

GENERAL TERMS AND CONDITIONS OF BUSINESS OF FLAVE GMBH

INTRODUCTORY PROVISIONS:

These General Terms and Conditions of Business (hereinafter referred to as GTC) shall apply exclusively to Clients of FLAVE GMBH and shall govern the conclusion, content and processing of contracts and the conclusion of offers between FLAVE GMBH and its Clients, hereinafter referred to as Clients.

FLAVE GMBH offers its Clients various IT-based services (software, rental of hardware and sub-modules) for events and the like.

Insofar as the Client of FLAVE GMBH concludes contracts with other companies via the services of FLAVE GMBH, FLAVE GMBH is not involved in this and is therefore not liable for the contracts concluded between the Client and any other companies.

In the case of events for which a ticket fee is charged, FLAVE GMBH acts exclusively as a commercial intermediary on behalf of the organiser and processes the purchase contract for its IT service on the organiser's behalf. The contractual relationship in relation to the event or the sale and purchase of tickets is therefore exclusively between the organiser and the participant. FLAVE GMBH shall not be liable for any insolvency or cancellation of an event. FLAVE GMBH has no influence on any additional terms and conditions of the organiser with regard to the event held by him. Taxes, fees, charges and copyright fees (AKM etc.) arising from the organisation of the event shall be borne by the organiser.

1. VALIDITY OF THE GTC

- (1) FLAVE GMBH provides its services exclusively on the basis of the following General Terms and Conditions of Business (GTC). These shall apply to all legal relationships between FLAVE GMBH and the Client, even if no express reference is made to them. The GTC are exclusively applicable to legal relationships with entrepreneurs, i.e. B2B as well as comparable companies 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 valid at the time of the conclusion of the contract shall be authoritative in each case. Deviations from these as well as other supplementary agreements with the Client shall only be effective if they are confirmed in writing by FLAVE GMBH.
- (3) Any terms and conditions of the Client shall only be valid if they have been expressly confirmed in writing by FLAVE GMBH in the individual case. An express objection to the Client's general terms and conditions by FLAVE GMBH is not required.

- (4) Amendments to the GTC shall be notified to the Client and shall be deemed agreed if the Client does not object to the amended GTC in writing within 14 days; the significance of silence shall be expressly pointed out to the Client in the notification.
- (5) Should individual provisions of these General Terms and Conditions be invalid, this shall not affect the binding nature of the remaining provisions and the contracts concluded on the basis thereof. The invalid provision shall be replaced by a valid provision that comes as close as possible to the meaning and purpose.
- (6) Insofar as in this contract terms referring to natural persons are only stated in the masculine form, they refer to all genders in the same way. When applying the designation to specific natural persons, the respective gender-specific form shall be used.

2. SCOPE OF SERVICES AND CONCLUSION OF CONTRACT

- (1) The proposals and offers of FLAVE GMBH are in principle subject to change and non-binding, unless they are expressly confirmed as binding by FLAVE GMBH in the respective document or the associated correspondence. FLAVE GMBH may amend or withdraw non-binding proposals and/or offers until written acceptance of the corresponding order by FLAVE GMBH. An offer expressly submitted as binding by FLAVE GMBH shall be valid for up to a maximum of 14 days from the date of submission, unless otherwise stated.
- (2) The scope of the services to be provided results from the service description in the respective concluded contract or any order confirmation by FLAVE GMBH as well as any briefing protocol ("offer documents"). Subsequent changes to the content of the service shall require written confirmation by FLAVE GMBH. Within the framework specified by the Client, FLAVE GMBH shall have freedom of design in the fulfilment of the order. Offers and cost estimates may not be passed on to third parties without the consent of FLAVE GMBH.
- (3) All services provided by FLAVE GMBH (in particular all preliminary drafts, graphics, copies, colour prints and electronic files) are to be checked by the Client and released by him in due time. The Client shall be responsible for any delays resulting from late approval.
- (4) FLAVE GMBH shall inform the Client immediately of any changes or deviations in individual services that become necessary after conclusion of the contract. Insofar as the agreed content of the contract is not or only insignificantly affected by the changes, these deviations shall not constitute a right of termination for the Client.

3. ORDER PROCESSING AND COOPERATION OBLIGATIONS OF THE CLIENT

- (1) The Client shall make available to FLAVE GMBH in a timely and complete manner all information and documents that are necessary for the performance of the service. He shall inform FLAVE GMBH of all circumstances which are of importance for the execution of the order, even if these only become known during the execution of the order. The Client shall bear the expense incurred by the fact that work has to be repeated or is delayed by FLAVE GMBH as a result of his incorrect, incomplete or subsequently changed information.
- (2) Furthermore, the Client shall be obliged to check the documents provided for the execution of the order (photos, logos, video and audio files, fonts, etc.) for any copyrights, trademark rights, labelling rights or other rights of third parties (rights clearing) and shall guarantee that the documents are free of third-party rights and can therefore be used for the intended purpose. If a claim is made against FLAVE GMBH by a third party due to such an infringement of rights, the Client shall indemnify and hold FLAVE GMBH harmless; the Client shall compensate FLAVE GMBH for all disadvantages incurred by FLAVE GMBH as a result of a claim being made against it by a third party, in particular the costs of appropriate legal representation and any damages resulting from such a claim.
- (3) **Pursuant to Art. 28 DSGVO, the Client as the data protection controller is obliged to conclude a so-called "data processing agreement" (hereinafter DPA) with FLAVE GMBH. This agreement defines the object of the processing, the type and purpose of the processing, the type of personal data, the categories of data subjects as well as the obligations and rights 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, which can be viewed under DPA on our homepage, shall be expressly deemed agreed.**
- (4) Requirements necessary for the provision of services by FLAVE, such as interface adaptation, configuration of the Client's mail and DNS server, internet at on-site events, etc., must be provided by the Client, unless expressly agreed otherwise in writing with FLAVE GMBH.

4. EXTERNAL SERVICES / COMMISSIONING OF THIRD PARTIES

- (1) FLAVE GMBH shall be entitled, at its own discretion, to perform the service itself, to make use of expert third parties as vicarious agents in the performance of services that are the subject matter of the contract and/or to substitute such services ("third-party service").
- (2) The commissioning of third parties within the scope of an external service shall be carried out either in its own name or in the name of the Client. FLAVE GMBH shall carefully select this third party and ensure that it has the necessary professional qualifications.
- (3) In the case of obligations towards third parties named to the Client by FLAVE and which extend beyond the term of

the contract (such as server performance, domain costs), the Client shall step in. This shall also expressly apply in the event of termination of the contract/early withdrawal from the agreement for good cause.

5. DATES AND DEADLINES FOR SERVICE PROVISION

- (1) Unless expressly agreed as binding, stated delivery or performance deadlines are only approximate and non-binding. Binding agreements on deadlines must be recorded in writing and confirmed in writing by FLAVE GMBH.
- (2) If the delivery/service of FLAVE GMBH is delayed for reasons for which FLAVE GMBH is not responsible, such as events of force majeure and other unforeseeable events that cannot be averted by reasonable means, the obligations to perform shall be suspended for the duration and to the extent of the hindrance and the deadlines shall be extended accordingly. If such delays last 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 only withdraw from the contract after he has set FLAVE GMBH a reasonable period of at least 14 days in writing and this period has expired without result. Claims for damages by the Client due to non-fulfilment or delay shall be excluded, except in the case of proof of intent or gross negligence.

6. EARLY TERMINATION

- (1) FLAVE GMBH is entitled to terminate the contract with immediate effect for important reasons. An important reason exists in particular if
 - a. the performance of the service becomes impossible for reasons for which the Client is responsible or is further delayed on the part of the Client despite the setting of a grace period of 14 days.
 - b. the Client continues to breach material obligations under this contract, such as payment of a due amount or duties to cooperate, despite a written warning with a grace period of 14 days.
 - c. there are justified doubts regarding the creditworthiness of the Client and the Client does not make advance payments at the request of FLAVE GMBH nor does he provide suitable security before FLAVE GMBH has performed.
- (2) The Client shall be entitled to terminate the contract for good cause without setting a further grace period. An important reason shall be deemed to exist in particular if FLAVE GMBH continues to violate essential provisions of this contract despite a written warning with a reasonable grace period of at least 14 days to remedy the breach of contract.

7. FEE, PAYMENT, RETENTION OF OWNERSHIP

- (1) Unless otherwise agreed, the fee claim of FLAVE GMBH shall arise for each individual service as soon as it has been rendered. FLAVE GMBH shall be entitled to demand advance

payments to cover its expenses. From an order volume with an (annual) budget of € 50,000 or those extending over a longer period of time, FLAVE GMBH shall be entitled to issue interim or advance invoices or to call for payments on account.

- (2) The fee shall be understood as a net fee plus VAT at the statutory rate.
- (3) All services of FLAVE GMBH which are not expressly included in the concluded contract/confirmed offer shall be invoiced separately by FLAVE GMBH. In such cases, in the absence of an agreement, FLAVE GMBH shall be entitled to a fee in the amount customary in the market for the services rendered and the transfer of the rights of use under copyright and trademark law.
- (4) If the Client unilaterally changes or discontinues work commissioned without the involvement of FLAVE GMBH - irrespective of the ongoing other support provided by FLAVE GMBH - the Client shall compensate FLAVE GMBH for the services provided up to that point in accordance with the fee agreement and reimburse all costs incurred. Unless the termination is due to a grossly negligent or intentional breach of duty on the part of FLAVE GMBH, the Client shall furthermore reimburse FLAVE GMBH for the entire fee agreed for this order (commission), whereby the imputation remuneration of § 1168 ABGB shall be excluded. Furthermore, FLAVE GMBH shall be indemnified and held harmless in this case with regard to any claims by third parties, in particular by subcontractors of FLAVE GMBH involved in the order.
- (5) The fee is due for payment immediately upon receipt of the invoice and without deduction, unless special terms of payment are agreed in writing in individual cases. This also applies to the charging of all agreed cash expenses and other expenses.
- (6) In the event of default in payment on the part of the Client, the statutory default interest shall apply at the rate applicable to business transactions. In the event of default in payment on the part of the Client, FLAVE GMBH shall be entitled to demand immediate payment of all services and partial services rendered within the scope of other contracts concluded with the Client.
- (7) Furthermore, FLAVE GMBH is not obliged to provide further services until the outstanding amount has been settled (right of retention). The obligation to pay the fee remains unaffected by this.
- (8) If payment in instalments has been agreed, FLAVE GMBH reserves the right to demand immediate payment of the entire outstanding debt in the event that partial amounts or ancillary claims are not paid on time (forward loss).
- (9) The Client shall not be entitled to set off its own claims against claims of FLAVE GMBH and/or to assign them to any third parties.
- (10) Retention of title: Goods agreed within the scope of the order and delivered by FLAVE GMBH shall remain the property of FLAVE GMBH until full payment of the remuneration including all ancillary liabilities.
- (11) In view of the current price developments in the energy sector, we reserve the right to adjust our prices for server services (hosting, storage, backup, streaming)**

accordingly in the event of price increases of 10% or more on the part of our contractors.

8. PROPERTY RIGHTS, RIGHTS OF USE AND COPYRIGHT

- (1) Rental equipment such as smart devices and other IT equipment): Any rental equipment with all components agreed in the scope of services shall remain the property of the rental company. Equipment that is not returned or damaged shall be invoiced to the Client as the lessee at the replacement price or at the restoration price. The Client confirms by signing the order or at the latest on taking over that he has inspected the equipment and declared it to be in perfect condition. Subsequent defects cannot be recognised by FLAVE GMBH.
- (2) Offers, concepts, cost estimates and plans may not be passed on to third parties without the consent of FLAVE GMBH.
- (3) All property rights and other rights to the software made available to the Client by FLAVE GMBH shall remain with FLAVE GMBH. Unless otherwise agreed, FLAVE GMBH shall only transfer a licence of use within the scope of the contractually confirmed scope of services. Uses that go beyond the agreed scope of performance and use shall require the consent of FLAVE GMBH. The contractual partner shall not be entitled to use them - in any form whatsoever - beyond the agreed scope of performance and period of time.
- (4) Obligation to cooperate and refrain: The Client shall ensure that systems and devices in its possession that are used for the use of the services of FLAVE GMBH are protected against unauthorised access and manipulations.

Unless expressly provided for in these terms and conditions or permitted by applicable law, the Client shall refrain from using the software or other components included in the scope of services of FLAVE GMBH for purposes other than those agreed with FLAVE GMBH.

- to copy, modify, translate or reproduce
- to rent, lease or otherwise share with third parties
- modify, disassemble or create derivative works of the Software, in whole or in part, in any manner whatsoever
- extract the source code, include it in your own works or other commercial offers
- remove or suppress marks and references to the legitimacy of FLAVE GMBH

9. LABELLING

- (1) FLAVE GMBH shall be entitled to refer to FLAVE GMBH and, if applicable, to the originator on all advertising media and in all advertising measures, without the Client being entitled to any claim to remuneration for this.
- (2) FLAVE GMBH shall be entitled - subject to the written revocation of the Client sent at any time to the e-mail address office@flave.at - to refer to the existing or former business relationship with the Client on its own advertising media and

in particular on its Internet website with the name and company logo (reference).

10. WARRANTY, SERVICE DISRUPTION

- (1) FLAVE GMBH undertakes to provide the services in accordance with the contract. If FLAVE GMBH does not provide the services at the scheduled times or only provides them in a defective manner, i.e. with significant deviations from the agreed quality standards, it shall be obliged to start remedying the defect immediately and to provide its services properly and free of defects within a reasonable period of time by repeating the affected services or carrying out necessary rectification work at its discretion.
- (2) If the defectiveness is due to the provision of materials or cooperation by the Client or due to a breach of the Client's obligations listed in item 3, any obligation to remedy the defect free of charge shall be excluded. In such cases, the services provided by FLAVE GMBH shall nevertheless be deemed to have been provided in accordance with the contract despite possible restrictions. At the request of the Client, FLAVE GMBH shall undertake to remedy the defect at the Client's expense.
- (3) The Client shall support FLAVE GMBH in the elimination of defects and provide all necessary information. Defects that have occurred are to be reported by the Client to FLAVE GMBH immediately in writing. The Client shall bear the additional expense incurred in the elimination of defects due to a delayed report.
- (4) In the event of justified and timely notification of defects, the Client shall be entitled to improvement or replacement of the delivery/service by FLAVE GMBH. FLAVE GMBH shall remedy the defects within a reasonable period of time, whereby the Client shall enable FLAVE GMBH to take all measures necessary to examine and remedy the defects. FLAVE GMBH shall be entitled to refuse to improve the performance if this is impossible or involves a disproportionately high effort for FLAVE GMBH. In this case, the Client shall be entitled to the statutory rights of conversion or reduction. In the event of improvement, it shall be incumbent on the Client to carry out the transfer of the defective (physical) item at its own expense.
- (5) The client shall also be responsible for checking the data and documents (photos, logos, video and audio files, fonts etc.) provided by him for the execution of the order for their legal admissibility, in particular under competition, trademark, copyright and administrative law. FLAVE GmbH is only obliged to carry out a rough check of legal admissibility. FLAVE GmbH shall not be liable in the event of slight negligence or after fulfilling any duty to warn the Client for the legal admissibility of content if this has been specified or approved by the Client.
- (6) The warranty period shall be six months from delivery/service. The right of recourse against FLAVE GMBH pursuant to § 933b para. 1 ABGB shall expire one year after delivery/service. The Client shall not be entitled to withhold payments due to defects. The presumption provision of § 924 ABGB is excluded.

11. LIABILITY

- (1) In cases of slight negligence, liability of FLAVE GMBH and those of its employees, contractors or other vicarious agents ("people") for material or financial damage to the Client shall be excluded, irrespective of whether the damage is direct or indirect, loss of profit or consequential damage caused by a defect, loss of data, damage due to delay, impossibility, positive breach of contract, culpa in contrahendo, defective or incomplete performance. The existence of gross negligence must be proven by the injured party. Insofar as the liability of FLAVE GMBH is excluded or limited, this shall also apply to the personal liability of its "people".
- (2) Claims for damages shall become statute-barred in accordance with the statutory provisions, but no later than the expiry of one year from knowledge of the damage and the damaging party. The amount of claims for damages shall be limited to the net order value.
- (3) If FLAVE GMBH provides parts of the agreed service with the assistance of third parties and warranty and/or liability claims arise against these third parties in this context, FLAVE GMBH shall assign these claims to the Client. In this case, the Client shall give priority to these third parties.
- (4) Insofar as and as long as obligations cannot be fulfilled on time or properly as a result of force majeure, such as war, terrorism, natural disasters, fire, strike, lockout, embargo, sovereign intervention, failure of the power supply, failure of means of transport, failure of telecommunication networks or data lines, changes in the law affecting the services after conclusion of the contract or other non-availability of products, this shall not constitute a breach of contract.
- (5) Any liability of FLAVE GMBH for claims made against FLAVE GMBH on the basis of the content and data provided by the Client (see point 3.2 and point 10.5) is expressly excluded if FLAVE GMBH has fulfilled its duty to inform the Client or if such a duty was not recognisable to it, whereby slight negligence shall not be detrimental. In particular, FLAVE GMBH shall not be liable for legal costs, the Client's own legal fees or the costs of publishing judgements, nor for any claims for damages or other claims by third parties; the Client shall indemnify and hold FLAVE GMBH harmless in such cases.

12. CONTACT, DATA PROTECTION

- (1) **The Client agrees that his personal data, namely name/company, profession, date of birth, commercial register number, powers of representation, contact person, business address and other addresses of the Client, telephone number, fax number, e-mail address, bank details, credit card details, VAT identification number) may be used for the purpose of fulfilling the contract and supporting the Client as well as for own advertising purposes, e.g. for sending offers, advertising brochures and newsletters (in paper and electronic form). The VAT identification number (USt-IdNr.) may be used for the purpose of fulfilling the contract and**

supporting the client as well as for own advertising purposes, e.g. for sending offers, advertising brochures and newsletters (in paper and electronic form), as well as for indicating the existing or previous business relationship with the client (reference).

- (2) The Client agrees to be sent electronic mail for advertising purposes until revoked.
- (3) This consent may be revoked at any time in writing by e-mail, fax or letter to the contact details given at the top of the GTC.
- (4) All data are subject to the agreed or legal obligation of confidentiality and the protection of personal data. A transfer of the Client's data, apart from the transfer to typical economic recipients such as banks, tax advisors, lawyers, only takes place on a legal basis or in agreement with the Client.

13. APPLICABLE LAW

- (1) The contract and all mutual rights and obligations derived therefrom as well as claims between FLAVE GMBH and the Client shall be governed by Austrian substantive law, excluding its conflict of law rules and excluding the UN Convention on Contracts for the International Sale of Goods.

14. PLACE OF PERFORMANCE AND JURISDICTION

- (1) The place of performance is the registered office of FLAVE GMBH. In the case of shipment, the risk shall pass to the customer as soon as FLAVE GMBH has handed over the goods to the carrier it has chosen.
- (2) The court of jurisdiction for all legal disputes arising between FLAVE GMBH and the Client in connection with this contractual relationship shall be the court with subject-matter jurisdiction for the registered office of FLAVE GMBH. Notwithstanding this, FLAVE GMBH shall be entitled to sue the Client at his general place of jurisdiction.