

Enterprise Specific Terms of Service

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These Enterprise Specific Terms form part of the nuwacom General Terms of Service (“Terms” or “Terms of Service”) and are only applicable to Enterprise Customers. Capitalized terms used but not defined in these Enterprise Specific Terms of Service have the meaning given to them in the Terms of Service.

A. Definitions

When used in the Terms with the initial letters capitalized, in addition to terms defined elsewhere in the Terms, the following terms shall have the following meanings.

“Development Services” means the design, configuration, implementation, or customization of software or functionality for an Enterprise Customer, as described and explicitly mentioned as such in the applicable Work Order, and any related documentation or deliverables, as further described in Section C.

“Consultancy Services” means the professional or advisory services provided by Nuwacom to the Enterprise Customer, including but not limited to onboarding, optimization, configuration, workflow analysis, and other project-based support, as further described in Section D.

“Self-Managed Hosting” means the deployment of the Nuwacom Platform within the Enterprise Customer’s own infrastructure or hosting environment, as further described in Section E of these Enterprise Specific Terms.

“Service Level Agreement or “SLA” means the performance and availability commitments described in Section B of these Enterprise Specific Terms, including applicable response times and service credits.

B. Service Level Agreement

I. Applicability of the Service Level Agreement

1. This Service Level Agreement is part of the Terms of Service between Nuwacom and the Customer to the extent that the use of the Platform is part of this Agreement. It shall apply in addition to the Terms of Service and shall prevail over the Terms of Service.
2. The SLA shall not apply to services or service components that are provided by third parties and that may be offered in conjunction with services from Nuwacom. In particular, this SLA shall not apply to functions of the Platform that are provided using LLMs.

II. Definitions

“**Uptime**” refers to the percentage figure that indicates the availability of the Platform's servers per calendar year, with planned Scheduled maintenance times excluded from the calculation of this key figure.

“**Service Credits**” means days of Services for Enterprise Customers added to the end of the Term at no charge to the Customer or, where the Agreement renews automatically, an equivalent discount applied to the next applicable invoice.

“Scheduled maintenance times” refers to the times during which maintenance work is carried out on the Platform, which has been notified to the Customer in advance within a reasonable timeframe. Scheduled maintenance times shall not be taken into account when calculating Uptime and, accordingly, Downtime. Nuwacom shall use commercially reasonable efforts to avoid scheduled maintenance times between 6:00 and 18:00 CET.

“Support Business Hours” means the hours during which Nuwacom provides standard technical support to Enterprise Customers, being Monday through Friday, from 9:00 a.m. to 6:00 p.m. Central European Time (CET/CEST), excluding public holidays in Luxembourg and Germany.

III. Service Credits

3. Availability. For the duration of the contract, Nuwacom shall provide the Platform with a Service Availability of at least 99.9% Uptime (“Service Availability”). Where reasonably possible, Nuwacom will provide at least 24 hours’ advance notice to the Customer of any scheduled maintenance expected to exceed thirty (30) minutes. Scheduled maintenance times notified in advance will not be counted as downtime. If Nuwacom fails to meet the Service Availability in a given calendar month, the Customer will be eligible to receive the Service Credits described below. This Service Availability SLA sets out the Customer’s sole and exclusive remedy for any failure by Nuwacom to meet the Service Availability.
4. The number of Service Credits to be issued shall be determined as follows:

Service Availability (monthly)	Service Credit
< 99.9% and ≥ 99.0%	3 days
< 99.0% and ≥ 95.0%	7 days
< 95.0%	15 days
5. The aggregate maximum number of Service Credits to be issued by Nuwacom to the Customer in a single calendar month will not exceed fifteen (15) days of Services for Enterprise Customers.
6. Service Credits may not be exchanged for, or converted to, monetary amounts. If the Customer’s account is fully paid and the Agreement does not renew, the Service Credits shall be applied as additional service days at the end of the Term.
7. If the Customer renews, the Service Credits shall instead be applied as a one-time discount on the next invoice following the relevant service period.

IV. Malfunctions

1. The Customer may notify Nuwacom of a malfunction of the Platform or access to the Platform.
2. A report shall only be considered an official malfunction notification if it is sent by the Customer by email to support@Nuwacom.ai or via a ticket on the Nuwacom service desk portal, and contains an adequate description of the symptoms of the malfunction.
3. Nuwacom may publish malfunctions on a status website. If a malfunction notification from the Customer refers to a malfunction that Nuwacom itself has published, a reference to the malfunction published on the status website is sufficient for an adequate description.
4. Nuwacom shall assign a severity level to a malfunction notification submitted by the Customer and shall prioritise its responses and update intervals based on this classification.
5. The following degrees of severity apply:
 - **Critical:** The Platform is not available or does not respond. The Customer is unable to use the Platform and there is no temporary workaround. First response time is set to 2 hours.
 - **High:** Contractually agreed core functionalities of the Platform are not usable for the majority of the Customer's Users and no appropriate workaround is available. First response time is set to 8 hours.
 - **Low:** The Platform is available, but errors or problems occur that can only be circumvented by means of an appropriate temporary workaround. First response time is set to 16 hours.
6. First response time refers to the timeframe beginning with Customer submitting an Incident report and Nuwacom team responding with a solution or with clarification questions. All first response times are calculated during Support Business Hours.

V. Exclusions

Insofar as disruptions or other non-availability of the Platform result from one or more of the following causes, this shall not be considered downtime and the SLA shall not apply in this respect:

- Malfunction or failure of the Customer's network infrastructure, devices and/or other systems,
- Use of the Platform in a manner contrary to the terms of the contract,
- Use of the Platform through or by integration into the services of a third party,
- Disruption or failure of the Internet,
- Force majeure, including but not limited to natural disasters, wars, strikes, riots, national or global pandemics or similar events beyond Nuwacom's control,
- Outages or failures caused by AI Services,
- Maintenance or updates performed in accordance with this SLA.

C. Development Services

I. Scope of Application

These terms for Development Services shall apply in addition to the Terms of Service. They shall apply if the Parties agree on the provision of additional (individual) Development Services by

Nuwacom. This Section shall take precedence over the Terms of Service if and to the extent that this Section regulates a matter that is also regulated in the Terms of Service.

II. Scope of Development Services

1. The scope of the agreed Development Services to be provided by Nuwacom, in particular but not limited to intended functions, compatibility, other features, any agreed deadlines, documentation to be provided and other details, are set out in the Work Order in conjunction with any other documents or descriptions to which the Work Order expressly refers.
2. Within the scope of the Development Services, Nuwacom is not obliged to provide installation, instruction or training of the Users or any other consulting services, unless expressly agreed otherwise. Development Services are provided on a reasonable-efforts basis, unless expressly guaranteed in the Work Order.
3. Nuwacom is not obliged to deliver or provide a source code, unless expressly agreed otherwise.

III. Rights of Use

1. Nuwacom grants a non-exclusive, non-sublicensable, non-transferable right to use the Development Services worldwide in accordance with the contract. Unless expressly agreed otherwise, the right of use shall terminate automatically when the Customer stops using the Platform. Nuwacom retains all intellectual property rights in the Development Services and any derivative works thereof.
1. For the avoidance of doubt, Nuwacom is entitled to permanently integrate Development Services for the Customer into the standard services of the Platform or into other services offered and to grant corresponding rights of use to third parties, without this giving rise to any further rights on the part of the Customer.

IV. Warranty

1. In the event of defects, the Customer shall be entitled to the statutory warranty rights. However, Nuwacom shall have the right to decide whether a defect is to be remedied by repair or replacement.
2. Warranty claims relating to Nuwacom's Development Services shall be subject to a limitation period of one year. Claims for damages due to defects shall remain unaffected by this provision; in this respect, the Terms of Service shall continue to apply.
3. If the Customer notifies Nuwacom of the existence of a defect and it subsequently becomes apparent during Nuwacom's activities that a defect did not exist, Nuwacom shall be entitled to invoice the corresponding expenses in accordance with the price list.

V. Customer's Duty to Cooperate

If the provision of the Development Services by Nuwacom requires the timely performance of one or more acts of support or cooperation by the Customer ("**Duty to Cooperate**"), Nuwacom shall inform the Customer thereof and specify a period of time within which the Duty to Cooperate must be performed in order to enable Nuwacom to provide the Development Services. If Nuwacom sets a reasonable deadline, the Customer shall be obliged to fulfil these obligations to cooperate within the deadline, otherwise Nuwacom shall be entitled to adjust any agreed deadline for the provision of the Development Services.

VI. Acceptance

Unless the Enterprise Customer notifies Nuwacom in writing of any material and reproducible defect within five (5) calendar days after delivery of the Development Services or related deliverables, such Development Services shall be deemed accepted. Minor or immaterial deviations do not prevent acceptance.

If a timely and valid notice of defect is given, Nuwacom shall, at its discretion and expense, correct the defect or re-perform the affected portion of the Development Services within a reasonable period. After such correction or re-performance, the deliverables shall be deemed accepted unless the Enterprise Customer notifies Nuwacom in writing of any continuing defect within three (3) days of redelivery.

D. Consultancy services

I. Scope of Application

These terms for Consultancy Services shall apply in addition to the Terms of Service. They shall apply if the parties agree on the provision of additional Consultancy Services by Nuwacom. This Section shall take precedence over the Terms of Service if and to the extent that this Section regulates a matter that is also regulated in the Terms of Service.

II. Scope and Provision of the Consultancy Services

1. The specific scope, duration and form of the agreed Consultancy Services provided by Nuwacom are set out in the Work Order or any other individual agreement between the Parties.
2. Nuwacom is authorised to use external experts, partner companies or other third parties to provide the Consultancy Services.

III. Rights of Use

Nuwacom grants the Customer a non-exclusive, non-sublicensable, non-transferable right to use the results and interim results of the Consultancy Services, in particular but not limited to service descriptions, documentation including training material, reports, consultancy documents, charts, diagrams and images ("Work Results") worldwide in accordance with the terms of the contract. The Work Results may be used only for the Customer's internal business purposes.

E. Self-Managed Hosting

I. Scope of Application

These terms for Self-Managed Hosting apply in addition to the Terms of Service. They apply if the Customer hosts the Platform on their own systems. This Section prevail over the Terms of Service to the extent that a deviating provision is made regarding the same subject matter. The application of this Section excludes the application of the Service Level Agreement.

II. Installation

1. If the Parties agree on Self-Managed Hosting of the Platform, Nuwacom will provide the Customer with access to a repository at the agreed time, which contains the files and content required for the installation and operation of the Platform on the Customer's system.

2. The Customer agrees to keep the access to the repository confidential and to neither make it accessible to third parties nor allow third parties to gain access in any form.
3. The files and content provided in the repository may only be used for the contractual installation and operation of the platform. Any use beyond this is not permitted.
4. The installation of the Platform on the Customer's system is the sole responsibility of the Customer. Nuwacom is not obliged to perform the installation unless explicitly agreed upon by the Parties.

III. Data Protection & Data Security

1. Nuwacom provides the Platform in compliance with Applicable Data Protection Laws, including the GDPR. The responsibility for implementing and managing data protection and security measures in the context of using the Platform on the Customer's own systems lies solely with the Customer. The Customer is obligated to ensure, independently and at their own responsibility, that all necessary measures to comply with Applicable Data protection Laws (including the GDPR) are in place.

IV. Obligations upon Contract Termination

1. Upon termination of the contract for Self-Managed Hosting, the Customer is obligated to promptly:
 - i. cease use of the Platform immediately;
 - ii. fully and permanently delete the Platform and all program copies (including backup copies) from their systems; and
 - iii. return any materials and documentation provided by Nuwacom at their own expense. The Customer must keep the access to the repository confidential and not disclose it to third parties or enable third parties to access it.
2. For the avoidance of doubt, Nuwacom shall not be responsible for the security, availability, or integrity of the Platform once installed in the Customer's environment.

V. Backup Copy

1. The Customer is entitled to create a backup copy of the files provided in the repository solely for backup purposes.
2. This backup copy must be labeled as such and must include a copyright notice in favor of Nuwacom.
3. If Nuwacom provides the Platform and the necessary files for installation and operation in a way that allows the Customer to re-download these contents as needed, the creation of a backup copy is not permitted.

F. Jurisdiction Specific Terms

If the Enterprise Customer is established or has its principal place of business in Germany, the contracting entity shall be nuwacom GmbH. This Agreement shall be governed by and construed in accordance with the laws of Germany, excluding its conflict of laws rules.

The courts having jurisdiction at the registered seat of nuwacom GmbH shall have exclusive jurisdiction over any dispute arising out of or in connection with this Agreement, unless mandatory applicable law provides otherwise.