

General Terms and Conditions of BLUE AVENIR GmbH

preamble

BLUE AVENIR GmbH, Prinzenallee 1 in 40549 Düsseldorf (hereinafter "BLUE AVENIR") offers various services and consulting services relating to intelligent software solutions / Software as a Service ("SaaS").

The use of the services and performance of BLUE AVENIR is only permitted for the purpose intended and described in these general terms and conditions, the offer/order and/or the description of services. Any non-intended use or exploitation is not permitted.

§ 1 scope

1. These General Terms and Conditions (hereinafter "BLUE AVENIR T&Cs") apply to all business relationships between the customer and BLUE AVENIR. These BLUE AVENIR terms and conditions also apply as a framework agreement for future business relationships with the customer, without the need for renewed reference in individual cases. General terms and conditions of customers, partners or other third parties do not apply even if BLUE AVENIR does not expressly object to them and/or provides its services without objection. This also applies if BLUE AVENIR has expressly pointed out such provisions by the customer.
2. The service descriptions applicable to the respective products are part of these BLUE AVENIR GTC. Depending on which product or which services were ordered, the separately transmitted service descriptions apply in addition to these BLUE AVENIR GTC.
3. Furthermore, depending on which product or which services have been ordered, separate license, service and support agreements must be concluded.
4. Separate conditions may apply to offers, services, individual projects, campaigns and other services, in particular project services and advice, that go beyond this.

§ 2 Scope of services , rights and obligations of BLUE AVENIR

1. BLUE AVENIR provides its services, content, products and services ("Services") and ensures availability and smooth operation on the Internet.

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2. Unless otherwise indicated, the services mentioned are provided and published by BLUE AVENIR. Such content, which is made accessible by third parties - in particular customers - is information from the respective originator, author or distributor and not from BLUE AVENIR. BLUE AVENIR is therefore not responsible for the accuracy or reliability of this content.
3. The services described in the context of the offer for the use of a service merely represent an invitation to submit an offer to conclude a contract. In order to conclude a contract, BLUE AVENIR must send a prepared offer/order to the customer and confirm this by the customer. If BLUE AVENIR makes the customer a binding offer by sending an offer form, the customer can only accept this offer within a period of 20 working days from the sending of the offer by returning a signed confirmation of the offer. Access to BLUE AVENIR is decisive. A business contract is then concluded on the basis of the applicable General Terms and Conditions. If BLUE AVENIR does not receive the signed confirmation of the offer until after 20 days of sending the offer to the customer, the late acceptance is considered a new offer and requires acceptance by BLUE AVENIR.
4. BLUE AVENIR is not obliged to conclude contracts and can refuse to conclude contracts at any time without giving reasons. Subsequent changes and additions to the contracts require written confirmation from BLUE AVENIR.
5. BLUE AVENIR expressly reserves the right to reject orders from BLUE AVENIR's competitors without giving reasons. BLUE AVENIR also reserves the right to subsequently exclude customers from using the services, individual services or functions if there are indications that the customer is misusing individual services and/or services or using them in a way that is suitable endangering the good reputation of BLUE AVENIR. BLUE AVENIR reserves the right to exclude a customer, in particular in the event that the latter breaches obligations arising from the contractual relationship between the parties or damages other customers and partners of BLUE AVENIR. If BLUE AVENIR rejects a customer's order, BLUE AVENIR will inform the customer immediately.
6. The customer must point out obvious errors (e.g. spelling and calculation errors) and incompleteness in the offer for the purpose of correction or completion before acceptance; otherwise the contract is deemed not to have been concluded.
7. Delivery dates from BLUE AVENIR are only binding if this has been expressly agreed in writing in individual cases.
8. BLUE AVENIR is entitled to interrupt the accessibility of the individual services or parts thereof to a reasonable extent for the customer for the purpose of maintenance and to carry out repairs. BLUE AVENIR strives to carry out

maintenance and repair work at times that are as stressful as possible. If BLUE AVENIR is not at fault, this does not justify any recourse or compensation claims of the customer of any kind against BLUE AVENIR.

9. BLUE AVENIR has the right to conclude corresponding contracts with the customer's competitors. BLUE AVENIR is also entitled to partial services and the provision of services by third parties.

§ 3 Customer Obligations

1. Each customer is responsible for using the services provided by BLUE AVENIR. The customer undertakes not to misuse individual BLUE AVENIR services. In particular, he will only use the services for purposes and to disseminate only content that is in line with all relevant legal provisions and, in particular, does not violate criminal law, data protection law and competition law regulations and/or offend common decency.
2. BLUE AVENIR is entitled, but not obliged, to check the legality of the content and reserves the right to delete the infringing content at the customer's expense in the event that the customer's content culpably violates legal regulations or these General Terms and Conditions. The customer must check his content and offers for their legality and assumes sole responsibility for this, in particular with regard to civil, competition, trademark, copyright and press law.
3. If the cooperation of the customer is required for the fulfillment of the contract by BLUE AVENIR, the customer must take the appropriate actions in good time. This applies in particular to the transmission of user data and the completion of preparatory work to be carried out by the customer.
4. If the customer fails to cooperate in a timely manner or if the contractually agreed services are refused, BLUE AVENIR can, after a reasonable period of grace has expired without result, refuse further fulfillment of the contract and demand the proportionate price for the services provided up to that point.
5. In the case of services that are planned and scheduled to be performed by the customer, the customer has to pay the non-refundable expenses actually incurred by BLUE AVENIR (e.g. expenses for travel activities) in the event of a change of date for which he is responsible (in addition to any costs incurred in connection with the cancellation), to replace.

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6. The customer reserves the right to provide evidence that the flat-rate costs were not incurred or were significantly lower. BLUE AVENIR expressly reserves the right to claim higher costs.
7. If the customer defaults in accessing or accepting the service, in providing information required to perform the service or in any other act of cooperation, the risk of accidental deterioration and accidental loss passes to the customer upon the occurrence of the default above.
8. The customer bears the risk of error-free transmission of the information and other material intended for publication, in particular the risk of loss of data, data carriers, photos and other documents. Documents will only be returned to him upon request and at his expense. The risk for this is also borne by the customer. The customer is obliged to transmit the information and documents provided by him in digital form free of viruses.
9. The customer undertakes to provide BLUE AVENIR with the data required for order processing carefully and to the best of their knowledge and not to provide any misleading, incorrect or incomplete data.
10. The customer is responsible for the accuracy of the input of his data in the BLUE AVENIR systems. BLUE AVENIR points out that correct address data must be provided for the use of chargeable information and services from BLUE AVENIR. The customer undertakes to keep the contact data stored at BLUE AVENIR, in particular his email address, up to date at all times. Disadvantages suffered by the customer due to inadequate or not up-to-date contact information are the sole responsibility of the customer.
11. The customer must keep any access data received for the BLUE AVENIR systems protected from access by third parties. If the customer has indications that third parties have gained access to his access data, he will inform BLUE AVENIR of this immediately. If there is reasonable suspicion that this access data is being used by third parties without authorization, BLUE AVENIR is entitled to set an access block. The customer will be informed and will be sent new access data.
12. The customer's rights under this contract are only transferrable if BLUE AVENIR has given its prior written consent to the transfer.
13. Deadlines and dates desired by the customer are only binding if BLUE AVENIR has expressly confirmed them in writing.
14. The customer is not entitled to use, reproduce, distribute, publish, change or otherwise use the brands and/or logos of BLUE AVENIR unless BLUE AVENIR has

given its prior express written consent. Furthermore, the customer is obliged to observe third-party domestic and foreign copyrights or trademarks.

15. The customer agrees to the disclosure of his content, data and other information to partners and third parties to the extent that this is necessary and necessary to fulfill the contractual relationship between the parties or to process the order.
16. The customer must notify BLUE AVENIR immediately of any changes to his address, name, legal form and/or bank details

§ 4 contract term

1. The (minimum) contract term and the ordinary termination rights and deadlines result from the offer, the service descriptions applicable to each product for the respective product and/or other agreements (licence, service and/or support agreement).
2. The right to extraordinary termination of the contractual relationship between BLUE AVENIR and the customer for good cause remains unaffected. An important reason exists in particular,
 - if a party, its vicarious agents or vicarious agents seriously or repeatedly violate essential obligations arising from the contractual relationship;
 - in the event of default with two consecutive monthly payments to be made or an amount equal to such two monthly payments to be made or, in the case of a one-time payment, in the event of default with the full payment;
 - if insolvency proceedings are opened against the assets of a party or are rejected for lack of assets or out-of-court composition proceedings take place; or
 - if claims of the other party are attached and the attachment is not lifted within two weeks.
3. Before the extraordinary termination, the party in breach of contract must be given a warning and be given the opportunity to rectify the grievances on which the good cause is based within ten (10) calendar days of receiving the warning. The warning must specifically describe the breach of duty and refer to the possibility of termination for good cause. A warning is not required if
 - the defaulting party seriously and definitively refuses to perform, or
 - there are special circumstances which, after weighing up the interests of both parties, justify immediate termination.
4. Other extraordinary reasons for termination may result from the agreements applicable to individual products.

5. The customer is obliged to fulfill his contractual obligations until the termination becomes effective. Any obligations that go beyond the term of the contract, in particular with regard to data protection and confidentiality, remain unaffected. In particular, all agency fees that still accrue are to be paid, which are incurred up to the completion of the contractual relationship.
6. Any termination must be in writing.

§ 5 Money transactions, terms of payment

1. The price stated in the offer/order is binding. If the price is not specified in the offer and has not been otherwise agreed, the prices shown in the BLUE AVENIR price list valid at the time the offer is accepted shall be deemed to have been agreed.
2. The customer receives an invoice from BLUE AVENIR or commissioned third parties. All fees are net and are due without deduction, unless a discount is offered on the invoice. BLUE AVENIR shows the sales tax separately.
3. Payment for the services is cashless. Unless otherwise stipulated in individual contracts, the remuneration is to be paid monthly in advance. If the contract begins during the current month, the remuneration for the remainder of the calendar month is to be paid pro rata, beginning on the day on which BLUE AVENIR provided the respective service in a ready-to-operate state. BLUE AVENIR is entitled to request advance payments of up to 50% of the order amount.
4. Furthermore, the customer must also pay the fees incurred as a result of unauthorized use of his registration/customer ID, unless he can prove that he is not responsible for the unauthorized use.
5. The credit to the BLUE AVENIR account is decisive for the time of payment. If remuneration is to be calculated for parts of a calendar month, this is calculated at 1/30 of the monthly price for each day. Other remuneration is to be paid after the respective service has been rendered.
6. If a direct debit authorization has been granted, the customer must ensure that there are sufficient funds to carry out the direct debit. For each non-redeemed or returned direct debit, the customer must reimburse BLUE AVENIR for these costs incurred in the amount of a flat rate of EUR 10.00 to the extent that he is responsible for the cost-triggering event - subject to proof of higher costs incurred.

7. If no direct debit procedure has been agreed, the invoice amount must be credited to the BLUE AVENIR account specified in the invoice no later than the tenth day after receipt of the invoice.
8. to be paid on the outstanding amount in accordance with the statutory provisions , unless the customer can prove a lower damage or BLUE AVENIR a higher damage in individual cases. Further rights of BLUE AVENIR remain unaffected.
9. The customer only has the right to withhold payments or offset against counterclaims if his counterclaims are undisputed or have been legally established.

§ 6 Warranty and liability

1. BLUE AVENIR will provide its services and performance within the scope of its technical possibilities and does not assume any liability or guarantee for an uninterrupted and/or trouble-free permanent availability of the services, nor in particular for line and/or connection failures, hardware and/or software errors or the effects of third parties (E.g. viruses or "denial of services attacks"). The parties agree that the occurrence of such interruptions and/or disruptions does not give rise to any claims for recourse or compensation of any kind.
2. BLUE AVENIR is not liable for technical faults that are not caused by BLUE AVENIR. Furthermore, BLUE AVENIR is not liable for damage caused by force majeure. Circumstances of force majeure include, for example, war, strikes, unrest, expropriation, cardinal legal changes, storms, floods, other natural disasters, water ingress, power failures and interruptions or destruction of data-carrying lines as well as other circumstances for which BLUE AVENIR is not responsible.
3. BLUE AVENIR is released from the obligation to perform and from any liability if and to the extent that the non-performance of services is due to the occurrence of circumstances of force majeure after the conclusion of the contract. BLUE AVENIR will inform the customer of this immediately.
4. If BLUE AVENIR is unable to provide any services for more than two consecutive months as a result of force majeure, the customer has the right to extraordinary termination.
5. BLUE AVENIR is only liable for damages due to the violation of essential contractual obligations (cardinal obligations) or due to the lack of guaranteed properties. In addition, BLUE AVENIR is only liable if the damage was caused by gross negligence or intentionally.

6. BLUE AVENIR is liable in the event of a slightly negligent breach of a major contractual obligation and is non-contractually only liable for injury to life, limb and health, guarantees, essential contractual obligations and according to the Product Liability Act, the amount is only for the typical and foreseeable damage at the time the contract was concluded . This is based on the average monthly order volume over the last twelve months. In particular, liability in the event of a slightly negligent breach of essential contractual obligations for loss of profit, indirect damage and consequential damage is excluded.
7. These limitations of liability also apply analogously to the employees and agents of BLUE AVENIR. Any liability of BLUE AVENIR based on the Product Liability Act remains unaffected.
8. The customer is liable to BLUE AVENIR and its partners for the content, documents, links and other materials - hereinafter referred to as "documents" - which he makes available to BLUE AVENIR to process the cooperation.
9. If one party is prevented from providing the contractually provided service and/or content due to circumstances for which it is not responsible, it shall inform the other party accordingly and immediately transmit content and/or services adapted to the circumstances. If the aforementioned circumstances last for more than 24 hours, the parties will mutually agree on how to proceed.
10. Neither party shall be liable to the other for:
 - disruption of the communication networks of other operators,
 - Computer failure at Internet providers and third-party online services or
 - incomplete and/or not updated offers from so-called proxy servers (intermediate storage) of commercial or non-commercial providers and online services, insofar as this makes access to the offer of the parties more difficult or completely impossible and these also do not belong to the business area of a contracting party.
11. Both parties indemnify the other party against all third-party claims that result from the use of the services and content provided by the other party.

§ 7 data protection

1. be collected, processed and used without additional consent for the purpose of providing the service, use and, if applicable, billing.

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2. BLUE AVENIR only forwards data to the customer, partner and/or third party if this is necessary and necessary to fulfill the contractual relationship between the parties or to process the order.
3. Both contracting parties undertake to comply with the applicable data protection regulations, in particular the provisions of the EU General Data Protection Regulation (EU-DSGVO), the Federal Data Protection Act (BDSG) and the Telemedia Act (TMG).
4. Both contractual partners assure that the data collected will only be used for the stated purpose and for market research and advertising purposes within the company, insofar as this is necessary for the execution of the concluded transactions and the maintenance of the resulting user relationship, is legally permissible and desired by the user is. A resale of data to third parties by the customer is excluded and will be displayed.

§ 8 Rights of Use

1. The services offered by BLUE AVENIR are protected by copyright. Any use is subject to applicable copyright and other protective laws. Every customer is obliged not to violate any protective laws and to ensure that all necessary references to the protective rights appear and remain in the content.
2. If the customer uses software from BLUE AVENIR, BLUE AVENIR grants him, unless otherwise expressly agreed, a simple, non-transferable right of use for his own use, limited in time to the contract period and in terms of content to use within the meaning of these terms of use. Further rights of use are not granted.
3. The customer indemnifies BLUE AVENIR and its commissioned partners from all claims for damages, liability claims and costs that BLUE AVENIR and/or its partners incur as a result of a claim being asserted against them if the customer's documents violate competition law, commercial Infringe third-party property rights or other laws or regulations. The customer shall also indemnify BLUE AVENIR immediately upon first request and from any third-party claims that are raised against BUE AVENIR due to the use of BLUE AVENIR services by the customer, in particular according to the EU-GDPR, the TDG and the BDSG Upon request, BLUE AVENIR will reimburse the costs incurred for appropriate legal prosecution.

§ 9 secrecy and secrecy

1. The customer undertakes to use the documents, knowledge and experience received from BLUE AVENIR exclusively for the purposes of this contract. In addition, the contracting parties agree to confidentiality regarding the content of agreements made between them and the knowledge gained during their implementation and processing. The customer is obliged to consult BLUE AVENIR if any doubts arise as to whether information in a specific individual case should be treated as confidential.
2. The contracting parties undertake to keep the information to be kept secret in accordance with the above paragraph secret from third parties.
3. In the event of subcontracting, the customer will impose obligations comparable to this provision on the respective subcontractor.
4. The customer must ensure compliance with this confidentiality obligation towards its employees and third parties involved in the execution of the contract who have access to the documents and objects referred to in paragraph 1.
5. Without prejudice to the above regulations, BLUE AVENIR is entitled to advertise with the name and logo of the customer as well as the subject and a brief description of the cooperation as a reference.

§ 10 changes

1. BLUE AVENIR provides its services in accordance with the respective product descriptions or license, service and support agreements. BLUE AVENIR reserves the right to offer the services as a whole or the services offered as part of the provision of the services, as well as the type and content of the individual products and services, at any time and repeatedly in order to improve the offer, in particular its functions, its design and its technical development, in whole or in part change, expand or adapt.
2. The customer will be expressly informed in good time by e-mail about significant changes to the products. The product descriptions are attached in the new version. If the customer does not agree with the change, he can terminate the contract with BLUE AVENIR in writing with effect from the entry into force of the new conditions. If the customer does not object within four weeks, the notified changes apply as new conditions.

3. BLUE AVENIR is also entitled to discontinue individual functions offered as part of the services - in particular in the event of changed legal requirements, permanent losses, technical difficulties or misuse by customers, partners or third parties. If services are subject to a charge, the customer has the right to withdraw from the contract.
4. An objection is not possible by e-mail. All objections must be sent in writing to: BLUE AVENIR GmbH, Prinzenallee 1 in 40549 Düsseldorf.

§ 11 Contractual elements, ranking

1. Components of the contract for each service commissioned by the customer are in the following order of priority:
 - a. the BLUE AVENIR offer signed by the customer,
 - b. the service description valid for the ordered product,
 - c. additionally concluded license, service and/or support agreements
 - d. these General Terms and Conditions.
2. Should there be any inconsistencies between the provisions of these General Terms and Conditions and the documents referred to in Section 1, the order referred to in Section 1 shall apply.

§ 12 Final Provisions

1. The sending of notifications to BLUE AVENIR by e-mail only suffices in writing if this is expressly provided for in these Terms of Use, the offer or other agreements.
2. All assignments of rights from this contract require the prior written consent of BLUE AVENIR to be effective. BLUE AVENIR is entitled to transfer to companies affiliated with it within the meaning of § 15 AktG.
3. The customer only has a right of retention with regard to undisputed or legally established counterclaims.
4. Changes and additions to these terms and conditions must be made in writing to be effective. This also applies to a change to this written form clause. Verbal or written ancillary agreements were not made.

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5. The customer will inform BLUE AVENIR in good time about impending insolvency proceedings in order to ensure the fulfillment of the contractually agreed services and obligations or to ensure that the contract is dissolved by mutual agreement.
6. Should individual provisions of the General Terms and Conditions, including these provisions, be wholly or partially invalid or contain a gap, the validity of the remaining provisions or parts of such provisions shall remain unaffected. In such a case, the parties are obliged to participate in the creation of new provisions, through which a result that is economically as close as possible to the ineffective or incomplete provision is achieved while protecting the interests of both parties.
7. The law of the Federal Republic of Germany applies, excluding the UN sales law and references to foreign law. The contract language is German.
8. If the customer is a merchant, a legal entity under public law or a special fund under public law or has no registered office in Germany, the exclusive place of jurisdiction is Düsseldorf. BLUE AVENIR can also take legal action before the competent court at the customer's registered office.

Dusseldorf, as of April 2023