GENERAL TERMS AND CONDITIONS (GTC) OF FLAVE GMBH

PRELIMINARY PROVISIONS

These General Terms and Conditions (hereinafter referred to as the 'GTC') apply exclusively to clients of FLAVE GmbH and govern the conclusion, content and performance of contracts and agreements arising from quotations between FLAVE GmbH and its customers (hereinafter referred to as the 'Client').

FLAVE GmbH offers its Clients various IT-based services (software, rental of hardware and individual modules) for events and similar occasions.

Where the Client of FLAVE GmbH enters into contracts with other companies relating to the services of FLAVE GmbH, FLAVE GmbH is not a party to such contracts and therefore assumes no liability for contracts concluded between the Client and any such other companies.

Unless expressly agreed otherwise, FLAVE GmbH acts solely as a commercial intermediary on behalf of the Organiser for paid events and processes ticket sales on the Organiser's behalf. In such cases, the contractual relationship relating to the event and to the sale and purchase of tickets arises exclusively between the Organiser and the attendee. In such cases, FLAVE GmbH accepts no liability for the Organiser's insolvency or the cancellation of an event. FLAVE GmbH has no influence over any additional terms and conditions of the Organiser relating to the event organised by the latter. Taxes, fees, levies and copyright royalties (AKM and similar) arising from holding the event shall be borne by the Organiser.

1. APPLICATION OF THE GTC

(1) FLAVE GmbH provides its services exclusively on the basis of these General Terms and Conditions (GTC). They apply to all legal relationships between FLAVE GmbH and the Client, even if they are not expressly referred to. These GTC apply exclusively to relationships with business clients (B2B) as well as comparable businesses and legal entities (associations, private and public institutions) and form an integral part of every contract and business transaction between FLAVE GmbH and the Client.

(2) The version applicable at the time the contract is concluded shall be decisive. Any deviations from these GTC and any other supplementary agreements with the Client shall be effective only if confirmed in writing by FLAVE GmbH.

(3) Any terms and conditions of the Client shall apply only if expressly confirmed in writing by FLAVE GmbH in the individual case. FLAVE GmbH is not required to expressly object to the Client's terms and conditions.

(4) Amendments to the GTC shall be communicated to the Client and shall be deemed agreed if the Client does not object to the amended GTC in writing within 14 days; the Client shall be expressly informed in the notification of the consequences of remaining silent.

(5) Should individual provisions of these General Terms and Conditions be invalid, the binding effect of the remaining provisions and of contracts concluded on their basis shall remain unaffected. The invalid provision shall be replaced by a valid provision that comes as close as possible to its intent and purpose.

(6) Where designations referring to natural persons in this contract are used only in the masculine form, they refer equally to all genders. When referring to specific natural persons, the corresponding gender-specific form shall be used.

2. SCOPE OF SERVICES AND CONCLUSION OF CONTRACT

(1) The proposals and quotations of FLAVE GmbH are generally subject to change and non-binding unless FLAVE GmbH expressly confirms them as binding in the relevant document or accompanying correspondence. FLAVE GmbH may amend or withdraw non-binding proposals and/or quotations until it has accepted the relevant order in writing. A quotation expressly designated as binding by FLAVE GmbH shall remain valid for a maximum of 14 days from its date of issue, unless otherwise stated.

(2) The scope of the services to be provided is determined by the specification of services in the respective concluded contract or any order confirmation issued by FLAVE GmbH, as well as any briefing record (the 'Quotation Documents'). Subsequent changes to the scope of services require written confirmation by FLAVE GmbH. Within the framework specified by the Client, FLAVE GmbH shall have discretion as to how it performs the order. Quotations and cost estimates may not be passed on to third parties without the consent of FLAVE GmbH.

(3) All services and deliverables of FLAVE GmbH (in particular all preliminary designs, graphics, copies, colour proofs and electronic files) must be reviewed and approved by the Client within the specified deadlines. The Client shall be responsible for any delays resulting from late approval.

(4) FLAVE GmbH shall inform the Client without undue delay of any changes to or deviations from individual services that become necessary after conclusion of the contract. To the extent that such changes do not affect the agreed content of the contract, or affect it only insignificantly, they shall not give rise to any right of termination on the part of the Client.

3. ORDER PROCESSING AND CLIENT COOPERATION OBLIGATIONS

(1) The Client shall make all information and documents required for the provision of the services available to FLAVE GmbH in a timely and complete manner. The Client shall inform FLAVE GmbH of all circumstances relevant to performance of the order, including those that become known only during performance. The Client shall bear the costs arising where work has to be repeated or is delayed as a result of incorrect, incomplete or subsequently amended information supplied by the Client.

(2) The Client is also obliged to check all materials supplied for performance of the order (photos, logos, video and audio files, fonts, etc.) for any copyright, trademark, trade name or other third-party rights (rights clearance) and warrants that the materials are free of third-party rights that would prevent their use for the intended purpose. If a third party brings a claim against FLAVE GmbH due to such an infringement, the Client shall indemnify and hold FLAVE GmbH harmless; the Client shall compensate FLAVE GmbH for all disadvantages arising from such third-party claims, in particular the costs of reasonable legal representation and any damages resulting from such proceedings.

(3) Pursuant to Article 28 GDPR, the Client, as the controller under data protection law, is obliged to conclude a 'Data Processing Agreement' (hereinafter 'DPA') with FLAVE GmbH. The DPA specifies the subject matter, nature and purpose of the processing, the types of personal data, the categories of data subjects, and the rights and obligations of the contracting parties. If no individual DPA is concluded between the Client and FLAVE GmbH, the provisions of the standard DPA of FLAVE GmbH, available under 'DPA' on our website, shall be deemed expressly agreed.

(4) Prerequisites necessary for the provision of services by FLAVE GmbH, such as interface adjustments, configuration of the Client's mail and DNS servers, Internet access at on-site events, etc., must be provided by the Client unless expressly agreed otherwise in writing with FLAVE GmbH.

4. THIRD-PARTY SERVICES / ENGAGEMENT OF THIRD PARTIES

(1) FLAVE GmbH may, at its discretion, perform the services itself, engage qualified third parties as vicarious agents in providing the contractual services and/or subcontract such services ('Third-Party Services').

(2) Third parties engaged to provide Third-Party Services may be commissioned either in FLAVE GmbH's own name or on behalf of the Client. FLAVE GmbH shall select such third parties with due care and ensure that they have the required professional qualifications.

(3) The Client shall assume obligations towards third parties that have been identified to the Client by FLAVE GmbH and that extend beyond the term of the contract (e.g. server services or domain costs). This shall expressly also apply in the event of termination of the contract or early withdrawal from the agreement for good cause.

5. DATES AND DEADLINES FOR PERFORMANCE

(1) Unless expressly agreed to be binding, stated delivery or performance dates are approximate and non-binding. Binding deadlines must be recorded in writing and confirmed in writing by FLAVE GmbH.

(2) If delivery or performance by FLAVE GmbH is delayed for reasons beyond its control, such as force majeure or other unforeseeable events that cannot be prevented by reasonable means, its performance obligations shall be suspended for the duration and to the extent of the impediment, and the deadlines shall be extended accordingly. If such delays continue for more than two months, the Client and/or FLAVE GmbH shall be entitled to withdraw from the contract.

(3) If FLAVE GmbH is in default, the Client may withdraw from the contract only after granting FLAVE GmbH a reasonable additional period of at least 14 days in writing and that period has expired without remedy. Claims for damages by the Client arising from non-performance or delay are excluded, except where intent or gross negligence is proven.

6. EARLY TERMINATION

(1) FLAVE GmbH is entitled to terminate the contract with immediate effect for good cause. Good cause shall exist in particular where:

a. performance becomes impossible for reasons attributable to the Client or continues to be delayed by the Client despite an additional period of 14 days having been granted;

b. the Client repeatedly breaches material obligations under the contract, such as payment of an amount due or duties to cooperate, despite a written warning and an additional period of 14 days;

c. there are justified concerns regarding the Client's creditworthiness and, at the request of FLAVE GmbH, the Client neither makes advance payments nor provides adequate security before FLAVE GmbH performs its services.

(2) The Client is entitled to terminate the contract for good cause without granting any further additional period. Good cause shall exist in particular if FLAVE GmbH repeatedly breaches material provisions of the contract despite a written warning and a reasonable additional period of at least 14 days to remedy the breach.

7. FEES, PAYMENT AND RETENTION OF TITLE

(1) Unless otherwise agreed, FLAVE GmbH's entitlement to fees for each individual service arises as soon as that service has been performed. FLAVE GmbH is entitled to request advance payments to cover its expenses. For orders with an (annual) budget of EUR 50,000 or more, or for orders extending over a longer period, FLAVE GmbH is entitled to issue interim invoices or advance invoices or request payments on account.

(2) All fees are net fees and are subject to value added tax at the applicable statutory rate.

(3) All services provided by FLAVE GmbH that are not expressly included in the concluded contract or confirmed quotation shall be invoiced separately. In the absence of an agreement, FLAVE GmbH shall be entitled to fees at the customary market rate for the services provided and the granting of rights of use under copyright and trademark law.

(4) If the Client unilaterally changes, postpones or cancels an order already placed, the Client shall pay for services already performed and costs already incurred that cannot be cancelled. If performance does not take place for reasons attributable to the Client, FLAVE GmbH, provided it is ready and willing to perform, shall retain its entitlement to the agreed fee pursuant to Section 1168(1) of the Austrian Civil Code (ABGB). Savings required to be credited by law, as well as income earned elsewhere or deliberately foregone, shall be taken into account. The Client acknowledges that FLAVE GmbH makes binding reservations of personnel, technical equipment and other capacities and may therefore decline other orders. The release of such capacities does not automatically mean that they can be used profitably elsewhere. The Client shall bear justified claims of subcontractors engaged for the order, insofar as these are not already covered by the fee.

(5) Fees are payable immediately upon receipt of the invoice, without deduction, unless specific payment terms have been agreed in writing in the individual case. This also applies to the reimbursement of all agreed cash expenses and other expenditure.

(6) If the Client is late in making payment, the statutory default interest rate applicable to business transactions shall apply. In the event of payment default by the Client, FLAVE GmbH may declare immediately due all amounts for services and partial services already performed under other contracts concluded with the Client.

(7) Furthermore, FLAVE GmbH is not obliged to provide any further services until the outstanding amount has been settled (right of retention). The obligation to pay fees shall remain unaffected.

(8) Where payment by instalments has been agreed, FLAVE GmbH reserves the right, in the event of late payment of instalments or ancillary charges, to demand immediate payment of the entire outstanding debt (acceleration of maturity).

(9) The Client is not entitled to set off its own claims against claims of FLAVE GmbH and/or to assign such claims to third parties.

(10) Retention of title: Goods agreed under the order and supplied by FLAVE GmbH shall remain the property of FLAVE GmbH until the fee, including all ancillary obligations, has been paid in full.

(11) In view of current price developments in the energy sector, we reserve the right to adjust our prices for server services (hosting, storage, backup, streaming) accordingly if our suppliers increase their prices for these services by 10% or more.

8. OWNERSHIP, RIGHTS OF USE AND COPYRIGHT

(1) Rental equipment (such as smart devices and other IT equipment): Any rental equipment agreed within the scope of services, including all components, shall remain the property of the lessor. Equipment that is not returned or is damaged shall be charged to the Client as lessee at its replacement or repair cost. By signing the order, or at the latest upon receipt of the equipment, the Client confirms that it has inspected the equipment and found it to be free from defects. Defects reported subsequently cannot be accepted by FLAVE GmbH.

(2) Quotations, concepts, cost estimates and plans may not be passed on to third parties without the consent of FLAVE GmbH.

(3) All ownership and other rights in the software made available to the Client by FLAVE GmbH shall remain with FLAVE GmbH. Unless otherwise agreed, FLAVE GmbH merely grants permission to use the software within the contractually confirmed scope of services. Any use beyond the agreed scope of services and rights of use requires the consent of FLAVE GmbH. The contractual partner is not entitled to use the software, in any form whatsoever, beyond the agreed scope and period of use.

(4) Duties of cooperation and abstention: The Client shall ensure that systems and equipment in its possession that are used to access the services of FLAVE GmbH are protected against unauthorised access and manipulation. Unless expressly permitted under these terms or by applicable law, the Client shall refrain from using software or other components included in FLAVE GmbH's scope of services for purposes other than those agreed with FLAVE GmbH, including the following actions:

- copying, modifying, translating or reproducing them;
- renting, leasing or otherwise sharing them with third parties;
- modifying or disassembling the software in whole or in part in any form, or creating derivative works;
- extracting source code or incorporating it into its own works or other commercial offerings;
- removing or suppressing marks and notices identifying FLAVE GmbH as the rights holder.

9. IDENTIFICATION AND REFERENCES

(1) FLAVE GmbH is entitled to identify FLAVE GmbH and, where applicable, the author on all advertising materials and in all advertising measures, without the Client being entitled to remuneration for such identification.

(2) Unless the Client revokes this right in writing at any time by sending an email to office@flave.at, FLAVE GmbH is entitled to refer to an existing or former business relationship with the Client on its own advertising media and, in particular, on its

website, using the Client's name and company logo (reference notice).

10. WARRANTY AND FAILURE TO PERFORM

(1) FLAVE GmbH undertakes to provide the services in accordance with the contract. If FLAVE GmbH does not provide the services at the agreed times or provides them defectively, i.e. with material deviations from the agreed quality standards, FLAVE GmbH shall promptly commence remedying the defects and shall properly perform its services without defects within a reasonable period, at its discretion by repeating the affected services or carrying out the necessary remedial work.

(2) If defects are attributable to materials supplied or cooperation provided by the Client, or to a breach of the Client's obligations set out in Clause 3, any obligation to remedy the defects free of charge is excluded. In such cases, the services provided by FLAVE GmbH shall be deemed to have been performed in accordance with the contract despite possible restrictions. At the Client's request, FLAVE GmbH shall remedy the defect for a fee.

(3) The Client shall support FLAVE GmbH in remedying defects and provide all necessary information. The Client must report defects to FLAVE GmbH without undue delay in writing or by email. The Client shall bear any additional expense incurred in remedying defects due to late notification.

(4) In the event of a justified and timely notification of defects, the Client shall be entitled to rectification or replacement of the delivery/service by FLAVE GmbH. FLAVE GmbH shall remedy the defects within a reasonable period, and the Client shall permit all measures necessary for investigation and rectification. FLAVE GmbH is entitled to refuse rectification if it is impossible or would involve disproportionately high expenditure for FLAVE GmbH. In such cases, the Client shall have the statutory rights to rescission or price reduction. Where rectification is performed, the Client shall arrange for the defective (physical) item to be sent at its own expense.

(5) The Client is also responsible for checking the legal permissibility of data and materials it provides for performance of the order (photos, logos, video and audio files, fonts, etc.), in particular under competition, trademark, copyright and administrative law. FLAVE GmbH is obliged to carry out only a cursory review of legal permissibility. FLAVE GmbH shall not be liable for the legal permissibility of content specified or approved by the Client in cases of slight negligence or after having fulfilled any applicable duty to warn the Client.

(6) The warranty period is six months from delivery/performance. The Client is not entitled to withhold payments on account of complaints concerning defects. The presumption rule under Section 924 ABGB is excluded.

11. LIABILITY

(1) In cases of slight negligence, liability of FLAVE GmbH and its employees, contractors or other vicarious agents ('Personnel') for damage to the Client's property or financial loss is excluded, whether such damage or loss is direct or indirect, lost profits or consequential damage, data loss, damage caused by delay, impossibility of performance, breach of a contractual obligation, fault in the conclusion of the contract, or defective or incomplete performance. The injured party must prove the existence of gross negligence. Where liability of FLAVE GmbH is excluded or limited, this shall also apply to the personal liability of its Personnel.

(2) Claims for damages shall become time-barred in accordance with the statutory provisions, but in any event no later than one year after the claimant becomes aware of the damage and the person responsible. The amount of any claim for damages shall be limited to the net order value.

(3) If FLAVE GmbH provides parts of the agreed services with the assistance of third parties and warranty and/or liability claims arise against those third parties in this connection, FLAVE GmbH shall assign these claims to the Client. In such cases, the Client shall primarily pursue its claims against those third parties.

(4) To the extent and for as long as obligations cannot be performed on time or properly as a result of force majeure, such as war, terrorism, natural disasters, fire, strikes, lockouts, embargoes, government intervention, failure of the power supply or means of transport, failure of telecommunications networks or data lines, changes in legislation affecting the services after conclusion of the contract, or other unavailability of products, this shall not constitute a breach of contract.

(5) Any liability of FLAVE GmbH for claims brought against it on the basis of content and data supplied by the Client (see Clauses 3(2) and 10(5)) is expressly excluded if FLAVE GmbH has complied with its duty to warn the Client or if the need to issue such a warning was not apparent to FLAVE GmbH, slight negligence being immaterial. In particular, FLAVE GmbH shall not be liable for litigation costs, the Client's own legal fees, the costs of publishing judgments, or any claims for damages or other third-party claims; in such cases, the Client shall indemnify and hold FLAVE GmbH harmless.

12. COMMUNICATION AND DATA PROTECTION

(1) The Client consents to the automated collection, storage and processing of its personal data, namely name/company, occupation, date of birth, company register number, powers of representation, contact person, business address and other addresses of the Client, telephone number, fax number, email address, bank details, credit card details and VAT identification number, for the purposes of performing the contract and providing services to the Client, as well as for FLAVE GmbH's own advertising purposes, such as sending quotations, advertising brochures and newsletters (in paper and electronic form), and for referring to the existing or former business relationship with the Client (reference notice).

(2) The Client agrees to receive electronic mail for advertising purposes until such consent is revoked.

(3) This consent may be revoked at any time in writing by email, fax or letter to the contact details specified in the header of these GTC.

(4) All data shall be subject to the agreed or statutory duties of confidentiality and the protection of personal data. Apart from disclosure to recipients customary in business, such as banks, tax advisers and lawyers, the Client's data shall only be disclosed on a legal basis or in consultation with the Client.

13. GOVERNING LAW

(1) The contract and all mutual rights, obligations and claims arising from it between FLAVE GmbH and the Client shall be governed by the substantive laws of Austria, excluding its conflict-of-law rules and excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

14. PLACE OF PERFORMANCE AND JURISDICTION

(1) The place of performance shall be the registered office of FLAVE GmbH. In the event of shipment, risk shall pass to the Client as soon as FLAVE GmbH hands the goods over to the carrier selected by FLAVE GmbH.

(2) For all disputes arising between FLAVE GmbH and the Client in connection with this contractual relationship, the court with subject-matter jurisdiction at the registered office of FLAVE GmbH shall have jurisdiction. Notwithstanding the foregoing, FLAVE GmbH shall also be entitled to bring proceedings against the Client at the Client's general place of jurisdiction.