Service then You may not access the Service.

You represent that you are over the age of 18. The Company does not permit those under 18 to use the Service.

Your access to and use of the Service is also conditioned on Your acceptance of and compliance with the Privacy Policy of the Company. Our Privacy Policy describes Our policies and procedures on the collection, use and disclosure of Your personal information when You use the Application or the Website and tells You about Your privacy rights and how the law protects You. Please read Our Privacy Policy carefully before using Our Service.

3 Description of Our Service

We provide monitoring services for cloud environments. Our Service regularly gathers meta data and usage data on the cloud resources deployed by the Customer in their cloud environments. We do that to provide You with insights in cloud usage and spend through our Portal. Nubovi uses read-only, secured access to this information hosted in the cloud environments You have given access to during the Nubovi onboarding process. The data we gather is limited to meta data and usage data; We do not have access to Company content.

4 Subscription

4.1 Subscription period

The Service or some parts of the Service are available only with a paid Subscription. You will be billed in advance on a recurring and periodic basis (such as monthly or annually), depending on the type of Subscription plan you select when purchasing the Subscription.

At the end of each period, Your Subscription will automatically renew under the exact same conditions unless You cancel it or the Company cancels it.

4.2 Subscription cancellations

You may cancel Your Subscription renewal either through Your Account settings page or by contacting the Company. You will not receive a refund for the fees You already paid for Your current Subscription period and You will be able to access the Service until the end of Your current Subscription period.

4.3 Billing

You shall provide the Company with accurate and complete billing information including full name, address, state, zip code, telephone number, and a valid payment method information.

There are two billing periods and accompanying payment methods: Monthly or Yearly. Payments are in advance for each billing period. Monthly billing is done automatically and Yearly billing is done by means of an electronic invoice.

Should automatic billing fail to occur for any reason, the Company will issue an electronic invoice indicating that you must proceed manually, within a certain deadline date, with the full payment corresponding to the billing period as indicated on the invoice.

4.4 Fee Changes

The Company, in its sole discretion and at any time, may modify the Subscription fees. Any Subscription fee change will become effective at the end of the then-current Subscription period.

The Company will provide You with reasonable prior notice of any change in Subscription fees to give You an opportunity to terminate Your Subscription before such change becomes effective.

Your continued use of the Service after the Subscription fee change comes into effect constitutes Your agreement to pay the modified Subscription fee amount.

4.5 Refunds

Except when required by law, paid Subscription fees are non-refundable.

Certain refund requests for Subscriptions may be considered by the Company on a case-by-case basis and granted at the sole discretion of the Company.

4.6 Free Trial

The Company may, at its sole discretion, offer a Subscription with a Free Trial for a limited period of time.

You may be required to enter Your billing information in order to sign up for the Free Trial.

If You do enter Your billing information when signing up for a Free Trial, You will not be charged by the Company until the Free Trial has expired. On the last day of the Free Trial period, unless You cancelled Your Subscription, You will be automatically charged the applicable Subscription fees for the type of Subscription You have selected.

At any time and without notice, the Company reserves the right to (i) modify the terms and conditions of the Free Trial offer, or (ii) cancel such Free Trial offer.

4.7 Service Improvement

We reserve the right to enhance, improve and modify the Service on a continuous basis at no cost to You.

4.8 Service Level Agreement

The service levels applicable to the Service are published on our Website (the "Service Level Agreement") and are expressly incorporated herein. Service levels may vary based on the subscription plan and service level selected by You. Your sole and exclusive remedy, and Our sole and exclusive obligation, for a breach of any terms of the Service Level Agreement, but not for terms elsewhere in this Agreement, is as provided in the Service Level Agreement.

5 User Accounts

When You create an account with Us, You must provide Us information that is accurate, complete, and current at all times. Failure to do so constitutes a breach of the Terms, which may result in immediate termination of Your account on Our Service.

You are responsible for safeguarding the password that You use to access the Service and for any activities or actions under Your password, whether Your password is with Our Service or a Third-Party Social Media Service.

You agree not to disclose Your password to any third party. You must notify Us immediately upon becoming aware of any breach of security or unauthorized use of Your account.

You may not use as a username the name of another person or entity or that is not lawfully available for use, a name or trademark that is subject to any rights of another person or entity other than You without appropriate authorization, or a name that is otherwise offensive, vulgar or obscene.

6 Customer Data

6.1 Customer's Proprietary Rights

The Customer owns and retains all rights to the Customer Data. This Agreement does not grant us any ownership rights to Customer Data. You grant permission to us and our licensors to use the Customer Data only as necessary to provide the Service to you and as otherwise permitted by this Agreement. If you are using the Service on behalf of another party, then you represent and warrant that you have all sufficient and necessary rights and permissions to do so.

6.2 Limits on the Company

We will not use Customer Data to contact any individual or organization except as You direct or otherwise permit. We will use Customer Data only in order to provide the Service to You and only as permitted by applicable law and this Agreement.

6.3 Data Practices and Machine Learning

We may collect information about You and the Customer when you interact with the Service as permitted by the Agreement.

We may, as permitted by this Agreement, use Customer Data in an anonymized manner for machine learning purposes to support certain product features and functionality within the Service.

6.4 Protection of Customer Data

The DPA sets out how we will process Personal Data on your behalf in connection with the Service provided to you under this Agreement. We will maintain commercially appropriate administrative, physical, and technical safeguards to protect Personal Data as described in the DPA.

6.5 Retention, Deletion and Retrieval of Customer Data

For information regarding the retention, deletion and retrieval of Customer Data, please read our DPA.

7 Intellectual Property

The Service and its original content (excluding Content provided by You or other users), features and functionality are and will remain the exclusive property of the Company and its licensors.

The Service is protected by copyright, trademark, and other laws of both the Country and foreign countries.

Our trademarks and trade dress may not be used in connection with any product or service without the prior written consent of the Company.

8 Your Feedback to Us

You assign all rights, title and interest in any Feedback You provide the Company. If for any reason such assignment is ineffective, You agree to grant the Company a non-exclusive, perpetual, irrevocable, royalty free, worldwide right and license to use, reproduce, disclose, sub-license, distribute, modify and exploit such Feedback without restriction.

9 Links to Other Websites

Our Service may contain links to third-party web sites or services that are not owned or controlled by the Company.

The Company has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party web sites or services. You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such web sites or services.

We strongly advise You to read our Privacy Policy and the terms of service and privacy policies of any third-party web sites or services that You visit.

10 Termination

In the event of a breach of these Terms of Service by You, we reserve the right to terminate or suspend Your Account without any liability. However, before taking such action, we will make a reasonable effort to contact You and provide an opportunity for You to remedy the breach. If the issue is successfully addressed within the agreed upon timeframe, Your Account will remain active, and You can continue using the Service. Nevertheless, if the breach is not remedied within the given period, we retain the right to proceed with the termination or suspension, resulting in the cessation of Your access to the Service. If You choose to terminate Your Account voluntarily, You may do so by discontinuing the use of the Service.

11 Limitation of Liability

Notwithstanding any damages that You might incur, the entire liability of the Company and any of its suppliers under any provision of these Terms and Your exclusive remedy for all of the foregoing shall be limited to the amount actually paid by You through the Service or € 100 if You haven't purchased anything through the Service.

To the maximum extent permitted by applicable law, in no event shall the Company or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of data or other information, for business interruption, for personal injury, loss of privacy arising out of or in any way related to the use of or inability to use the Service, third-party software and/or third-party hardware used with the Service, or otherwise in connection with any provision of this Terms), even if the Company or any supplier has been advised of the possibility of such damages and even if the remedy fails of its essential purpose.

Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. In these states, each party's liability will be limited to the greatest extent permitted by law.

12 "AS IS" and "AS AVAILABLE" Disclaimer

The Service is provided to You "AS IS" and "AS AVAILABLE" and with all faults and defects without warranty of any kind. To the maximum extent permitted under applicable law, the Company, on its own behalf and on behalf of its Affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Service, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice. Without limitation to the foregoing, the Company provides no warranty or undertaking, and makes no representation of any kind that the Service will meet Your requirements, achieve any intended results, be compatible or work with any other software, applications, systems or services, operate without interruption, meet any performance or reliability standards or be error free or that any errors or defects can or will be corrected.

Without limiting the foregoing, neither the Company nor any of the company's provider makes any representation or warranty of any kind, express or implied: (i) as to the operation or availability of the Service, or the information, content, and materials or products included thereon; (ii) that the Service will be uninterrupted or error-free; (iii) as to the accuracy, reliability, or currency of any information or content provided through the Service; or (iv) that the Service, its servers, the content, or e-mails sent from or on behalf of the Company are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components.

Some jurisdictions do not allow the exclusion of certain types of warranties or limitations on applicable statutory rights of a consumer, so some or all of the above exclusions and limitations may not apply to You. But in such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law.

13 Governing Law

The laws of the Country, excluding its conflicts of law rules, shall govern these Terms and Your use of the Service. Your use of the Application may also be subject to other local, state, national, or international laws.

14 Disputes Resolution

If You have any concern or dispute about the Service, You agree to first try to resolve the dispute informally by contacting the Company.

15 For European Union (EU) Users

If You are a European Union consumer, you will benefit from any mandatory provisions of the law of the country in which you are resident in.

16 United States Federal Government End Use Provisions

If You are a U.S. federal government end user, our Service is a "Commercial Item" as that term is defined at 48 C.F.R. §2.101.

17 United States Legal Compliance

You represent and warrant that (i) You are not located in a country that is subject to the United States government embargo, or that has been designated by the United States government as a "terrorist supporting" country, and (ii) You are not listed on any United States government list of prohibited or restricted parties.

18 Severability and Waiver

18.1 Severability

If any provision of these Terms is held to be unenforceable or invalid, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

18.2 Waiver

Except as provided herein, the failure to exercise a right or to require performance of an obligation under these Terms shall not effect a party's ability to exercise such right or require such performance at any time thereafter nor shall the waiver of a breach constitute a waiver of any subsequent breach.

19 Translation Interpretation

These Terms of Service may have been translated if We have made them available to You on our Service. You agree that the original English text shall prevail in the case of a dispute.

20 Changes to These Terms of Service

We reserve the right, at Our sole discretion, to modify or replace these Terms at any time. If a revision is material We will make reasonable efforts to provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at Our sole discretion.

By continuing to access or use Our Service after those revisions become effective, You agree to be bound by the revised terms. If You do not agree to the new terms, in whole or in part, please stop using the website and the Service.

21 Contact Us

If you have any questions about these Terms of Service, You can contact us by visiting this page on our website: <http://www.nubovi.com/pages/contact>