

General Terms and Conditions of BLUE Consult GmbH

Last updated: April 2021

INTRODUCTION

These General Terms and Conditions consist of the

- General Conditions, Part A,
- Special Conditions for Work Performance, Part B,
- Special Conditions for the Licensing of Software, Part C,
- Special Conditions for Cloud Services and Data Center Services, Part D, and the
- Special Conditions for Housing Services, Part E.

All parts shall hereinafter jointly be referred to as “**GTC.**”

These GTC shall apply to any and all agreements based on which BLUE Consult GmbH, Krefeld – hereinafter referred to as “**BLUE**” – provides or performs services and/or works and/or carries out deliveries (including delivery of hardware and provision of software) – hereinafter jointly referred to as “**Services**” – to its commercial contractual partner – hereinafter referred to as “**Customer.**”

PART A – GENERAL CONDITIONS

1. SCOPE OF APPLICATION, NO VALIDITY OF OTHER TERMS AND CONDITIONS

1.1 The provisions of Part A shall apply unless provisions of Part B up to and including Part E provide otherwise.

1.2 These GTC shall apply exclusively. Additional terms and conditions of BLUE, if any, shall also apply where such were expressly agreed with Customer.

Customer's terms and conditions shall not become part of the agreement even where BLUE does not expressly contradict their inclusion. If Customer does not agree to these provisions, Customer is to notify BLUE thereof in writing without undue delay.

This constitutes an explicit rejection of the standard notice of Customer's general terms and conditions.

1.3 An additional reference to the application of these GTC in future offers and contracts shall not be required.

2. AMENDMENTS OF THE GTC

2.1 BLUE shall be entitled to amend the GTC even within the existing contractual relationship in compliance with the following procedure.

2.2 BLUE shall notify Customer of amendments of the GTC not less than 30 days in advance of the amendments coming into effect. Customer may object to the amendments in writing within 30 days from receipt of such notification. If there is no objection and if Customer continues to use the Services after the end of the objection period, the amendments shall be considered to be effectively agreed for all Services performed after the expiry of the objection period.

2.3 In the aforementioned notification, BLUE shall refer to the aforementioned period for objections and the legal consequences of the option to make an objection.

3. OFFERS, COMING INTO EXISTENCE OF AGREEMENTS

3.1 The general representation of BLUE's Services (e.g., on the website or in promotional brochures) shall be non-binding and shall not represent an offer to enter into an agreement.

3.2 Any offers made by BLUE shall be non-binding and subject to change unless an explicit binding period is indicated in the offer. Where an offer by BLUE is expressly described as binding, but no binding period is specified, BLUE shall be bound by the offer for 4 weeks from the date of the offer.

3.3 Subject to Article 7.2, orders by Customer shall only be considered as accepted if they have been accepted by BLUE in writing or in text form (e.g., by email), in any case, however, as a result of the beginning of the Services commissioned in the order.

3.4 BLUE shall assume no procurement risk if BLUE has entered into a purchasing agreement for the delivery owed with the supplier, unless BLUE is responsible for its own delivery being late

or incorrect. Customer shall be notified without undue delay if the delivery is not available. Any payment that has already been made shall be refunded without undue delay.

3.5 If the subject matter of the offer by BLUE is (also) an offer for or brokering of a lease or financing agreement between Customer and the third party in question (leasing company, bank, or factoring provider) and if the application by Customer in this respect is rejected by the third party in question, BLUE shall be entitled to rescind its own offer or, where Customer has already accepted the offer, to withdraw the offer.

3.6 BLUE shall retain any and all existing rights of ownership and copyrights to the offer, as well as to any and all illustrations, diagrams, calculations, designs, and plans that are the subject matter of the offer, as well as any and all other documents that are the subject matter of the offer. Third parties may not be provided with access to the offer without BLUE's express prior written consent.

4. CONTENT, SCOPE, AND SPECIFICATIONS OF THE SERVICES

4.1 In case of doubt, the material basis for the content and scope of the Services is the order confirmation by BLUE or, if there is no order confirmation, the offer by BLUE.

Specifications of the Services with respect to content, scope, quantity and/or quality may also arise from additional contractual documents (e.g., Service Level Agreement), including on the basis of scaling (cf. Article 7.2).

4.2 BLUE reserves the right to deviations in quantity, weight, and quality that are usual in the trade, as well as slight technical, construction, and design changes, even after the conclusion of the agreement, if and insofar as such changes are reasonably acceptable for Customer.

4.3 BLUE reserves the right to make any changes that are necessary due to technical progress, provided that such changes are reasonable for Customer. BLUE shall, however, not be obligated to make any such changes to products that have already been ordered by Customer and/or have already been delivered by BLUE to Customer.

4.4 Where BLUE has provided Customer with a specification available as a service and product description, such shall determine conclusively the properties and features of the Service in question. In case of service descriptions, illustrations, references to DIN standards, etc., the assumption of a guarantee is not to be presumed.

4.5 Where a product is to be manufactured according to drawings, samples, drafts, templates and/or other information or documents provided by Customer, Customer shall be responsible for ensuring that the use of such information and/or documents by BLUE does not infringe any third-party rights, in particular patents, utility models, copyrights, and/or other intellectual property rights.

5. BASIC PRINCIPLES OF SERVICE PROVISION

5.1 BLUE shall perform all Services itself or through third parties.

5.2 For Services that BLUE performs at the request of Customer at a location other than the headquarters of BLUE, travel cost and expenses in accordance with Article **Fehler! Verweisquelle konnte nicht gefunden werden.** shall be invoiced, unless agreed otherwise.

5.3 Unless a certain proceeding is agreed, BLUE shall perform the Services in its due discretion and in accordance with the established state of the art.

5.4 BLUE shall be entitled to perform partial Services, which may also be invoiced separately, if and to the extent to which their receipt is not associated with disproportionate expenditure for Customer and the use of the Services is not substantially reduced.

6. DATES AND PERFORMANCE DEADLINES

6.1 All delivery and Service dates specified in the offer and/or stated elsewhere, as well as all performance deadlines shall be

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- non-binding values for orientation, unless dates and/or performance deadlines are expressly stated by BLUE as being binding.
- 6.2 A binding agreed delivery deadline is considered to be met if the delivery item has been shipped or collected within the deadline or, in case the shipping or collection is delayed for reasons that are not the fault of BLUE, if the notification of readiness for shipping has been provided within the agreed deadline.
- 6.3 All dates and performance deadlines are subject to correct, complete, and timely self-delivery of BLUE. This shall only apply in cases where BLUE is not responsible for failure to deliver, in particular in case of a congruent hedging transaction with the supplier in question.
- 6.4 All dates and completion deadlines shall be postponed or extended by the time for which Customer is in arrears with payment, with all other rights of BLUE reserved.
- 7. CUSTOMER CHANGE REQUESTS; SCALING**
- 7.1 Customer may propose changes and additions to the Services at any time after the conclusion of the contract. BLUE shall initiate an analysis of the proposal. BLUE may request compensation for such based on the time spent in accordance with the agreed hourly or daily rate.
- A prerequisite for the implementation of the changes or additions proposed by Customer after the conclusion of the contract shall be an appropriate agreement between the parties in writing or in text form. Insofar as such change agreement does not include any agreement with regard to dates and/or performance deadlines, the implementation of the change agreement shall result in the postponement of the agreed dates in accordance with the time taken for the change or addition and an extension in agreed performance deadlines.
- 7.2 Depending on the subject matter of the service, BLUE may provide Customer with the opportunity (e.g., online within the service platform) to make own amendments and/or additions to the Services in terms of content, scope, quantity (e.g., additional computing capacity or expansion of backup capacity), and/or quality (e.g., change to agreed service levels) – hereinafter jointly referred to as “**Scaling.**”
- Scaling shall be carried out in accordance with the procedure provided for such purpose (e.g., online scaling) and shall automatically lead to a corresponding contractual adjustment of the content, quality (e.g., changed service levels) and/or financial agreements (including remuneration) upon conclusion of proper implementation, without the need for a separate amendment agreement or the like in writing or text form.
- Invoicing by BLUE shall take into account any scaling carried out with effect from the agreed effective date of the respective amendment and/or supplement. Where no date of entry into force has been agreed, the amendment and/or supplement brought about by the scaling shall take effect at the beginning of the subsequent month.
- 8. HANDOVER AND RECEIPT OF BENEFITS; SHIPPING**
- 8.1 Unless otherwise agreed, the transfer of Services shall be performed at the headquarters of BLUE.
- 8.2 The shipment of products, such as hardware and/or software, of performance results, as well as the transmission of Services to Customer shall be performed at Customer’s risk.
- 8.3 Customer shall be obligated to receive the Services in a timely manner.
- 8.4 BLUE reserves the right to insure deliveries against shipping damage and loss. Customer shall be obligated to notify BLUE of damage and/or loss without undue delay after delivery so that BLUE may submit claims to the shipping insurer.
- 8.5 Customer shall be obligated to examine the Services in a timely manner. The statutory complaint obligations under Section 377 German Commercial Code shall apply.
- 9. RETENTION OF TITLE**
- 9.1 Each item of the delivered goods shall remain the property of BLUE until payment of the purchase price in full and until full and complete settlement of all claims arising from the business relationship (extended reservation of title). Any disposal of the goods and reservation of title at all by Customer shall only be permitted as part of the regular business transactions of Customer. In no case, however, may the goods be assigned to third parties as collateral as part of a regular business transaction.
- 9.2 In the event of the sale of goods in regular business transactions, the purchase price paid shall take the place of the goods. Customer hereby assigns any receivables resulting from a sale to BLUE. Customer shall be authorized to collect such receivables as long as Customer meets its payment obligations to BLUE. In view of the extended retention of title (advance assignment of the relevant purchase price receivable), an assignment to third parties, in particular to a bank, shall be contrary to the agreement and not permitted. BLUE shall be entitled to review the sales documents of Customer at any time and to notify its purchasers of the assignment.
- 9.3 If the receivables of Customer have been added to a current account, Customer hereby assigns its claim from the accounts receivable from its purchasers to BLUE. The assignment shall apply to the amount that BLUE charged Customer for the resold goods subject to reservation of title.
- 9.4 In case of pledging of the goods by Customer, BLUE is to be notified without undue delay by the sending of a copy of the debt execution record and affidavit of the fact that the pledged goods are goods delivered by BLUE subject to reservation of title.
- 9.5 If the value of the collateral in accordance with the preceding paragraphs of this Article exceeds the amount of the receivables that are still open and are secured by such after deduction of the collateral cost by more than 20% and such shall be the case for a foreseeable period, Customer shall be entitled to request the release of the collateral from BLUE in accordance with the level of excess.
- 10. REMOTE ACCESS TO CUSTOMER HARDWARE; EVENT REPORTS**
- 10.1 Agreed Services (e.g., Managed Services), certain functions of provided software or the use of Software-as-a-Service by Customer may require BLUE to access servers or other hardware of Customer via a telecommunications connection – hereinafter referred to as “**Remote Access.**” By way of such Remote Access, BLUE may, for example, check and monitor the functionality of servers, maintain or repair hardware, carry out parameterizations or perform other activities that may have been agreed upon with Customer or that may be required.
- 10.2 Remote Access by BLUE shall be carried out primarily in accordance with the relevant agreements made between the parties (e.g., maintenance contract), and otherwise in accordance with the provisions of this Article 10.
- 10.3 Remote Access shall be carried out in each case via a telecommunications connection established and secured by Customer (temporarily or permanently). Customer shall create and maintain the technical requirements outside BLUE’s operations (e.g., creation of a broadband connection) at its own expense.
- 10.4 Remote Access by BLUE shall not be carried out if and as long as Customer blocks Remote Access to the relevant hardware or where Customer prohibits Remote Access.
- In such event, the risk and consequences for the failure to provide Remote Access shall be borne by Customer.** Where Remote Access is mandatory for the provision of agreed Services by BLUE, an adjustment of the relevant agreement may be necessary. Until a corresponding agreement has been reached, BLUE shall not be obligated to provide the Services.
- 10.5 Depending on the respective current model specification and/or Customer’s hardware configuration, the hardware may automatically transmit error reports or other event-related or operation-relevant information – hereinafter referred to as

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“**Event Reports**” – to BLUE. BLUE shall be entitled to inspect such Event Reports. BLUE shall, however, not be obligated to do so without express agreement with Customer. BLUE shall treat any Event Reports confidentially.

11. CUSTOMER'S DUTIES TO COOPERATE

11.1 Customer shall support BLUE in the performance of the agreed Services where necessary and reasonable for Customer and shall ensure within its area of responsibility all the prerequisites for the proper performance of the agreement in a timely manner and free of charge for BLUE.

In particular, Customer shall, to the extent necessary and reasonable for Customer,

- provide any and all documentation and information required by BLUE for contractual performance of the Services,
- in case of the performance of Services on site at Customer's premises, make available the IT infrastructure necessary for the Service performance in accordance with the agreement (e.g., PC workstations, printers, computer time, test data),
- allow BLUE or representatives of BLUE access during normal working hours to the locations and Services in question, and
- ensure that its staff cooperates with BLUE and its representatives.

Further cooperation duties may be specified in the offer.

11.2 To the extent to which compliance with particular statutory, regulatory or operating safety regulations is required, Customer shall provide such regulations to BLUE in due time prior to commencement of Service provision.

11.3 Customer shall notify BLUE of errors and defects in the Services of BLUE without undue delay.

12. SUPPLIES FROM CUSTOMER

12.1 All supplies from Customer that have been agreed between the parties or that are necessary (software, data, documents, etc.) must be provided by Customer in a timely manner, free of charge to BLUE and in the form and quality necessary for the performance of the Services in accordance with the agreement. The location of the supplies provided in each case shall be BLUE's place of business unless expressly agreed otherwise.

12.2 Customer shall solely be responsible for the supplies. In particular, the supplies must not violate any applicable laws (including copyright laws and other third-party rights).

12.3 Where the supplies provided by Customer are protected by copyright or other protection statutes such as trademark law, Customer shall grant BLUE a non-exclusive right, limited to the duration of the performance of the agreement, to use the supplies within the performance of the Services. Otherwise, any and all rights shall be retained by Customer.

13. DELAY; NON-PERFORMANCE OF COOPERATION OR SUPPLIES; COST CONSEQUENCES

13.1 Where Customer fails to meet its duties to cooperate and/or to provide the supplies and where BLUE is thereby obstructed in performing its Services, BLUE may refuse to perform the Services owed until such time as the cooperation duties and/or the supplies are provided in accordance with the agreement. Such delays on the part of Customer shall result in a corresponding postponement or extension of bindingly agreed dates and performance deadlines.

13.2 Customer shall be obligated to reimburse BLUE for any damage incurred due to lacking or defective cooperation and/or Customer supplies.

14. OTHER OBLIGATIONS AND RESPONSIBILITIES OF CUSTOMER

14.1 Unless otherwise agreed, it shall be the responsibility of

Customer, within its territory, to create the prerequisites (e.g., connection to the data network, procurement, and operation of the necessary hardware and software, provision of storage space) for the use of the Services in accordance with the agreement.

14.2 BLUE shall take any and all reasonable measures to prevent risks posed by harmful software. BLUE, however, cannot guarantee the complete security of its systems and software. Customer shall therefore be obligated also to take any and all reasonable measures within its area of responsibility to protect its systems against harmful software.

14.3 Where BLUE's Services (e.g., Managed Services) relate to Customer's hardware or software, **Customer shall bear all risks and other negative consequences** for changes made to the hardware and/or software by Customer or its agents, where such changes affect any agreed performance features or otherwise affect the provision of Services by BLUE. In such event, an adjustment of the relevant agreement may also be necessary. Customer shall notify BLUE of any such changes as soon as possible, in any case in writing or in text form without undue delay.

Any additional expenses incurred by BLUE as a result of such changes shall be borne by Customer.

15. REMUNERATION AND PRICES; PRICE ADJUSTMENTS

15.1 Unless expressly agreed otherwise, all Services shall be performed and invoiced based on time spent in accordance with the hourly and/or daily rates specified in the offer, otherwise in accordance with BLUE's price list as may be amended from time to time. Estimated expenses specified in the offer or otherwise shall be non-binding, unless expressly designated as fixed price and/or binding upper limit.

BLUE shall record the time spent and shall make corresponding recordings (proof of time taken). The time is to be confirmed by Customer at all times in writing at the request of BLUE, in any event at the end of the performance of the Services in question.

15.2 Where a binding fixed price is agreed for a Service, such fixed price shall solely cover the Services specified in BLUE's offer with respect to such fixed price and/or Services otherwise expressly agreed with specific reference to such fixed price.

15.3 Article 15.2 shall apply accordingly to the agreement of recurring (e.g., monthly) payments.

15.4 Unless otherwise agreed, prices shall be ex works. The cost of shipping, transport, packaging, insurance, customs, etc. shall be invoiced separately.

15.5 BLUE shall be entitled to increase remuneration and prices once per calendar year in accordance with the following provisions.

BLUE shall notify Customer of any increase not later than 60 days prior to the planned effective date of such increase. Where Customer does not agree with the increase, Customer may terminate the affected contractual relationships by declaration in writing within 45 days of receipt of the notification with effect from the date on which the change is intended to take effect. If no notice of termination is given in due time, the increase shall be deemed to have been validly agreed for any and all Services rendered after expiry of the deadline.

In the aforementioned notification, BLUE shall refer to the period stated above and to the legal consequences of its expiry if the option of termination is not exercised.

15.6 In the case of contracts for the provision of recurring Services (e.g., Hosting, Housing or Software-as-a-Service), BLUE shall also be entitled to adjust the agreed remuneration in accordance with the following provisions, specifically in the following cases.

- a significant change in market conditions,
- a general change in wages or other employment costs, and/or
- a change in procurement costs (e.g., due to price

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adjustments by suppliers or due to changes in taxes or other levies).

The adjustment shall be made to the extent to which the aforementioned cases affect the agreed Services. BLUE shall notify Customer of an adjustment not less than 60 days prior to it becoming effective.

Adjustments may only be made once per calendar year. In the event of such adjustment, Customer shall have no extraordinary right of termination. During the first twelve months of the contract term, however, an adjustment is excluded.

16. OTHER COSTS AND EXPENSES

16.1 Travel costs and other expenses for business trips to Customer shall be invoiced as follows unless otherwise agreed:

- Travel times shall be invoiced in the same way as working hours, with the agreed hourly rate being used as a basis. Where no hourly rate has been agreed, the hourly rate for travel time shall be EUR 100.00.
- Daily expense allowances shall be invoiced in accordance with the applicable maximum tax rates.
- Accommodation cost shall be charged in full based on proof of the cost incurred.
- Cost for public transport (train, bus, airplane, etc.) shall be charged in full based on proof of the cost incurred. For travel by car, the valid maximum tax rate per kilometer shall be invoiced.

All trips necessary for the performance of Services in accordance with the agreement and/or trips requested by employees of BLUE shall be considered business travel.

16.2 In case of sending and returning of materials by mail, flat shipping rates shall apply unless expressly agreed otherwise.

16.3 Cost and expenses for services not covered by the contractual agreements shall be borne by Customer.

The same shall apply to cost and expenses incurred by BLUE as a result of

- incorrect or incomplete information by Customer,
- inadequate cooperation duties or supplies by Customer, or
- defect claims by Customer, which turn out to be incorrect (e.g., because the defect in question does not fall within the contractual or statutory obligations of BLUE with regard to rectification of defects) and/or because of defect analyses and/or defect rectification activities in this respect.

17. PAYMENT TERMS, INVOICING, DEFAULT

17.1 All agreed prices and fees are excluding value-added tax applicable at the time of the performance of the Services.

17.2 Unless expressly agreed otherwise, BLUE shall invoice its Services as follows:

- in the event of deliveries of hardware or software: upon delivery;
- in the event of compensation on a time and material basis: monthly and/or upon completion of the Service provided;
- in the event of recurring compensation (e.g., Hosting, Managed Services or Software-as-a-Service): monthly in advance or for the respective current month;
- in the event of an agreement of a binding fixed price: in accordance with the payment plan agreed in the offer or otherwise; where no payment plan is agreed: upon acceptance of the respective Service by Customer.

BLUE, however, reserves the right to perform Services only against prepayment. In case of combined deliveries and Services, BLUE shall invoice the individual deliveries and Services individually in accordance with the aforementioned bullet points.

17.3 Invoices shall be sent in electronic form, usually by email. Customer shall designate a suitable email address for such purpose.

17.4 Travel expenses shall be invoiced to Customer in the month of the trip or in the subsequent month.

17.5 Agreed prices and payments shall be due upon receipt of the invoice and payable within 10 calendar days without any discount, unless a different payment period is stated. Discounts shall not be accepted.

17.6 Payments are considered to be paid on the date and in the place where BLUE has access to the amount. Checks and bills of exchange, if accepted as payment, shall only be deemed payment after cashing. Discount charges and cost shall be charged to Customer. Payments may only be made in the agreed currency.

17.7 In case of delayed payment by Customer, BLUE may, without giving up any other rights to which BLUE may be entitled, invoice a flat rate for delay of EUR 40.00 and interest on arrears at the statutory rate.

BLUE reserves the right to prove higher damage. Customer shall, however, be entitled to prove to BLUE that BLUE has not incurred any damage as a result of the payment default or has incurred lower damage.

18. OFFSETTING AND RETENTION

18.1 Customer may offset against BLUE's claims only with such counterclaims that have been established with legally binding effect or that are undisputed.

18.2 Rights of retention shall only be permitted to Customer where claims are concerned that are based on the same contractual relationship.

19. TERMS OF AGREEMENTS

19.1 Unless agreed otherwise, agreements on the performance of recurring Services (e.g., Hosting, Housing or Software-as-a-Service) shall run in principle for an indefinite period of time, with a minimum term of 36 months.

At the end of the minimum term, the agreement is automatically extended by extension periods of 12 months each, unless it is terminated to the end of the minimum term or the relevant extension period in compliance with a notice period of 6 months effective at the end of a quarter.

19.2 The parties' right to termination for cause shall remain unaffected. Cause for BLUE shall in particular be given where Customer is in default of payment despite reminder.

19.3 Any termination notice must be given in writing to be effective.

20. WARRANTY FOR DEFECTS IN SERVICES

20.1 Unless expressly agreed otherwise, BLUE does not warrant that the Services shall work together with third-party products or services.

20.2 The associated product description shall be governing with respect to the properties of software.

20.3 Where BLUE is obligated to rectify defects for Customer, Customer is to describe the defects as precisely as possible in the form of defect notifications.

20.4 Where the Services are subject to the law on defects under a lease (e.g., Software-as-a-Service, provision of software for a limited period of time or Housing Services), such shall apply with the following condition:

Customer's right of termination as a result of failure to ensure use in accordance with Section 543 (2), Sentence 1 No. 1 German Civil Code shall be excluded, unless the provision of use in accordance with the agreement is to be considered failed.

Subject to Articles 21.4 and 21.7, strict liability regardless of negligence or fault of BLUE in accordance with Section 536a Civil Code as a result of defects that were already in place at the time of the conclusion of the agreement shall be excluded.

20.5 Otherwise, in case of a statutory defect liability, BLUE shall perform the measures necessary, although BLUE shall have the right to choose between legally provided measures.

Where BLUE has an obligation to Customer for supplementary performance (repairs or replacement delivery), Customer shall

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- allow BLUE at least two attempts at supplementary performance.
- In case of a replacement delivery, Customer shall be obligated to return the replaced Service, unless the possibility of such return is excluded as a result of the subject matter of the Service.
- Customer shall not be entitled to self-remedy unless such is mandatory in urgent cases as a result of the risk to operational safety or to defend against excessively severe damage. In such cases, BLUE must be notified thereof without undue delay.
- 20.6 BLUE shall only pay damages and compensation for unsuccessful expenses as a result of a defect within the framework of Article 21.
- 20.7 Claims arising from a statutory defect liability under purchase contracts ("Kaufvertrag") or contracts for work performance ("Werkvertrag") shall expire, except in cases of premeditation (including malice), at the end of 12 months from the delivery of the products or (in case of work performance) from the acceptance of the work results in question by Customer.
- 20.8 Software updates shall not lead to an interruption or suspension of the limitation period or to re-commencement of the liability for defects.
- 20.9 BLUE assumes no responsibility for any damage resulting from any of the following causes:
- unsuitable or improper use by Customer or by third parties,
 - improper modifications or repairs and/or modifications or repairs carried out by Customer or by third parties without the prior consent of BLUE,
 - improper assembly by Customer or by third parties and/or
 - natural wear and tear, faulty or negligent handling by Customer or by third parties, by chemical or electrical influences.
21. **LIABILITY AND LIMITATION OF LIABILITY**
- 21.1 Information given by BLUE in brochures, advertisements, documentation, and on the websites are not guarantee declarations and do not include warrants as to qualities.
- 21.2 Where the German Telecommunications Act is applicable, the liability of BLUE shall be limited according to Section 44a Telecommunications Act. Outside of the application of the Telecommunications Act, the liability of BLUE shall be based on the following provisions.
- 21.3 BLUE shall be liable only for its own fault and for the fault of its legal representatives, executives, and other vicarious agents, in accordance with the following provisions.
- 21.4 BLUE shall be liable without limitation for damage caused intentionally or with gross negligence by BLUE and/or its legal representatives, executives, or other vicarious agents.
- 21.5 In the event of a slightly negligent violation of a duty, the compliance with which Customer may rely on and whose fulfillment constitutes a prerequisite for the proper performance of the agreement (referred to as cardinal duty – "Kardinalpflicht"), BLUE's liability shall be limited to such damage whose emergence is typically to be expected within the context of the relevant service relationship (referred to as contractually typically foreseeable damage). Otherwise, any liability for damage caused by slight negligence shall be excluded.
- 21.6 In cases of liability under paragraph 21.5, BLUE's liability under the respective contractual relationship shall additionally be limited to the amount of EUR 250,000.00 per damage event and to a total of EUR 500,000.00.
- 21.7 Liability for fraudulent conduct, personal injury, and liability under the German Product Liability Act shall remain unaffected by the foregoing provisions.
- 21.8 Liability for loss of data shall be limited to the restoration expense in case of usual data backups (daily saving by Customer), unless data backups by BLUE have been expressly agreed.
22. **FORCE MAJEURE**
- Events for which BLUE, its legal representatives, and vicarious agents are not responsible ("force majeure"), in particular technical events for which BLUE is not responsible and that are outside of the scope of influence of BLUE such as power failures, the failure of telephone lines, or other comparable technical obstacles and their consequences shall release BLUE for the duration of their existence from the obligation to perform the contractually agreed Services that are made more difficult or impossible as a result of such events.
23. **OBLIGATION TO PROTECT SECRETS; DATA PROTECTION AND DATA SECURITY**
- 23.1 The parties are to keep secret any and all information and knowledge acquired in the course of the performance of the agreement – in particular trade secrets pursuant to Section 2(1) German Trade Secrets Act – and other confidential information – of a technical, commercial, or organizational nature, for example, as well as all information made available for the purpose of performance of the agreement, in particular information arising from protected documents – and shall protect them against unauthorized disclosure, duplication, use, and other misuse by third parties not involved in the performance of the agreement ("obligation to protect secrets").
- The parties shall be obligated to take any and all reasonable measures to comply with the foregoing obligation to protect secrets.
- In any event, the parties are strictly prohibited from reverse engineering within the meaning of Section 3(1)(2) Trade Secrets Act.
- 23.2 Information generally published by the disclosing party or representing generally accessible knowledge (such as software or communications technology) shall not be confidential information.
- 23.3 Customer shall be solely responsible for compliance with the statutory data protection provisions that apply to it.
- 23.4 If BLUE performs processing on behalf of a controller (as defined under Article 28 General Data Protection Regulation), the parties shall enter into a separate agreement on processing on behalf of a controller.
- 23.5 Where BLUE employs the services of third parties for the performance of the Services resulting from the contractual relationship in question, BLUE shall be entitled to provide such third parties with confidential information and data of Customer insofar as is absolutely necessary for performance of the Services in accordance with the agreement and permitted by law.
- 23.6 BLUE shall also be authorized to disclose confidential information and customer data where BLUE is obligated to do so by statutory provisions or official order and where third parties are concerned that are obligated to the protection of business and trade secrets by virtue of their profession.
- 23.7 Where BLUE performs data backups or arranges for them to be performed, such shall primarily serve the purpose of restoration of the data and systems to the last possible restoration point after an emergency (disaster recovery). Customer shall not be entitled to individual restoration of data that it has deleted.
24. **USE OF NON-PERSONAL DATA**
- 24.1 Where BLUE receives non-personal data from Customer's sphere (e.g., performance parameters or other purely technical information) within the scope of agreed Remote Access (cf. Article 10), within the scope of the use of agreed Services (e.g., Software-as-a-Service) by Customer or otherwise in the course of the performance of the contract, BLUE may process and use such data for an unlimited period of time (e.g., to improve and further develop its own range of services).
- 24.2 The foregoing Article 24.1 shall apply analogously to data that is anonymized or pseudonymized by BLUE upon receipt such that it is not personal data.

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25. EXPORT RESTRICTIONS; PROHIBITION OF RESALE; RIGHT OF WITHDRAWAL

- 25.1 BLUE's supplies and services may be subject to export restrictions. Such restrictions result in particular from the Foreign Trade and Payments Act as well as legal ordinances issued in accordance with Section 12 thereof, Council Regulation (EC) No 428/2009 (Dual-Use Regulation) and its supplements and/or according to other laws and/or regulations - including Regulation (EC) No 881/2002 of 27 May 2002 (OJ EC No. L 139 p. 9) and Regulation (EC) No 2580/2001 of 27 December 2001 (OJ EC No. L 344 p. 70). In addition, export restrictions may result from Customer's natural person or legal entity, Customer's employees and/or natural persons or legal entities in Customer's business environment. This shall apply in particular if Customer and/or one of the aforementioned persons or entities is named in a list maintained on the basis of Regulation (EC) No 881/2002 of 27 May 2002 (OJ EC No. L 139 p. 9) and/or Regulation (EC) No 2580/2001 of 27 December 2001 (OJ EC No. L 344 p. 70).
- 25.2 All of the above reasons and provisions for export restriction shall hereinafter jointly be referred to as "**Export Restriction Regulations.**"
- 25.3 Customer shall be obligated to check the compatibility of Customer's order with the relevant Export Restriction Regulations in Customer's area of responsibility as soon as possible. Customer is to notify BLUE in writing of any concerns without undue delay.
- 25.4 Customer shall further be obligated to provide BLUE upon request with all details and information that may be relevant for the examination of a possible violation of Export Restriction Regulations without undue delay.
- 25.5 Customer shall only be permitted to resell or otherwise transfer the goods supplied by BLUE to such third parties to whom BLUE would also be permitted to supply itself without violating Export Restriction Regulations. This shall not apply where Customer has issued an end-use certificate to BLUE; in such event, resale to individuals or entities other than the end customer named therein shall be prohibited.
- 25.6 BLUE shall be entitled to withdraw from a contract entered into with Customer where there are valid grounds for the assumption that the conclusion of the contract and/or its performance, in particular the supply of the goods at issue to Customer, violates or would violate Export Restriction Regulations. This shall also apply where the relevant Export Restriction Regulations are only enacted after conclusion of the contract but prior to the goods being physically exported from the territory of the European Union.
- 25.7 Customer shall be liable to BLUE for any and all damage and costs incurred by BLUE as a result of Customer ordering goods from BLUE and/or entering into a contract with BLUE for the supply of goods which is prohibited or restricted by applicable Export Restriction Regulations at the time of the order or, where no order preceded the conclusion of the contract, at the time of the conclusion of the contract.
- 25.8 Where such provisions enter into force after the aforementioned date, Customer shall only be liable if the export restriction was issued on the basis of Customer's natural person or legal entity, Customer's employees and/or natural persons or legal entities in Customer's business environment.
- 25.9 BLUE shall not be liable to Customer for any damage and/or costs incurred by Customer as a result of justified withdrawal from the contract pursuant to this Article 25.

26. FINAL PROVISIONS

- 26.1 Amendments of and supplements to the agreement must be in writing to be effective. This shall also apply to the rescission of this clause.
- 26.2 Should one or more provisions of these GTC and/or other contracts entered into between the parties be or become ineffective or should there turn out to be an omission, the effectiveness of the remaining provisions shall remain unaffected. The

ineffective provision or the omission shall be replaced by such appropriate permissible provision that the parties hereto wanted or would have wanted in accordance with the intent and purpose of the provisions, had they been aware of the invalidity or omission.

- 26.3 Place of performance for any and all contractual Services shall be the place of BLUE's registered office.
- 26.4 Exclusive legal venue for any and all disputes arising from or in connection with the agreement shall be the place of BLUE's registered office.
- 26.5 BLUE shall, however, be entitled to file a complaint alternatively at the court competent for Customer or at such other court that may be competent under national or international laws.
- 26.6 With respect to any and all legal relationships under this agreement, the parties agree the application of the laws of the Federal Republic of Germany in exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

PART B - SPECIAL CONDITIONS FOR WORK PERFORMANCE

27. SCOPE OF APPLICATION OF THE FOLLOWING PROVISIONS

The provisions of Part B shall only apply to work performance ("Werkleistungen") and shall, for these, take precedence over the other provisions of these GTC.

28. ACCEPTANCE OF WORK RESULTS

- 28.1 BLUE shall notify Customer in writing or by in text form if work results under a contract for work are ready for acceptance. Customer shall commence the acceptance inspection without undue delay in each case and shall accept each work result within an appropriate period of time, however, at the latest within 7 calendar days from the provision of the relevant work result, unless otherwise agreed hereinbelow or elsewhere.
- 28.2 Where the work results are software, BLUE shall generally provide Customer with the acceptance specification and/or the description of the test cases with which the contractual conformity of the work performance is to be checked from BLUE's professional point of view 7 calendar days prior to the provision of the respective software component for acceptance, stating the purpose, inputs, and expected system reactions and observing the contractual agreements. No later than by such date shall Customer provide BLUE with the test data required for the respective acceptance test on a suitable data carrier in the agreed format.
- 28.3 BLUE shall be entitled to participate in the acceptance inspection. BLUE shall provide Customer with support in the acceptance inspection in exchange for separate payment in accordance with BLUE's price list as may be amended from time to time.
- 28.4 Acceptance testing of software shall be performed on the basis of the agreed test sequence and the test cases submitted by BLUE. At each step, it shall be observed whether the software has responded as specified. The result shall be documented in a protocol.

All deviations in the behavior of the tested software from the service description or from the description of the test cases occurring during the acceptance test shall be reported to BLUE on an ongoing basis, included in a list of defects and classified by Customer and BLUE by mutual agreement into defects that prevent acceptance or defects that do not prevent acceptance.

Defects shall only be classified as preventing acceptance if they significantly restrict the operational use of the software because

- (at least) one essential function of the software is not performed at all or is performed in a significantly defective manner, and
- there is no reasonable workaround available to Customer.

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All other defects shall be classified as not preventing acceptance. Such defects do not entitle Customer to refuse acceptance.

28.5 Insignificant defects in work results shall not prevent acceptance.

28.6 Defects (i) reported by Customer to BLUE in a timely manner within the acceptance inspection and (ii) that prevent the acceptance of the work results shall be rectified by BLUE within an appropriate period of time.

The acceptance inspection shall be deemed successfully completed as soon as all defects reported in due time and classified as preventing acceptance have been remedied or BLUE has proven that such are not defects within the meaning of Section 640 German Civil Code.

28.7 Customer shall confirm the successful acceptance to BLUE in writing.

28.8 Where Customer fails to declare or confirm acceptance in writing or in text form by the expiry of the acceptance period (cf. Article 28.1) or fails to notify BLUE in justified form of the existence of defects preventing the acceptance, the work results shall be deemed accepted.

The same shall apply to the acceptance test of software at the end of the acceptance period if no defects preventing acceptance have occurred after the test steps have been completed.

28.9 In addition, the work results shall be deemed accepted where Customer uses them productively.

28.10 BLUE may request the acceptance of partial results (e.g., closed service sections, completed parts of the subject matter of the agreement, or individual documents). The aforementioned provisions of this Article 28 shall also apply to any such acceptance.

In case of the acceptance of partial results, defects that occur in any later partial acceptance, whose causes originate in the partial results already accepted, shall only prevent the acceptance of the later partial results if the defect prevents the interaction with the later partial results in a more than insignificant manner or has a significantly negative effect on the functionality and such was not noticeable in an isolated manner to Customer within any previous partial acceptance.

29. RIGHTS OF USE IN WORK RESULTS

29.1 Unless expressly agreed otherwise, Customer shall be granted in each case a non-exclusive, worldwide and perpetual right in the work results created for Customer in accordance with the contractual agreements to use the work results for the contractually intended purpose or for the contractually agreed types of use, in each case exclusively for internal operational purposes.

29.2 Where the work results are software and unless expressly agreed otherwise, the aforementioned rights to use granted shall be limited to the software's object code, i.e., there shall be no claim of Customer to the source code.

29.3 The granting of rights of use in favor of Customer in accordance with Article 29.1 shall be subject to the prerequisite of payment in full of the relevant amount to BLUE.

29.4 All use and exploitation rights that are not granted expressly to Customer regarding the work results that are the subject matter of the agreement shall be retained by BLUE. In particular, BLUE shall be entitled to distribute and exploit any and all of the knowledge, designs, procedures, methods, expertise, processes, etc. underlying the work results without limitation.

PART C - SPECIAL CONDITIONS FOR THE LICENSING OF SOFTWARE

30. SCOPE OF APPLICATION OF THE FOLLOWING PROVISIONS

30.1 The provisions of Part C shall only apply if BLUE licenses to Customer computer programs and associated supporting

material – hereinafter jointly referred to as “**Software**” – for installation and use on its systems, and for such Software licensing shall take precedence over the other provisions of these GTC.

30.2 The provisions of Part C shall not apply to the provision or operation of software in the data center of BLUE or of its suBLUEnteractors for use by Customer.

31. EXTENT AND LIMITS OF THE RIGHT OF USE

31.1 Unless otherwise agreed, Customer shall receive a simple, non-exclusive and non-transferable right to use the Software for its own internal purposes.

31.2 Unless stated otherwise in the offer or license document, the right of use shall be granted as a named user license (right of use for an individual person) with a time limit.

31.3 Unless expressly allowed as a result of the aforementioned granting of rights or as a result of mandatory statutory provisions, Customer shall be prohibited from any distribution, leasing, sub-licensing, duplication, translation, decompilation, disassembly, descrambling, as well as any other adaption of the Software.

31.4 All brand and copyright notices on or in the Software must be left in without any changes.

31.5 The rights of use granted by these GTC shall be limited to the object code of the Software. There shall be no claim to the source code.

32. PROOF OF USE; REQUESTS FOR INFORMATION; MONITORING OF USE

32.1 Upon request by BLUE, Customer shall notify BLUE without undue delay and to a reasonable extent about whether the Software is being used in accordance with the agreement. Such information is to include any and all details required for verification purposes (such as the number of workplaces to be used or of activated licenses).

32.2 Customer shall grant BLUE access to its records and systems in this respect to a reasonable extent. BLUE shall treat any and all information received in this respect as confidential and only make it available to third parties to the extent absolutely necessary to protect the rights of BLUE.

32.3 BLUE shall be entitled to integrate appropriate technical measures to check that the Software is being used in accordance with the agreement.

33. SOFTWARE UPDATES

33.1 Customer is hereby notified that the Software may be subject to adjustments, further developments and/or other updates. BLUE shall decide at its own discretion whether and, if so, under which conditions the updates shall be offered to Customer. Customer shall not be entitled to receive updates unless such has been expressly agreed (e.g., as part a software maintenance agreement) or is stipulated by mandatory statutory provisions.

33.2 Where BLUE offers Customer updates (e.g., patches or bug fixes) of the Software free of charge or provides them (e.g., for download), Customer shall be obligated to accept such updates (e.g., by download and/or installation), unless such is unreasonable for Customer.

Any and all risks and other negative consequences that may arise as a result of not accepting the updates reasonably offered to Customer shall be borne by Customer.

34. THIRD-PARTY SOFTWARE PRODUCTS

34.1 If the Software includes software products from a third-party supplier, deviating provisions may apply with regard to such software products, in particular with respect to the extent of and limits on the right of use.

Customer is to obtain information on the terms of use for such software products and adhere to them. Where such terms of use are not available to Customer, Customer may request them from BLUE at any time.

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- 34.2 Where Customer is provided with software products of a third-party supplier, which are not covered by the rights of use granted to Customer (e.g., separate open source components), Customer may only use such software products on the basis of a separate license. Customer itself shall be responsible for the procurement thereof.
- 34.3 The software products of the third-party supplier may include technical means to prevent unauthorized use.

PART D - SPECIAL CONDITIONS FOR CLOUD SERVICES AND DATA CENTER SERVICES

35. SCOPE OF APPLICATION OF THE FOLLOWING PROVISIONS

The provisions of Part D shall apply only to those Services whose subject matter (also) includes

- the provision or operation of software or
- the central storage and/or processing of data of Customer in the data center of BLUE or of its suBLUEnteractors for use by or for Customer (e.g., Hosting, Software-as-a-Service, Infrastructure-as-a-Service, Platform-as-a-Service, Backup, Data Recovery Service), and for such Services shall take precedence over the other provisions of these GTC.

36. AVAILABILITY OF SERVICES

- 36.1 Unless expressly agreed otherwise, BLUE shall provide the Services to Customer with 99.5% Service availability to be measured over a 12-month period.

Individual failures and impairments in the availability of the Services during regular maintenance windows and/or during maintenance, installation, or conversion work, as well as any shutdown or decommissioning during such time that are planned and coordinated with Customer **shall not be considered times of non-availability**. The regular maintenance windows shall occur daily between 11:00 PM and 5:00 AM.

Additional periods of time during which the Services are not available or are only available to a limited extent that are not within BLUE's area of influence (e.g., force majeure, interruptions in telecommunications line, the fault of third parties) **shall not be considered times of non-availability**.

Additional periods of time during which BLUE temporarily limits access to the Services as a result of

- an acute threat to its data, hardware and/or software infrastructure or those of Customer by external threats (e.g., viruses, port-hacking, Trojan attacks), or as a result of
- a significant risk to the safety of network operations or network integrity,

shall not be considered times of non-availability. In making such decisions, BLUE shall take into account to the extent possible the justified interests of its customers and do everything reasonable in order to rectify the access limitation as quickly as possible.

- 36.2 BLUE's responsibility for the components used shall end at the data interfaces of the computer centers of BLUE and/or its suBLUEnteractors to the public data networks, unless expressly agreed otherwise.
- 36.3 Where a Service Level Agreement has been agreed with Customer, its provisions shall take precedence in case of deviations.
- #### 37. OBLIGATIONS OF THE CUSTOMER DURING USE; USAGE PROHIBITIONS
- 37.1 Customer shall be responsible for ensuring that its use of the Services and/or the use of the Services by its employees does not violate these GTC and/or applicable laws.
- 37.2 In particular, the following actions are prohibited:
- the use of extreme right-wing, racist, violence glorifying, defamatory, offensive, obscene, or pornographic content or content that glorifies violence or is sexual in nature

and/or content that may promote racism, bigotry, hate, or physical violence;

- the use of content that insults, discriminates, or slanders other users or other third parties;
- the use of content that is against youth protection legislation and/or against other laws and/or content that may promote or support illegal actions;
- the use of content that is legally protected or encumbered with third-party rights (e.g., copyrights), without being entitled to do so expressly and with proof;
- use of the Services for sending advertising emails without meeting the legal requirements for advertising by electronic mail; and
- the entry of a website associated with the Services that is accessible to the public in search engines, if the use of keywords in the entry would violate legal prohibitions, morals, and/or third-party rights.

- 37.3 Furthermore, the use of Services for the performance of the following actions shall be prohibited:

- the unauthorized exposure and/or accessing of external computer systems (hacking, phishing, APR spoofing, web spoofing, etc.);
- the disabling of external computer systems by the mass sending and/or forwarding of data streams and/or emails;
- the operation of open email relays (spam or mail bombing, stalking, mail spoofing, etc.);
- searching for open access to computer systems (port scanning, etc.);
- the falsification of IP addresses (DNS, DHCP, IP/MAC, URL spoofing, etc.), email and/or news headers, as well as the distribution of malware (virus, worms, Trojans, etc.);
- the provision of IRC (Internet Relay Chat such as IRC server, bots, bouncers), anonymizer services (gate, JAP, proxy server, etc.), streaming services (download services, P2P exchange platforms, etc.) and/or linking to such; and
- the interruption and/or prevention of communication services.

38. SCOPE AND LIMITS OF THE RIGHT OF USE FOR SOFTWARE-AS-A-SERVICE AND HOSTING

- 38.1 In the event that software is provided or operated in the data center of BLUE or of its suBLUEnteractors for use by Customer (in particular, Software-as-a-Service), Customer shall receive a simple, non-exclusive and non-transferable right to access the software via the Internet for its own internal purposes, unless expressly agreed otherwise and subject to Article 38.2

Unless otherwise indicated in the offer or SaaS use certificate, the right of use shall be granted for a limited period of time as a Named User License (right of use for a named natural person).

The rights of use to Software-as-a-Service granted by these GTC shall be limited to access to the software via the Internet. Customer shall not be entitled to the transfer of program code.

- 38.2 Where the software is provided by Customer (e.g., for Hosting), the right of use ("License") to the software shall be governed exclusively by the agreements made between Customer and its licensor. In such event, Customer shall also be responsible for ensuring that it has acquired a sufficient right of use to provide the software to BLUE to perform the Service (e.g., Hosting).

39. BLOCKING OF SERVICES DURING THE TERM OF THE CONTRACT

- 39.1 BLUE shall be entitled to block individual or all access by Customer to the Services temporarily or permanently if concrete indications exist that Customer is in breach of these GTC or applicable laws. When deciding on any blocking, BLUE shall duly take into account Customer's justified interests.

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- 39.2 BLUE shall be entitled to block individual or all access by Customer to the Services if Customer is in arrears with payments owed.
- 39.3 In the event of a temporary or permanent blocking in accordance with Article 39.1 or Article 39.2, Customer shall not be entitled to a claim for reimbursement of compensation already paid.

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40. CHANGES TO SERVICES BY BLUE

- 40.1 The content, scope, and functions of the Services may change during the performance of the agreement, in particular as part of the usual further development of products and services.
- 40.2 BLUE shall notify Customer of any such changes in a timely manner and prior to the time when the changes are planned to take effect by in writing or in text form if, in the opinion of BLUE, such changes have a significant effect on the use of the Services by Customer.
- 40.3 If changes are not reasonably acceptable for Customer, it may object to the changes in question within 30 calendar days from receipt of the notification. If there is no objection and if Customer continues to use the (where applicable, changed) Services after the end of the objection period, the changes shall be considered to be effectively agreed.
- 40.4 Where Customer objects to the changes and if it is not possible or reasonable for BLUE to continue to provide the Services in the unchanged form (e.g., because the change had to be made for security reasons), BLUE shall be entitled to termination without notice of the provision of the Services.

41. TECHNICAL REQUIREMENTS FOR THE PERFORMANCE OF THE SERVICES

The selection of the components in BLUE's area of responsibility that are necessary for the operation and provision of the Services, as well as the hardware and software tools necessary for data storage, data security, monitoring, and management shall be performed by BLUE. Customer shall not be entitled to select certain components.

42. DURATION OF SERVICE PROVISION AND USAGE

- 42.1 Unless otherwise agreed, the provision of the Services shall commence when they are activated by BLUE for use by Customer and after that shall run for an indefinite period of time.
- 42.2 The provision of Services may be terminated by either party in compliance with a notice period of thirty calendar days effective at the end of a month. In the event of an agreement to the contrary (such as agreement of a minimum term), such agreement shall take precedence.

43. CONSEQUENCES OF TERMINATION OF SERVICES

- 43.1 When the termination of the Services comes into effect, the right of Customer to use them shall end, and BLUE shall be entitled to block access to the Services in question.
- 43.2 In case of termination of Services, BLUE shall be entitled to delete Customer data associated with the Services and affected by the termination 30 calendar days from the date when the termination takes effect. Customer shall therefore be obligated to
- store its data in a timely manner before the termination comes into effect, or
 - to commission BLUE to perform data storage for a separate fee in a timely manner prior to the expiry of the aforementioned 30-day notice period.

PART E - SPECIAL CONDITIONS FOR HOUSING SERVICES

44. SCOPE OF APPLICATION OF THE FOLLOWING PROVISIONS

The provisions of Part E shall only apply to the provision of server racks and other areas, hereinafter jointly referred to as "Area," by BLUE and the use of such Areas by Customer for the accommodation of its own servers and other IT components, hereinafter jointly referred to as "Components," and to such Services, hereinafter jointly referred to as "Housing Services," shall take precedence over the other provisions of these GTC

45. SCOPE AND LIMITS OF HOUSING SERVICES

- 45.1 As part of the agreements entered into and in accordance with these GTC, BLUE shall provide Customer with an appropriate place in a server rack for the accommodation of the Components.
- 45.2 Unless expressly agreed otherwise, the Housing Services shall not include:
- operation and maintenance of the Components;
 - the storing of Customer's data and content stored on the Components.
- ### 46. CONNECTION OF THE COMPONENTS TO THE INTERNET
- 46.1 Where the connection of the Components to the internet has been agreed, BLUE shall be responsible for the connection of the Internet address to be provided by Customer to the Components.
- The Services of BLUE in the transmission of data shall be limited to data communication between the transfer point operated by BLUE from its own data communications network (or that of the suBLUEntoractor) and the Internet and the components operated by Customer.
- 46.2 The provisions of Article 36 shall apply accordingly with respect to the availability of the Internet connection.
- ### 47. ACCESS OF CUSTOMER TO THE COMPONENTS
- 47.1 After prior agreement with BLUE, Customer shall have access to its Components within BLUE's usual working hours.
- 47.2 During access to its Components, Customer shall carefully adhere to and comply with security provisions or conduct guidelines of BLUE of which it was notified prior to the initiation of access.
- ### 48. OBLIGATIONS AND RESPONSIBILITIES OF CUSTOMER
- 48.1 Customer may not use any Components that may result in a risk to the hardware and/or software infrastructure of BLUE or that of other customers or a risk to the security of the network operation or network integrity.
- 48.2 Customer shall be obligated to treat the Area carefully. Customer shall adhere to the terms of use of which it has been notified in each case.