BLUESOURCE
mobile solutions®

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General Terms and Conditions

11 January 2024

1 Validity

1.1 These General Terms and Conditions apply to all relations between the customer and bluesource which arise from a contract, an order or a comparable agreement including amendments and supplements thereto.

1.2 Orders and Agreements are only binding upon bluesource if the customer has duly signed and confirmed them in writing, and bind bluesource only to the extent laid out in the written confirmation. Offers of bluesource are subject to confirmation unless expressly stated otherwise.

1.3 The applicability of general terms and conditions of the customer shall not be applicable to any part of the business relations between the customer and bluesource.

2 Scope

2.1 The subject matter of an order may be:
- Elaboration of organization concepts;
- Global and detailed analyses;
- Creation of individualized programs;
- Delivery of library (standard) programs;
- Acquisition of licenses for software products;
- Purchase of usufructuary right
- Entry Info Service Support;
- Telephonic consultation;
- Program maintenance;
- Creation of program data carriers;
- Performance of quality and functionality testings;
- Services regarding the placement and managing of advertisement in digital media as well as digital media marketing
- Other services.

The installation of software and trainings are not part of the contractual obligations of bluesource unless agreed otherwise.

2.2 Individualized organizational concepts and programs are elaborated in a manner and scope specified by the information, documentation and ancillary means provided by the customer. This includes practical test data and adequate testing possibilities which shall be provided by the customer in a timely fashion at regular working times and at its own cost. If the customer works in real time on the facility which has been provided for testing purposes, it assumes all responsibility for securing real-time data.

2.3 Individualized programs are created as per the written service specification submitted by bluesource on the basis of documents and information provided by the customer and which shall contain a costs calculation. The accuracy and completeness of this service specification shall be examined and confirmed by the customer. Subsequent amendment requests are not part of bluesource´s obligations under the agreement of the parties and may require additional term and price agreements in order to be valid.

2.4 Individually created services or program adaptations shall be accepted, where applicable per program package, by the customer at the latest four weeks after delivery or performance by bluesource. The acceptance shall be documented by the customer I protocol. In the event that the customer does not declare its acceptance within a period of four weeks of delivery, the delivered services and products shall be deemed accepted without objections upon the lapse of this time period. Operation of the product in real time by the customer shall also be deemed acceptance.

Any faults, i.e. material deviations from the written services specification or, in the absence thereof, a performance of software which materially deviates from commonly

established standards, shall be documented adequately by the customer and communicated to bluesource, which shall try to resolve the faults as quickly as possible. In the event of important faults which have been documented in writing, the product shall be accepted anew following the remedy of these faults. A fault is important, if the real-time operation of a program cannot start or continue or is gravely affected.

2.5 Where library (standard) programs are ordered, the customer´s order shall be deemed as confirmation and acceptance of the scope of the ordered programs.

2.6 In the event that bluesource shall carry out quality or functionality tests on programs or devices created by the customer or third parties, bluesource shall be solely obliged to carry out such tests in accordance with the services specification. bluesource is not obliged to detect all or specific faults, to warrant the full functionality of the programs or devices, or achieve other specific results, unless such results are expressly uncluded in the services specification.

2.7 When appointing bluesource to place advertisement and other content on the advertising media offered by bluesource, the customer is obliged to provide to bluesource by e-mail, as a general rule one week prior to the agreed first placement date, the materials required for such placement (data and files, including graphics, banners or program codes) in an electronic format as a html, (d)html, flash, png, gif oder jpg file and as suitable for the intended purpose (in particular with regard to size, type, screen display etc.), or to supply these material using online forms. The customer warrants that such materials are in a technically flawless condition and free of viruses, and and shall be liable for all damages attributable to technical flaws, viruses or other malfunctions and errors of the submitted materials. Data carriers supplied to bluesource will not be returned. In the event of breaches of this clause, bluesource is entitled to refrain from carrying out the order or to carry it out at a later date, but shall remain entitled to claim the agreed payment in full.

2.8 If bluesource deems in the course of the works that the performance of the order as per the services description is impossible due to factual or legal reasons, bluesource shall notify the customer thereof immediately. If the customer does not amend the services specification or facilitate the performance of the order, bluesource shall be entitled to decline the performance. Where the impossibility of performance is attributable to an omission of the customer or to a subsequent amendment of the services specification by the order, bluesource may rescind the order agreement. The customer shall reimburse bluesource for all costs and fees incurred during the performed works as well as extraction costs.

2.9 Place of fulfillment is the domicile of bluesource. Dispatch of program carriers, documentation and service specifications takes place at the cost and risk of the customer. Additional trainings and explanations requested by the customer shall be invoiced separately. Insurances may only commence at the request of the customer.

3 Prices, Taxes, Fees and Value Assurance

3.1 All prices are quoted in Euro exclusive of value added tax. They are solely valid for the concerned order as per the services specification including any supplementary agreements. Prices are quoted as delivery ex works from the domicile or branch of bluesource. Costs for program carriers (e.g. magnetic bands, magnetic tapes, floppy disks, streamer tapes, magnetic cassettes, data carriers, server structures, hosting etc.) and all incurred fees will be billed separately.

3.2 Library (standard) programs are charged at the list prices on the day of the order. All other services (organization consulting, training, conversion support, telephone sup-

port) shall be charged based on the amount of work at the hourly rates valid at the time of performing such work. Deviations from an amount of work which has been considered for the calculation of a contractual fee will be charged subject to an agreement with the customer, provided that such deviations are not attributable to bluesource.

3.3 If bluesource provides contractually agreed services at the domicile of the customer or at another place specified by the customer, traveling, lodging and accommodation expenses shall be billed to the customer separately according to the applicable rates. Traveling times are treated as working time.

3.4 Contracts and services as well as agreed hourly rates that extend beyond the end of a year are subject to value assurance, unless otherwise agreed in orders. This value assurance is subject to the consumer price index 2020 (CPI 2020) published monthly by Statistics Austria or an index replacing it. The starting point for the value assurance calculation is the index figure published for the previous month of December. Changes to hourly rates, licence and maintenance fees shall always take effect on 31 December of each year with the most recently published index figure calculated in this way and shall then apply until 31 December of the following year.

4 Delivery Term

4.1 bluesource shall endeavor to uphold agreed terms for the performance of its duties to the extent possible.

4.2 The envisaged terms can only be upheld if the customer performs all necessary works and submits documentation within the time specified by bluesource, in particular provides the service specification as per section 2.3 of these General Terms and Conditions, and co-operates with bluesource to the required extent.
Delayed deliveries and increased costs attributable to inaccurate, incomplete or subsequently amended statements and information or submitted documents do not fall within the responsibility of bluesource and may not lead to the default of bluesource. The customer shall bear all related extra costs.

4.3 In the event of orders comprising several units or programs, bluesource is entitled to deliver in part and to issue partial invoices. Each partial delivery shall be accepted in accordance with section 2.4 of these General Terms and Conditions and the provisos of the Austrian Commercial Code (*Unternehmensgesetzbuch*).

5 Payment

5.1 Invoices of bluesource shall be paid inclusive of value-added tax within 14 days of receiving the invoice without any deductions and exempt from any charges. The payment conditions of the order or agreement shall apply mutatis mutandis to partial invoices.

5.2 In the event of orders containing several units (for instance programs and/or trainings, implementations in partial steps), bluesource may issue invoices after the delivery or performance of each individual unit or service.

5.3 Payment of each invoice in due time is an important condition for the performance of bluesource´s obligations under the agreement. In the event of the customer´s failure to make payments in due time, bluesource is entitled to suspend work in progress,

claim damages against the customer and rescind the agreement. The customer shall be liable for all incurred costs and loss of profit.

In the event of payment default, interest on default shall be calculated as per banking standards. If the customer is in default with two successive payment instalments, bluesource may declare immediate maturity and demand payment of provided bills of exchange or partial performance.

5.4   The customer may not withhold payments due to incomplete delivery by bluesource or warranty and default claims.

6   Copyrights and Use

6.1   All copyrights to the agreed services (programs, documentation etc.) lie with bluesource or its license providers. Unless expressly agreed otherwise, the customer is solely granted a simple, non-transferrable right, limited to the term of the contract, to use the provided service, following the payment of the agreed fee, exclusively for its own purposes, solely for the hardware specified in the agreement, and to the extent of the obtained license for the operation on several workspaces.

Unless expressly agreed otherwise, the agreement only entitles the customer to a license to use the service. It is not entitled to distribute, including to sub-license, the service. Duplicating the delivered service is only permissible within the scope of this section 6. The co-operation of the customer during the creation of the service does not confer upon it any rights beyond the right of use as per the agreement. Any breach of copyrights of bluesource shall give rise to claims for full damage compensation.

6.2   The customer may create copies for archive and data security purposes under the condition that the service does not contain an express prohibition by bluesource or third parties, and that all copyright and title notices are transferred to such copies without amendment.

6.3   In the event that interfaces must be disclosed in order to facilitate the interoperability of the due services, a request for such disclosure shall be made by the customer to the bluesource. The customer shall bear the costs inherent in such disclosure. If bluesource does not comply with a disclosure request and a decompiling pursuant to the Austrian Copyright Act (Urheberrechtsgesetz) is carried out, the results thereof shall solely be used for the faciliation of interoperability. In case the customer uses the obtained results of decompiling for other purposes, bluesource shall be entitled to claims for damages against the customer.

6.4   Where the customer makes available to bluesource materials for the purpose of placing advertisements, the customer shall be deemed to have granted to bluesource all rights of use necessary therefor, including without limitation the right to reproduce such materials in online networks. The grant of rights of use shall also include the right of bluesource to process such materials, if and to the extent that amemdments to the materials are required for optimal advertisement placement. bluesource shall not be obliged to correct, amend or process delivered materials, and bluesource shall invoice the customer for the time expended to provide such services. In the event that amendments are necessary, bluesource shall inform the client when the revised materials may be delivered. Any claims or complaints must be submitted to bluesource within 24 hours of delivery; in the absence of such claims or complaints, the material shall be deemed accepted. The customer is solely responsible for the compliance of any advertisement placed by bluesource on the customer´s behalf, as well as of content connected with such material via links with applicable law, including without limitation copyright law, press law, criminal law, media law, law on protection of minors,

competition law and professional conduct law. Moreover, the parties agree that materials provided by the customer shall be free from any religious, sexist, racist or otherwise objectionable content. Bluesource shall be entitled, but not obliged, to examine submitted materials and to reject and remove advertisements which do not comply with these requirements; such rejection or removal shall not affect the right of bluesource to remuneration. The customer represents and warrants that it is the sole beneficiary of any and all rights of use and exploitation of materials provided to bluesource, and that such materials are not subject to third-party claims. The customer shall indemnify bluesource from and against any and all third-party claims, costs and penalties arising from the use of submitted materials. This indemnity shall include reasonable legal expenses incurred by bluesource in the enforcement of its rights under this agreement or its defense against third-party claims.

6.5   In the event that bluesource allows the customer to place advertisement on online media of bluesource or third parties, or to impact the timing and space of such placements, bluesource expressly notes that the customer is solely responsible for the content and type of the placement (with regardsto timing, space and clients). This includes, but is not limited to, the use of beacons which allow the customer to send push messages to potential clients in a place and time-specific radius.

The customer agrees that it is aware of and shall comply with all applicable legal provisos, in particular with regard to copyright, criminal, competition, customer protection, and media law. The parties agree that the customer may not place any advertisement with religious, sexist, racist or otherwise objectionable content. In the event that claims are brought against bluesource, on any grounds, by third parties as a result of advertisement placements by the customer, the customer shall indemnify and hold harmless bluesource upon first demand from and against all claims, costs, expenses and damages.

7   Rescindment

7.1   In the event that bluesource exceeds an agreed delivery term due to its sole fault, the customer may rescind the order by registered mail, provided that bluesource has not delivered the service at least in integral parts within a reasonable grace period and the customer bears no responsibility herefor.

7.2   Circumstances of force majeure, labor conflicts, natural disasters and transport disruptions as well as other events which lie outside the sphere of influence bluesource shall release bluesource from the obligation to deliver or entitle bluesource to specify a new term for delivery.

7.3   Order cancellations by the customer are subject to the written approval of bluesource. If bluesource approves a cancellation, it is entitled to charge the customer for all performed services and incurred costs as well as to a cancellation fee of 30 % of the as yet unbilled value of the total order.

8   Warranty, Maintenance, Amendments

8.1   bluesource provides product warranty for a period of four months. Warranty claims are only valid, if they concern reproducible (testable) faults and are documented in writing within four weeks of delivery of the agreed service or, in the event of individualized services, of the acceptance of the service as per clause 2.4 of these Terms and Conditions.

The warranty of bluesource is provided solely for the following faults: material deviations from the services specification; in the absence of a services specification, performance of the software which materially deviates from commonly established standards; faults which manifestly arose out of a programming error; faults which render the product unusable or materially restrict its functionality; provided, however, that such faults are not attributable to the customer or third parties. The following does not constitute a fault: interface or back-end systems have been modified by the client or third-party providers in the background, during or after the implementation; unpredictable changes have been effected by the Operating System producer or by producers of third-party components (e.g. Facebook API, *interfaces of the IT department)* after the order was placed by the customer; events or special circumstances occur in third party systems, where such events or special circumstances are not described in the available documentation for the system, and the defined performance of the system is affected as a result; errors or logical deviations were not discovered during delivery and internal tests, and the warranty period has expired.

In the event of warranty claims, rectification of a defect shall have precedence over price reduction or annulment. If the warranty claim is justified and documented, defects attributable to bluesource shall be rectified in due time, provided that the customer facilitates all measures necessary to examine and rectify the defect. The burden of proof shall not be reversed, i.e. bluesource shall not be obliged to prove that it is not responsible for the defect.

8.2   By way of derogation from clause 8.1, the warranty period for advertisement placed by bluesource shall cover 10 days, commencing with the placement of such advertisement. Upon the lapse of this period, the services of bluesource shall be deemed accepted without claims in any event. If the advertisement is not placed at such time as was initially planned or not in a manner provided for in the order, bluesource shall be obliged to place the advertisement at the earliest possible time. If bluesource is not able to place the advertisement in two attempts at a later date, the customer shall be entitled to demand a price reduction or, in the event of non-performance by bluesource, to rescind the agreement. The customer shall have no further rights of recourse against bluesource. Defects must be demonstrated to bluesource without undue delay.

8.3   Corrections and supplements which are deemed necessary before the delivery of the agreed service due to defects attributable to bluesource will be performed by bluesource free of charge.

8.4   Help support, defect diagnosis, and rectification of defects and malfunctions which are attributable to the customer as well as other corrections, amendments and supplements shall be performed by bluesource at the cost of the customer, which shall be charged separately. This also applies to the rectification of defects, if the customer or a third party has amended, supplemented or otherwise tampered with a program.

8.5   bluesource makes no representation with regards to faults, malfunctions or damages arising from improper operation, amended operating system components, interface and parameters, the use of unsuitable organization means and data carriers, where such are prescribed, abnormal operational conditions (in particular deviations from the installation and storage conditions) or transport damages.

8.6   Programs which have been subsequently amended by programmers of the customer or third parties are not covered by any warranty or representation by bluesource.

8.7 Where the order concerns the amendment or supplementing of existing programs, the product warranty covers solely the amendment or supplement. Any warranty for the original program is not novated or otherwise become applicable.

8.8 To the extent that the order concerns the performance of quality or functionality tests, the product warranty covers exclusively the performance of the duties laid out in the services specification. bluesource is not liable for undetected defects or errors, consequential damages and loss of profit.

8.9 The parties expressly agree that the modification or enhancement of a product does not prolong the warranty period for the entire product, but rather that only the modification or enhancement is covered by the warranty. The warranty for the modification or enhancement can only be invoked if the fault is evidently attributable to the processing of the component.

9 Liability

9.1 bluesource is liable within the framework of applicable law for damages arising from the use its services by the customer as per the agreement, provided that such damages are typical and expected for the nature of the order and attributable to the willful default or gross negligence of bluesource. bluesource disclaims liability for damages attributable to plain negligence. In the event of gross negligence, the liability of bluesource shall be limited to an amount equal to the threefold of the fee due to bluesource under the agreement. This limitation of liability does not apply to claims arising out of damages to the life, physical integrity or health of the customer or its employees.

9.2 bluesource may not be held liable for consequential or immaterial damages, third-party claims against the customer or loss of profit, unless mandatory law dictates such liability. bluesource may in particular not be held liable for work results incurred in the course of the use of ist services and products, and damages connected to such results.

9.3 The customer is responsible and shall be liable to bluesource for any material, advertising or otherwise, provided or used by him being free from rights of third parties and compliant with applicable law, in particular pertaining to the placement of advertisement, as well as from religious, sexist, racist or otherwise objectionable content. The customer shall be fully liable in the event of claims brought against bluesource, and shall indemnify and hold harmless bluesource upon first demand against any and all costs, claims, expenses and damages, and take all necessary steps to avert legal disputes with third parties. The customer´s liability includes plain negligence and shall reimburse lost profit of bluesource.

10 Loyalty

10.1 The parties agree to behave in a loyal manner to each other. They shall refrain from recruiting or hiring, directly or through third parties, personnel of the respective counteprarty which has been active in the implementation of the orders for the term of the contract and twelve months following the termination of the contract. A party which breaches this obligation shall pay a fixed compensation of one annual salary of the concerned employee.

11 Data Protection, Confidentiality

11.1 Both parties shall comply with the provisos of the data protection acts applicable to them

bluesource shall in particular oblige its employees to adhere by the provisions of article 15 of the Austrian Data Protection Act (*Datenschutzgesetz*).

The customer warrants that it shall be in compliance with applicable provisos of data protection acts concerning the users of the applications when using the programs, applications and other online media of bluesource (including without limitation when placing advertisement or otherwise interacting with users). In particular, the customer shall store, process or otherwise use personal and indirectly personal data of users only subject to obtaining the users´ express consent in the form prescribed by data protection provisions. The customer shall indemnify and hold harmless bluesource in the event of a breach of this proviso.

The customer warrants that it is in possession of all necessary rights and authorisations for all user data which he provides to bluesource in the framework of the contractual relationship.

Furthermore, the customer warrants that it shall only use data provided by bluesource for the agreed purposes. In the event of a breach of this proviso by the customer, it shall fully indemnify and hold harmless bluesource from and against any third-party claims and all costs and damages arising therefrom.

11.2 The customer agrees that bluesource may collect and process all necessary personal data of the customer, its employees and agents and assignees or the purpose of facilitating the conclusion and performance of agreements as well as for the examination of the credit worthiness of the customer.

11.3 The customer furthermore agrees that bluesource may use the name and the company logo of the customer in and internal and/or external media (such as written documentation, websites, advertising material, press texts and presentations) free of charge until revoked, and may specify the customer as a reference client.

11.4 Personal data of users may only be transferred subject to the consent of the concerned users. If the customer requests the transfer of client numbers, which may indirectly allow the identification of users, the customer shall obtain the advance consent of its clients and confirm this to bluesource without bluesource´s express request. In the event that concerned users bring claims against bluesource in connection with the transfer of client numbers invoking insufficient authorisation of the customer, the customer shall fully indemnify and hold harmless bluesource.

12 Term and Termination

12.1 Agreements shall be deemed as concluded for an indefinite period of time in the absence of other term arrangements. bluesource may terminate the agreement by notice with immediate effect and cease the performance of its obligations in the event that the customer is in default with regard to due payments despite a monition by bluesource setting a grace period and a warning of termination after the lapse thereof; conceals or presents important facts pertaining to the agreement; breaches important obligations under the agreement or these General Terms and Conditions; or otherwise significantly infringes applicable law or established commercial customs. A material breach of obligations, which shall entitle bluesource to terminate the agreement

with immediate effect, shall be particularly lie in the infringement by the customer of sections 6 and 11 of these General Terms and Conditions.

12.2   Upon termination of the agreement, all rights of use and licenses granted to the customer with regard to services and products of bluesource shall terminate unless agreed otherwise. Confidentiality and non-compete undertakings shall remain in force without regard to the termination or dissolution of the agreement.

12.3   Any and all outstanding payment obligations of the customer arising out of provided services and services not provided due to circumstances attributable to the customer shall become due and payable in full.

13   Miscellaneous

13.1   In the event that provisos of these General Terms and Conditions are invalid or unenforceable, the remaining part of the General Terms and Conditions shall not be affected. The parties shall co-operate in good faith with a view to concluding a provision which approximates the invalid provision. Failing this, the invalid provision shall be replaced by a provision which reflects the presumable will of the parties upon concluding the agreement.

14   Final Provisions

14.1   Unless agreed otherwise, solely the provisions of Austrian laws for enterprises (*Unternehmen*) shall be applicable; the provisions of private international law shall not apply. This shall be the case even when the order is consummated or the performance is accepted outside Austria. All disputes shall be resolved before the court of jurisdiction at the domicile of bluesource.

14.2   In the event of selling services to consumers within the meaning of the Austrian Consumers Act (*Konsumentenschutzgesetz*), these Terms and Conditions shall only apply to the extent that the Consumers Act does not prescribe the mandatory application of other terms.