

Coosto Terms of Service

(Version 2024-04)

1. Definitions

Terms defined in these Terms of Service are capitalised. The definitions of the relevant terms, regardless of whether they are used in the singular or plural, are outlined below:

- 1.1. **"Agency"**: a company or organisation that provides services such as communication, advertising, PR, marketing, social media, content, creation, web design, e-commerce solutions, SEO, and SEA on behalf of another company, person or profession;
- 1.2. **"Coosto"**: the legal entity Coosto BV, Coosto Spain SL and/or companies affiliated with this legal entity(-ies);
- 1.3. **"Third Parties"**: suppliers or parties other than the Customer;
- 1.4. **"Service"**: the standard service (SaaS) for content & social media marketing that Coosto provides to the Customer in the form of a non-exclusive user license, and which is purchased by the Customer under these Terms of Service and any other agreed conditions ;
- 1.5. **"User"**: a natural person authorised by the Customer who has access to the Service via a Login;
- 1.6. **"Intellectual Property Rights"**: all intellectual property rights and related rights, such as copyright, trade name right, trademark right, design right, software, patent right, database right and related rights, as well as rights to know-how and trade secrets;
- 1.7. **"Customer"**: any (legal) person who purchases or wishes to purchase the Service on the basis of an Agreement and/or these Terms of Service, as well as their representative(s), authorised representative(s), assignee(s) and heirs;
- 1.8. **"Login"**: the username (and associated password) with which Users gain access to the Service;
- 1.9. **"Agreement"**: any agreement, understanding or ratified proposal between the Customer and Coosto regarding the use of the Service, of which these Terms of Service form an integral part;
- 1.10. **"Terms of Service"**: these Coosto Terms of Service, version 2024-04.

2. Agreement and applicability of the Terms of Service

- 2.1. These Terms of Service define the rules for the use of the Service offered by Coosto, as well as the rights and obligations of both the Customer and Coosto.
- 2.2. These Terms of Service apply to the Service and all offers, quotations, deliveries, orders and Agreements in which Coosto makes proposals or agreements. By using the Service, accessing the Service, or allowing anyone to do so, Customer accepts to be bound by the Terms of Service.

- 2.3. An Agreement is created when the Customer approves an offer, quotation or delivery from Coosto. At the time the Customer enters into an Agreement with Coosto, the Customer agrees to these Terms of Service as an inextricable part of the Agreement. The Customer also accepts that any other general terms and conditions/purchase conditions do not apply.
- 2.4. The Customer guarantees the accuracy and completeness of the information they provide, or that is provided on their behalf, to Coosto, on which Coosto bases the Agreement.
- 2.5. Deviations from and additions to these Terms of Service are only valid if agreed in writing between the Customer and Coosto.
- 2.6. In the event that any provision of these Terms of Service is rendered null and void, the other provisions of these Terms of Service will remain in full force and effect. In that case, Coosto and the Customer will enter into consultation with the aim of agreeing on new provisions to replace the void or annulled provisions.
- 2.7. Coosto reserves the right to unilaterally change these Terms of Service. Any changes to these Terms of Service may be made by notifying Customer. In that case, Coosto will inform the Customer of the changes in a timely manner.

3. Services

- 3.1. Coosto offers access to a web-based SaaS (Software-as-a-Service) platform for content & social media marketing. Coosto will make every effort to execute the Agreement to the best of its knowledge and ability and do its utmost to deliver good quality.
- 3.2. The content and scope of the Service may change due to amended terms and conditions of Third Parties, due to changes in legal obligations and due to version and security updates. Coosto will inform the Customer about these updates via the Service environment, insofar as they are relevant to the use of the Service and entirely at Coosto's discretion.
- 3.3. Coosto offers functionalities, such as sentiment analyses and content generators, which may cause the Service to contain errors. Despite its efforts, Coosto cannot guarantee that these errors will never appear. To report errors, you can contact Coosto Support.
- 3.4. If the Customer purchases an additional Login or module in the meantime, it will be automatically added to the Agreement. These are personalised and cannot be cancelled mid-term.
- 3.5. The Customer may not resell or give away the acquired license to others outside their own organisation. This also includes affiliated companies, such as parent or subsidiary companies.
- 3.6. Coosto is entitled to inform its (potential) customers and third parties - in general terms - that it provides or has provided the Service to the Customer.

- 3.7. If the Customer violates these Terms of Service, other Agreements between Coosto and the Customer or at any time intentionally provides incorrect information, Coosto may block the Customer's Login(s) and Coosto reserves the right to terminate the Agreement immediately without the Customer being entitled to any compensation.
- 3.8. In the case of online registrations for the use of the Service, Coosto always reserves the right not to provide access to the Service, without having to provide a reason for this. If the Customer has already paid for the Service, Coosto will refund this amount. Refunds will not be issued in cases where the Customer is not entitled to one, for example if you violate these Terms of Service or enter into an Agreement under false pretences.

4. Price, billing and payment terms

- 4.1. All prices, Quotations and cost estimates are in euros and exclusive of VAT, unless stated otherwise.
- 4.2. Payment of all amounts owed by the Customer to Coosto must be made by paying the amount due via the payment method specified in the Agreement.
- 4.3. A payment term of thirty days applies to all invoices. No discounts, suspensions or settlements shall be permitted. If this payment term is exceeded, the Customer is legally in default and owes statutory interest on the invoice amount as well as collection costs without further notice of default.
- 4.4. In case of Customer's failure to pay, Coosto is free to suspend its obligation under the Agreement until the Customer has fulfilled their payment obligations in full.
- 4.5. Coosto will increase all prices charged in the Agreement annually by 7%, unless the official Services Price Index of the Central Bureau of Statistics is higher than 7%. In that case, the indexation will be set at the official Services Price Index at the time of the increase.
- 4.6. If the Customer terminates the Agreement based on an attributable failure by Coosto to fulfil the Agreement, any amounts already paid will not be refunded.

5. Duration and termination

- 5.1. The Agreement is entered into for the term stated therein and cannot be terminated prematurely. In the absence of an agreed duration, the duration of one year applies.
- 5.2. The duration of the Agreement is tacitly renewed each time for a period of 12 months, unless otherwise agreed. Coosto and the Customer can terminate the Agreement by e-mail subject to a notice period of 3 months before the end of the relevant period. Notice of cancellation must be sent by the Customer to the email address: customersuccess@coosto.com.

- 5.3. Coosto may immediately terminate all or part of the Agreement in writing without notice of default if the Customer is granted a provisional or non-provisional suspension of payments, if bankruptcy is filed with regard to the Customer, or if the Customer's company is liquidated or terminated other than for the purpose of reconstruction or merger of companies.
- 5.4. Agreements that, by their nature, are intended to continue to apply after the end of the Agreement, remain in full force after termination of the Agreement.

6. Terms of Use

- 6.1. Users may not use the Service in violation of the Agreement, these Terms of Service and/or applicable laws and regulations.
- 6.2. Users may not use the Service in such a way that causes damage to Coosto, its infrastructure or third parties in any way. Users may also not use the Service in such a way that the Service is made completely or partially unavailable.
- 6.3. The Customer must handle the Login data with care before using the Service. Customer must bind each User to these Terms of Service and is responsible for all activities conducted under Customer's account.
- 6.4. With regard to Third Party integrations in Coosto, the Customer declares that they agree to the relevant terms and conditions, including those of: [Facebook](#), [X](#), [Instagram](#), [YouTube](#), [Google](#), [WhatsApp](#), [Pinterest](#), [TikTok](#), [LinkedIn](#), [Bitly](#) and [OpenAI](#).
- 6.5. The Customer may not use the data available through Coosto for purposes inconsistent with Coosto's reasonably expected security and privacy safeguards. The use of Coosto may not in any way compromise people's fundamental rights and freedoms. For example:
 - Processing information relating to investigation, enforcement, surveillance and/or OSINT, as well as related investigative purposes or with regard to an ongoing criminal investigation.
 - Tracking or tracing or profiling of persons or groups, whether or not on the basis of personal data.
 - Identifying, targeting, tracing, segmenting based on (special) personal data as well as monitoring or controlling people and attempting to do so.
 - Processing information regarding ethnic origin, race or descent, unless for the purpose of establishing (indirect) discrimination.
 - Processing information regarding terrorists, extremists or terrorist and/or extremist organizations and related topics.
 - Creating fake accounts and/or using them within Coosto.

- Using data from Coosto, exported or otherwise, in any way for unethical use, research or investigation, as well as related activities.
- 6.6. The Customer agrees that Coosto may check whether the use of the Service complies with Article 6.5 of these Terms of Service.
 - 6.7. The Customer is solely responsible for any infringement of third party rights resulting from or in connection with their conduct as a result of the use of data available through the Service.
 - 6.8. If the Customer is a government agency, semi-government agency or government-funded organization, in order to use X (formerly Twitter) data, the Customer must first submit an X (formerly Twitter) Use Case to request permission for that Use Case.

7. Processing of personal data

- 7.1. In the context of the Agreement, Coosto processes personal data within the meaning of the General Data Protection Regulation ("GDPR") belonging to the Customer. These personal data will be processed in accordance with Coosto's Privacy Statement and the applicable laws and regulations.
- 7.2. Because the Customer processes messages and author information through the Service, the Customer qualifies as a data controller within the meaning of the GDPR.
- 7.3. During the term of the Agreement, the Customer uses our Service to manage social media messages from social media users (data subjects). Given the free nature of social media, different types of personal data may appear in these messages and account information. Coosto processes this on behalf of the Customer as described in Article 4(2) GDPR.
- 7.4. Personal data will only be processed following the Customer's use of the Service and additional written instructions from the Customer, unless deviating legal regulations apply. This also applies to transfers of personal data to a third country or international organizations.
- 7.5. Everyone who works for Coosto has signed a confidentiality statement to keep the Customer's personal data confidential.
- 7.6. Coosto uses appropriate technical and organizational measures, but also the security measures referred to in Article 32 GDPR.
- 7.7. The Customer allows the Service to use sub-processors that have been made known to the Customer. No other sub-processors will be employed without the Customer's consent. This consent will not be withheld by the Customer on unreasonable grounds.
- 7.8. The Service offers various options to manage the stored personal data so that the Customer can independently process requests from data subjects.

- 7.9. On request, the Customer can receive all relevant information for the fulfilment of its obligations under Articles 32 to 36 of the GDPR. Coosto will inform the Customer as soon as possible if a breach occurs in connection with the personal data that the Customer processes in the Service.
- 7.10. Upon termination of the Agreement, all personal data belonging to the Customer will be deleted from the Service.
- 7.11. The Customer may carry out an audit no more than once a year to check compliance with the arrangements set out in the Agreement. For this purpose, the Customer signs a Coosto confidentiality statement in advance.

8. Intellectual Property Rights

- 8.1. The Intellectual Property Rights relating to the Coosto Service, including – but not limited to – the Intellectual Property Rights to the texts, images, design, photos, software, audiovisual material and other materials belong to Coosto or its licensors. The Customer acknowledges these rights and will refrain from any infringement thereof.
- 8.2. Under the conditions as stated in these Terms of Service, Coosto grants the Customer a limited, personal, revocable, non-exclusive, non (sub-)licensable, non-transferable, right to use the Service for the duration of the Agreement in the form in which it is made available.
- 8.3. The Customer is expressly not permitted to copy material that does not originate from the Customer itself, to make this public, to use this for direct or indirect commercial purposes or to use this for any purpose other than the purposes referred to in these Terms of Service, unless Coosto or the relevant rights holder has given explicit and written permission to do so.
- 8.4. Nothing in these Terms of Service is intended to transfer any Intellectual Property Rights to Customer.

9. Damage and liability

- 9.1. The Service may not be used by the Customer in such a way that it causes damage to Coosto or to Third Parties (including natural persons).
- 9.2. The Customer acknowledges and accepts that the Service is a service with which the Customer can process data itself. The Customer is responsible and liable for all actions it performs using the Service and, in particular, the data.
- 9.3. During the period for which the Customer does not owe payment for the use of the Service, Coosto shall not be liable for damages due to an attributable failure to fulfil the Agreement, a wrongful act or otherwise. If the Customer does owe a payment for the use of the Service, the provisions of this article below apply for the duration of the Agreement.

- 9.4. Coosto is not liable for any damage, defects, losses resulting from shortcomings, missing data, or delays of Third Parties involved in the execution of the Agreement. In such cases, Coosto will do everything reasonable to reduce the consequences of such failure, but will not be liable for any direct or indirect damage, consequential damage, loss of profit, revenue or use, or any other damage or loss resulting from such shortcoming of Third Parties. The Customer agrees to indemnify and hold Coosto harmless from and against any and all claims, losses, damages, costs and expenses, including reasonable attorneys' fees, arising out of or related to shortcomings or delays on the part of Third Parties as well as the Customer's use of the Service, including generated content, breach of these Terms of Service and/or violation of applicable laws.
- 9.5. Coosto's liability for indirect damage, consequential damage, lost profits, lost savings, reduced goodwill, damage due to business stagnation, damage as a result of claims from the Customer's customers, damage related to the use of items and materials prescribed by the Customer to Coosto or software from Third Parties is excluded. Coosto's liability in connection with mutilation, destruction or loss of data or documents is also excluded.
- 9.6. To the extent that, despite the above, Coosto is still liable for damage on whatever grounds, it is only liable for compensation for direct damage suffered by the Customer as a result of a shortcoming or unlawful act attributable to Coosto. Direct damage exclusively means material damage to property, reasonable costs incurred to prevent or limit direct damage and reasonable costs incurred to determine the cause of damage, liability, direct damage and method of repair.
- 9.7. If and insofar as Coosto is liable for damage for whatever reason, its liability is in any case limited to a maximum amount of € 12,000.
- 9.8. The aforementioned limitations of liability do not apply if the damage is due to intent and/or deliberate recklessness on the part of Coosto.
- 9.9. A condition for any right to compensation to arise is that the Customer reports the damage to Coosto in writing as soon as possible after it has occurred. Any claim for damages against Coosto shall lapse upon the mere expiration of 12 months after the claim arose.

10. Agencies

- 10.1. If Coosto's Customer is an Agency, the Agency may use the Service on behalf of the Agency's customers and charge such customers for such use of the Service.
- 10.2. The start date of the Agreement between the Agency and Coosto is on the agreed date. In the absence of an agreed start date, the start date is the date on which the Agency has completed the online registration and thereby gained access to the Service.

- 10.3. The Agency is fully responsible and liable for the use of the Service by any customer of the Agency and the online registration of the customer of the Agency. The Agency must ensure that the Agency's customer is bound by these Terms of Service upon access to the Service. The Agency indemnifies Coosto against any damage that the Agency or a Customer of the Agency experiences, resulting from the use of the Service by a customer of the Agency.
- 10.4. All payments arising from the Agreement between the Agency and Coosto must be made on time by the Agency, regardless of the status of payments of the Agency's customer.
- 10.5. If the Agency does not purchase a Coosto package during the first 3 months of the Agreement to carry out work on behalf of its customer(s), Coosto is entitled after this period to immediately cancel and terminate the Agreement with the Agency, as a result of which the Agency will no longer have access to the Service.

11. Force majeure

- 11.1. Neither party is obliged to fulfil any obligation if it is prevented from doing so as a result of force majeure. Force majeure by Coosto includes but is not limited to: wars, natural disasters, epidemics, fire, water damage, strikes, attributable or non-attributable failures of Third Parties, power or internet outages and government measures. Claims for cost reimbursement or compensation are excluded.
- 11.2. If a force majeure situation continues for more than 3 months, both the Customer and Coosto have the right to terminate the Agreement in writing by registered letter. In that event, what has already been carried out under the Agreement will be settled proportionately.

12. Applicable law and competent court

- 12.1. All Agreements between parties and obligations arising from or related thereto are governed by Dutch law.
- 12.2. All disputes arising from or related to the Agreements and obligations referred to in the previous paragraph shall be submitted exclusively to a competent court in the Netherlands, even if only one of the parties asserts a dispute.