

Terms of Service

General Terms & Conditions

ecodaya UG (haftungbeschränkt), Germany; henceforth referred to as 'ecodaya'.

These General Terms and Conditions (henceforth 'TOS') are a legally binding part of all consultancy, service and user agreements between ecodaya and its contractual partners (mandators, clients, customers, users; henceforth 'customer'). The general terms of business and contractual agreements based upon these between customers and ecodaya are based upon the laws and rules of conduct of the Federal Republic of Germany.

Terms: ecodaya provides all services exclusively based on these TOS, as well as the current specification of services. A customer's differing general terms of business do not apply, even if ecodaya does not explicitly object to them. ecodaya does not recognize a customer's TOS which conflict with or differ from their TOS, unless ecodaya explicitly approves their validity in writing.

Changes: ecodaya is entitled to change these TOS, with a notice period of 14 days. At the same time, the customer will be expressly notified that the particular change is an article of the contract existing between both contractual parties. Should the customer not object to the change within a notice period of one (1) month from the announcement of the change, each party has the right to terminate the contract verifiably in writing within the valid due notice period for a termination.

Confidentiality: ecodaya considers offers to be confidential documents under its own copyright. It is not allowed to share any such documents in full or partly with any third parties.

Secrecy: Both parties ensure to maintain silence about business secrets and processes that have become known, even beyond the agreement. These are mainly business secrets, market/brand/product specific information, internal structures, any creations. This agreement does not replace a custom-tailored NDA, but can act as a baseline of trust.

Penalties: In the event of violations of the confidentiality obligation, a contractual penalty of € 10,000 per individual case may become due after legal determination; beyond this, further claims for damages remain reserved.

Consultation: ecodaya explicitly offers no substitute for a consultation, particularly not in the case of legal and/ or tax matters. ecodaya does not provide legal or tax advice.

1. Formulation of a Contract

Mandate: The contract between ecodaya and the customers comes into being when ecodaya receives the mandate from the customer by way of a contract, order confirmation or via email. ecodaya reserves the right in individual cases to decline the mandate at conclusion of the contractual relationship with good cause. Subsidiary agreements, verbal and any other non-permanent written mediums like chat applications cannot be accepted to form a contract. Any alterations or extensions require the written form as stated.

Offer: The respective offer by ecodaya is the basis for the conclusion of the contract, in which the range of services and ecodaya's compensation is established by a written mandate from the customer. Statutory regulations apply between business persons exclusively according to the law of the Federal Republic of Germany. The customer declares by accepting ecodaya's offer or by commissioning ecodaya in writing or by online form, that they are a business person acting on their own behalf according to the law. All offers are subject to change and nonbinding until a contract is formed.

Agreements: Should a person not agree with this provision, they are asked not to request any information through ecodaya, and in particular do not request any services through ecodaya.

2. Customer Obligations

Legality / law compliance: The customer is responsible to take all legal responsibility in matters of the services to be rendered, like legal and ethical business conduct, legally acquired or created data sets and files, youth/ child protection, copyrights, licenses, data protection, press rights, required consents, security and safety of customers systems and personnel by following laws and industry regulations.

Information/ data exchange: The customer is responsible in all cases for the correct entry of their data, which is required for the execution of the contract and/ or the use of services. The customer must inform ecodaya of any changes immediately and in writing. The customer is obligated to maintain the correctness of data saved by ecodaya and to ensure they are always contactable by post or digital means (email).

Permanent stored communication: Any form of temporary, mutable, or non-written communication medium cannot be accepted as means of legal obligation and

responsibility (e.g. verbal, use of chat apps with alterable or non-permanent history). Non-permanent or mutable communication and software must have an immutable and accessible history that neither party can edit (example: Ticket system change log, code versioning systems). Any other form of critical, legal and financial communication must be done in writing via email, created by either side, sent to an official address both parties previously agreed upon.

Expert support: For the proper execution of the contract, specialist personnel in existing customers' business matters and technologies has to be provided free of charge (e.g. via support requests and meetings).

Losses: Possible losses by the customer which result directly or indirectly from ecodaya being unable to reach them in writing will not be assumed by ecodaya. The obligation to research does not lie with ecodaya. If the customer does not inform ecodaya in writing of any changes to their contact data, written statements count as issued if they were sent to the last address to be recognized by ecodaya. This applies also and especially to deliveries via electronic mail.

Loss by ecodaya / Third party: In case of data loss, ecodaya cannot be held liable unless gross negligence is involved. In this case, data of the customer must be provided again free of charge.

Supply/ delays: The customer will supply ecodaya with all information and documents required for the provision of the requested or ordered service without delay. They will inform ecodaya of all processes which are of importance to the carrying out of the mandate, even if these circumstances only arise during the execution of the mandate. In case of delays during a project of more than 7 days, which are caused by missing feedback or missing supply of required materials by the customer, services rendered until then can be invoiced.

Provider: In cases of force majeure and external circumstances, deadlines for order fulfillment is extended to a reasonable extent. The customer grants a reasonable period of time for performance before they may withdraw from the contract or claim damages.

Non-utilization: The customer is obligated to utilize and compensate booked services according to the contract, only in the stated time and manner. Intentional or unintentional misuse like 'parking' service for future utilization, re-utilization for other purposes or project pauses / stops cannot be accepted. ecodaya reserves the right to charge for any losses, reserved and lost time as well as e.g. purchased resources that expire / become unavailable if not used.

Violations: The customer is obligated to check all information made available for the execution of the mandate (company names, product descriptions, logos, domain

names, etc.) for possible existing copyright, trademark right or other third-party rights issues. ecodaya expressly does not assume liability for the violation of another's rights.

3. Compensation for Services Rendered

Prices: All prices communicated are exclusive of value added tax. Estimates of our offers are valid for 7 days, unless stated otherwise in the offer.

Reimbursement: If nothing else has been agreed in writing with ecodaya there exists an entitlement by ecodaya to charge a fee for every service in advance. All ecodaya services, which are not expressly compensated by the agreed fee/ compensation/ reimbursement, will be calculated separately for the customer by ecodaya. All ecodaya expenditures are to be reimbursed by the customer. ecodaya reserved the right to change the compensation for services rendered if costs rise or fall after the signing of the contract, in particular due to price rises by third parties (e.g. increased Server/Hosting costs). Upon the request of the customer, ecodaya will present the reasons for the price fall/ rise. Payments are usually due in full, unless deposits, milestones and/or deliverables are agreed.

Compensation: The compensation for services rendered is due for payment by the customer immediately and without delay within 14 days from the date of invoice.

Payment delay/ default: In addition, ecodaya is entitled to cease all services immediately in the event of default. ecodaya also has the right to halt their services in part or in full after a singular reminder, at the latest 7 days after default of payment. ecodaya is at liberty to make use of the right of retention as regards business data and documents or other items handed over to them. Upon reimbursement of all demanded sums by the customer, ecodaya declares itself prepared to surrender all of these kept under the right of retention to the customer. Delayed payments can result in one (1) dunning letter to be sent by ecodaya. In case of payment default or recurring delays, ecodaya reserves the right to terminate the contract extraordinary.

Travel costs: Any such requirement can be subject to negotiation and custom agreements to be made on demand. Reimbursement can be requested as prepayment.

Project delays: In case of delays in the workflow of more than 7 days, which are caused by missing feedback or supply of required materials by the customer, services rendered until then can be invoiced. In addition, it should be noted that the planned time frame will be delayed as a result.

Deadlines: In case of delays or 'force majeure', deadline agreements will become ineffective. It might be neither possible to deliver on time, nor to solely shift the deadline by the delay, as safe assumption of a next possible delivery (Reason: Delays raise risk of any involved parties changing scope and ability of work, so that no guarantee of availability can be made on any side, including the customers side). A new binding agreement has to be established in such cases. In case of delays caused by the customer, any liability in this matter is precluded.

Objections: The customer should raise any objections to invoices from ecodaya immediately upon receipt of the invoice. Objections do not entitle the customer to demand back sums already paid. If ecodaya acknowledges the objection in part or in full, ecodaya will reimburse the overpaid amounts to the customer. If the customer arranges for a return debit note, the associated costs to ecodaya will be borne by the customer and this entitles ecodaya to terminate the whole contract with good cause.

Claims: The customer is only entitled to the right to set-off if their counterclaim can be legally established, and this is recognized by ecodaya. In addition, the customer is only authorized to exercise a right of retention as far as his counterclaim is based upon the same (individual) contractual relationship.

4. Service provider (ecodaya)

Pledge: ecodaya undertakes to deliver contractually agreed services completely, on time and compliant with contractual requirements (like NDAs), as well as general laws; unless any of this is impaired by external circumstances (such as force majeure, illness, disruption of communication channels). Services are rendered according to professional principles.

Completion: Partial executions of the contract shall be deemed acceptable to a reasonable extent. Any components that are not executed will not be charged. Examples: Change of scope and requirements within the same budget/ time possibility; 3rd party vendor being replaced with another or no viable alternative could render contractual completion impossible.

Result handover: Unless otherwise contractually agreed: Aggregated, industry-compliant standard formats will be delivered. There is no obligation for ecodaya to release raw data (e.g. working files of graphics, fonts, internal processes/documents such as quotes, calculations, files owned by ecodaya e.g. licensed stock materials). ecodaya reserves proprietary rights.

Subjective results: ecodaya grants a limited number of revisions as stated in the contract (e.g. revising a graphical design or modifying created texts). Not acceptable are new creations that are not or to a small extent based upon existing results,

unless stated in the contract. Services beyond this are subject to be charged according to the contract's applicable hourly rate.

Portfolio use: The customer grants ecodaya the use of the logo for portfolio and advertising purposes on the part of ecodaya. ecodaya is granted the production of references such as case studies to a certain extent, provided that no rights and trade secrets of the customer would be affected by this. The creation and publication of these materials does not require any further consent from the customer, unless otherwise agreed upon in advance. References can be linked at customers request to their own platforms and profiles, if these cause no harm or legal implications for ecodaya and provided data is functional.

5. External Services / Third Parties

Supply agents: ecodaya is entitled, at their own discretion, to carry out the submitted and/ or ordered services of the customer themselves, to avail themselves or the provision of services covered by the contract by appropriate third parties/ subcontractors and/ or to substitute such services (henceforth 'supply agent'). ecodaya will carefully select supply agents and see to it that these are in possession of the required specialist qualifications. ecodaya will only assume debt collection for services performed if in this case this service forms part of the contract. Refer to section 'AI based Technologies / Tools / Services'.

Claims: The customer must make any claims and justify these to ecodaya in writing at the latest within 14 days after the provision of the service or work. In the case of justified and timely claims, the customer is entitled

6. Liability / Services

Limitation: ecodaya is liable according to legal requirements only on the basis of a deliberate and imputable or gross negligence or if ecodaya has violated a fundamental contractual obligation at least through slight negligence. Otherwise, liability is precluded. ecodaya's liability is also precluded if the customer has not fulfilled their duty of notification. Should the customer be entitled to compensatory damages in place of services, this liability is limited to the compensation of foreseeable, typically occurring damages.

Claims: The customer must make any claims and justify these to ecodaya in writing at the latest within 14 days after the provision of the service or work. In the case of justified and timely claims, the customer is entitled to rectification of defects or an exchange of services by ecodaya. With a justified claim the shortcomings will be rectified within an appropriate amount of time, for which the customer should make all necessary measures possible for ecodaya to investigate and correct these defects. ecodaya is entitled to refuse to improve a service if this is impossible or if it

would involve a disproportionately high expenditure for ecodaya. The existence of deficiencies on the delivery date, the date of the deficiency was established and the timeliness of the receipt of the complaint must be proven by the customer beyond all doubt.

Closure: Payment of an invoice after handover and inspection period, e.g. at the end of the project, is understood as approval and acceptance by the customer. Herewith claims for complaints, rework or changes of the remuneration expire.

Legal and taxation issues: ecodaya does not provide any tax, legal or financial advice. The customer should therefore seek detailed advice from their trusted adviser before the implementation/ publishing of any service or work. This measure counts above all for advice on the complete content of these TOS.

Licences and permits: Submitted licences and permits require the approval of the appropriate legitimate authorities or facilities. Such decisions are not essentially predictable. ecodaya accepts no liability for the rejection of applied for licences / permits or for the consequences for the applicant or customer. In no case does the customer or applicant have a claim for reimbursement by ecodaya because the service offered by ecodaya is always of an 'intermediary' nature and not of fee on the basis of success. Demands, such as for damages among other things, cannot be entertained in such circumstances.

Mails: Liability for any mail delivery is expressly precluded. This includes postal mail and digital emails (both can get lost or tampered with by unknown 3rd parties). In case of damage, loss or peculiar discoveries, ecodaya is to be notified upon notice; to work out a mutually satisfying solution and potentially submitting mails again, should it be required and possible to do so.

Software / Services – 3rd parties: ecodaya makes no warranties or representations as to the functionality, cost, legality, security of any services or software provided by third parties or external service providers. This includes software created on behalf of the customer, which is usually created with third party components, services, APIs and other external components. The customer understands that third party providers may treat their software according to their own TOS and countries laws. These may change, limit or remove functionality, models or costs at any time. Changes to their products may also invalidate previous estimates of benefits, risk and cost analyses. The customer is responsible for compliance with changing legal requirements such as GDPR. It is not ecodaya's responsibility to inform the customer about legal implications and framework of software components.

Availability / Legislation: ecodaya cannot be held responsible for any service providers offerings and availability in the target market (legislation zone / country). This includes, but is not limited to, 'edge' technologies like AI and Web3/ Crypto or

general fields like data privacy and digital security. Legislation and service definition is under constant advancement and able to change. The consumer understands that certain fields and legislations are risky to make conclusive, future-proof decisions upon (e.g. a US-based service utilized in the EU is bound to oblige to at least two legislation zones). Any such changes that hinder either the ability of ecodaya to conduct a contract work, or the ability of the consumer to apply the rendered service in their own business, are not in liability of ecodaya.

Process: ecodaya selects software components according to contemporary quality and industry criteria for realistic, cost-effective fulfillment of the order, as this improves future viability and extensibility of the created product. The commissioning of fully custom-built, proprietary constructs without third parties is up to the customer before a contract is signed.

Service / Account opening: It is exacted of ecodaya that as soon as all information required for the execution of an account opening (e.g. hosting, domain registration, online tools, etc.) is available, a corresponding account opening application will be sent to the applicant or customer within 7 working days. Furthermore, ecodaya are obligated to forward the account opening application, once signed by the customer, on to the appropriate service provider within 7 working days. The services provided by ecodaya, or by external parties commissioned by ecodaya, end with the opening of the requested service account, or at the moment the service provider should decline the application, for whatever reason. ecodaya will always aim to stand as an intermediary during the account opening phase, assisting both sides, the applicant and the service provider. With the opening of the desired service account(s) for the customer, the performance obligation on the part of ecodaya comes to an end. ecodaya is no longer obligated to continue providing services to the service provider or to its customer which concern the service account which has successfully been procured by ecodaya. The customer, by signing their account application, commits themselves to an exclusive business and contractual relationship with the respective service provider, Entitlements to benefits, demands, support etc. are matters for the agreement between the service provider and the customer.

Service / Names: ecodaya cannot fundamentally guarantee the availability of a name (e.g. domain, service account/ profile). ecodaya is not liable for damages which result to the customer from not having their name or branch registered, account opening or similar circumstances. ecodaya is not obliged to check names for legality (e.g. specific meanings in foreign languages, obligations in foreign country legislations, potential conflicts with already registered identities/ brands).

Service / Design: Pixel-perfect implementation of layout specifications and exact display across different device types is not guaranteed. Deviations are possible for technical reasons (e.g. rounded sizes: 100 px instead of 99 px). Detailed supplements can be found in the offer.

Service / Development: The technical implementation is carried out according to the standards and software versions available at the time of quotation. Subsequent changes such as OS/ software updates, code updates/ merges, system migrations, change of service providers on the part of the customer are excluded. No warranty is made on future compatibility, functionality or security, if these are beyond ecodaya's control as it's the case with third parties (any software, libraries, display devices like browsers, OS, hardware). The time of delivery and project completion on the part of ecodaya are considered the last binding warranty period.

Customer classification: The customer is classified as IT-savvy. Factors such as advantages, risks and costs when using external vs. own software are assumed to be known. ecodaya will provide basic consulting specifically tailored to the requirements and offers to a reasonable extent, but will not be responsible for basic training of customers in digital systems, security, informing about technological changes and any significances that arise from this for the customers business cases.

7. AI based Technologies

Any AI technology, tool or service (e.g. CV, GAN, LLM, ML, NLP, RL) will henceforth be called 'AI'.

Use: Specific use cases and applications of any AI can be part of the contractual agreement.

Pledge: ecodaya pledges lawful, ethical use of any AI. Customers data will never be used without consent; except for the fulfilment of the contractual requirements.

Technological use: AI tools of any form might be used at the sole discretion of ecodaya. This requirement is to ensure industry and market competitiveness; accelerate rendering of services and emphasising quality standards. AI tools will be primarily used as supportive, quality enhancing measures; e.g. for research, problem solving, QM-processes, or to fulfil specific project tasks that make use of such technologies.

Customers and Partners:

Regarding contractual agreements made between the parties: In no way will any AI/ML/LLM, internal or external, be used in the following manner as described under 1) and 2).

1. Neither supplying nor requesting data such as:
 - User data without explicit consent (adults only)

- Childrens information below legal age (of any involved parties countries)
 - Customer communication (e.g. chats, emails, projects)
 - Financial information (e.g. credit card numbers)
 - Health information (e.g. conditions, medications)
 - Personally Identifiable Information (PII)
 - Unethical use in any manner (e.g. bias/manipulation of information, dark patterns in UX/ Marketing, healthcare, personal advice or psychology industries)
2. Depending on contractual agreements and project specific requirements, in terms of handling or creation:
- Algorithms, data intelligence, statistics
 - Business/trade secrets and confidential information
 - Data analysis, ML training on any data or intelligence
 - Generative text/media creation (due to licenses property/infringement violations)
 - User input handling (e.g. dynamic prompts, safety and audience must be of concern)

Legislation: AI technology providers might be located outside the EU and not always fall under EU legislation. The compliance of ecodaya will be according to EU legislation. To ensure 'legal compatibility', any AI based outside the EU will be used in limited ways for specific, noncritical tasks only. This might change or limit previous given statements of acceptable use.

Limitation of Liability: Customers: In no such case is ecodaya held to be liable for any contracted and delivered development, if the customer makes false statements in their service request towards ecodaya and manipulates and changes the services to fulfil different purposes.

Supply agents: ecodaya cannot be held responsible for 3rd parties or their own subcontractors compliance with laws and use of AI. Despite ecodaya's best intentions and review of business practices, certainty cannot be given. To ensure safety and compliance, supply agents might be assigned non-confidential, non-critical parts only.

8. Data Protection

Processing: ecodaya raises, saves and processes attained data within the framework of the contractual relationship and in accordance with the legal data protection regulations of Germany. Indeed on the one hand this is for the fulfilment of contractual obligation and on the other to comply with legal obligatory documentation requirements. Personal data will be raised by ecodaya within the context of the

purchase of services, work or any other offer. These data will be used exclusively for the purposes of executing the contract and for customer support, as well as for internal statistics. The customer gives their consent for this.

Transfer: Data will not be transferred to those outside of the company or to unauthorised third parties (except in the case of legal action by ecodaya against the customer or use of supply agents).

9. Right of Retention

Claims: ecodaya is, in cases of outstanding claims against the customer, fundamentally entitled to retain all services, correspondence, papers and documents, also in digital form, until such time as all claims are repaid in full.

10. Exclusion of consequential damages

ecodaya does not warrant that the service will perform without error or that it will run without immaterial interruption. ecodaya provides no warranty regarding, and will have no responsibility for, any claim arising out of: (a) a modification of the service made by anyone other than ecodaya, unless ecodaya approves such modification in writing; or (b) use of the service in combination with any operating system not authorised in the Documentation or with hardware or service specifically forbidden by the Documentation.

ecodaya shall: (a) pass through to Customer any warranty right it receives from a third-party provider of System components not authored or manufactured by ecodaya ("Third Party Components"); and (b) reasonably cooperate with Customer in enforcing such rights, at Customer's expense.

ecodaya provides no warranties, express or implied, with regard to third-party components, and ecodaya will not be liable for any failure of any third-party component to function as expected or intended.

In no event will ecodaya be liable for lost profits or loss of business or for any consequential, indirect, special, incidental or punitive Damages arising out of or related to this agreement.

11. Complaints / Dispute settlement

EU: The European Commission provides a platform for the online resolution of disputes (ODR), which is available at <https://ec.europa.eu/consumers/odr>

Email address: hello@ecodaya.de

Out-of-court dispute resolution: ecodaya is not obligated, nor is ecodaya willing, to participate in dispute settlement procedures before a consumer conciliation body.

12. Final Clauses

This contract is subject to the law of the Federal Republic of Germany.

Validity / Salvatoric clause: Should individual terms in these TOS and the contracts based upon them be ineffectual or completely impracticable or become ineffectual or impracticable after the signing of the contract, the validity of the TOS and contracts based upon them will remain unchanged. In place of the ineffectual or impracticable term, those effective and practical terms should come into force, whose effects come closest to the economic purpose that the customers had pursued with their ineffectual or impracticable condition. The preceding regulations are valid respectively in the case that the General Business Terms and/ or contracts based upon them are proven to be incomplete.

13. Court of Jurisdiction

Country: Here apply only the laws of the Federal Republic of Germany.

Taxes: Every business is advised to obtain the advice of personal financial, legal and tax advisors who are acquainted with their personal financial and tax circumstances. The customer alone is responsible for the fulfilment of all tax obligations.

Effective since: 2023-12-20