

GENERAL TERMS AND CONDITIONS – BLUE RADIX B.V.

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Article 1 - Definitions

In these conditions, the following terms have the following meaning:

1. **Supplementary Agreement:** an agreement whereby the customer acquires Products, Digital Content and/or Services in connection with an agreement and these goods, digital content and/or Services are delivered by Blue Radix B.V. or by a third party on the basis of an agreement between such third party and Blue Radix B.V.;
2. **Cooling-off Period:** the period within which the customer can use his right of withdrawal;
3. **Day:** calendar day;
4. **Service:** all activities that Blue Radix B.V. executes for the implementation of the Agreement;
5. **Digital Content:** data which are produced and delivered in digital form;
6. **Continuing Performance Contract:** an agreement pertaining to the regular delivery of goods, Services and/or digital content during a specific period;
7. **Durable Data Carrier:** any tool - which includes email - that allows the customer or entrepreneur to store information directed to him/her personally in a manner that facilitates future consultation or use during a period which is attuned to the purpose for which the information is intended and which permits unaltered reproduction of the stored information;
8. **Electronic Service:** Blue Radix portal accessible via internet, through which the Customer can purchase Services.
9. **Embedded Software:** computer Software written to operate machines or equipment which are usually not regarded as being computers;
10. **Hardware Component:** Technical means provided by Blue Radix B.V. given on loan to the Customer for the performance of the Services of Blue Radix B.V. to the Customer.
11. **Right of Withdrawal:** the option for the customer, within the cooling-off period, not to proceed with the agreement;
12. **Customer:** purchaser of Products, (access to) digital content and/or Services;
13. **Agreement:** an agreement entered into between Blue Radix B.V. and the customer, including but not limited to, agreements in the context of an organised system for distance sales of Products, digital content and/or Services, whereby up to and including the entering into of the agreement use is made of, or partly made of, one or more distance communication technologies;
14. **Personal data:** all data that directly or indirectly says something about a natural person.
15. **Product:** Goods by Blue Radix B.V. to be delivered pursuant to the Agreement, expressly including Software Products and data;
16. **Software / Software Products:** the “not tangible” Software by Blue Radix B.V. made available in the context of the performance of the Agreement;
17. **Distance Communication Technology:** means of communication which can be used for entering into an agreement without the customer and Blue Radix B.V. physically meeting in the same room.

18. **Confidential Information:** Non-public information, including but not limited to data, know-how, Products, Product characteristics, procedures or equipment, company information, analysis, research, facilities, and trade and manufacturing secrets in any form.

Article 2 - Identity of Blue Radix B.V.

Blue Radix B.V.

Van Nelleweg 1, 3044 BC Rotterdam

E-mail adres: info@blue-radix.com

KvK-nummer: 75407531

Btw-identificatienummer: NL8602.71.523.B01

Article 3 - Applicability

1. These general terms and conditions apply to every offer made by Blue Radix B.V. and every Agreement entered into between Blue Radix B.V. and the Customer.
2. Before the Agreement is entered into, the text of these general terms and conditions is made available to the Customer. If this is reasonably not possible, Blue Radix B.V., before the Agreement is entered into, shall indicate how the general terms and conditions can be inspected at Blue Radix B.V. and that they will be sent to the Customer free of charge as soon as possible on request.
3. If the Agreement is entered into electronically, the text of these general terms and conditions may, at the request of the Customer and in departure from the previous paragraph and before the Agreement is entered into, be made available to the Customer electronically in such a way that it can be stored by the Customer in a simple manner on a Durable Data Carrier.
4. In the event that, in addition to these general terms and conditions, specific Product or Service conditions apply, the second and third paragraph apply mutatis mutandis and the Customer can, in the event of contradictory conditions, always rely on the applicable provision which is most favourable for the Customer.
5. The applicability of any purchase conditions or other conditions of the Customer is expressly rejected.
6. If Blue Radix B.V. does not always demand strict adherence to these conditions, this does not mean that such provisions are no longer applicable or that Blue Radix B.V. would in any way lose the right to demand, in other circumstances, strict compliance with these conditions.

Article 4 - The offer

1. If an offer has a limited term of validity or is made subject to conditions, this will be expressly stated in the offer.
2. All offers contain such information making it clear to the Customer what rights and duties are attached to accepting the offer.
3. An offer does not automatically apply to future orders.

Article 5 – Products

1. The Products are in all material aspects in accordance with the specifications included in the Agreement.
2. The Customer is obliged to use an (Electronic) Service, Product and/or a Functionality in accordance with the provisions and/or directions issued by or on behalf of the Blue Radix B.V.
3. The samples, drawings, descriptive material or advertisements provided by Blue Radix B.V. or descriptions and illustrations on its website, in Blue Radix B.V.'s catalogues or brochures are only provided or published to give an idea of the Products but do not form part of the Agreement and do not have any contractual value whatsoever.
4. If the Products contain Embedded Software, Blue Radix B.V. hereby grants a non-exclusive, royalty-free licence to exclusively use the Embedded Software for the normal use of the Products. Normal use includes the use for which the Software is intended, namely the operation of the machines and/or equipment for which the Agreement was entered into. The Customer is not permitted to use the Software on other machines and/or equipment without the written permission of Blue Radix B.V.

5. If Blue Radix B.V. provides the Customer with Software Products, such Products are deemed to have been licensed and the right of the Customer to use these Products is limited to a non-exclusive, non-transferable right to use the Software Product during the term of the Agreement for its internal business purposes and exclusively for the intended use. In addition, the user right of the Software Product of the Customer is subject to the principles and other restrictions as expressly described and included in the Agreement.
6. The Customer shall not amend, adjust, change, translate the Software Product or create derivative works from such, merge the Software Product with other Software or distribute it, give it in sub-licence, or lease, rent out, lend out or otherwise transfer the Software Product to a third party
7. If the Products contain a Hardware Component, required for the by Blue Radix B.V. service to be provided, Blue Radix B.V. make these available to the Client. This hardware remains fully owned by Blue Radix B.V. The Customer is not permitted to sell, adapt, disassemble or use this hardware other than that provided by Blue Radix B.V. specified use and purposes.
8. The Customer shall not apply reverse engineering and shall not decompress, dismantle or otherwise aim to discover the source code for the Software in the Products (expressly including any Hardware Components), except if and insofar as legislation applies in the jurisdiction of the Customer, irrespective of a contractual prohibition to the contrary, allowing the Customer to do this to obtain information which is required so that the Software is operational with other Software. In that case the Customer must however first request such information from Blue Radix B.V. and Blue Radix B.V. can, at its discretion, either provide such information to the Customer or grant the Customer access to the source code for the sole purpose of obtaining this information, on reasonable conditions, including a reasonable payment for such use of the source code to ensure that the property rights of Blue Radix B.V. and its suppliers are protected.
9. The Software Products and possible Hardware Components may only be used in combination with the equipment, Software and systems specified in the Agreement.
10. The Customer shall not apply for a Patent on the purchased Product or parts thereof. (explicitly including any Hardware Components. Furthermore, the Customer agrees never to claim any other intellectual property right, including but not limited to copyright and database right, regarding the purchased Product or Service.
11. Blue Radix B.V. is not obliged to install, assemble or maintain the Products or offer support for such unless the Parties agree otherwise in a separate Agreement.

Article 6 – Services

1. Blue Radix B.V. renders the Services, including advice, in a professional and adequate manner and delivers commercially reasonable efforts to render the Services in accordance with the Agreement.
2. The Customer renders all necessary cooperation to facilitate the rendering of the Services by Blue Radix B.V., including providing timely answers to questions of Blue Radix B.V., timely delivery of the reasonable goods to be delivered by the Customer, access to the building and suitable equipment, suitable workspace and reasonable access to the network and the Software environment of the Customer (if applicable).
3. Blue Radix B.V. is the exclusive owner of all rights to, ownership of and interests (including intellectual property rights) in all data generated and/or collected by Blue Radix B.V. in the performance of the Services. If necessary, in an exception to this, the Personal Data and Confidential Information provided by the Customer to Blue Radix B.V. for the performance of the service. These data remain the property of the Customer.
4. If applicable, the Blue Radix B.V. gives the Customer the option to use the Electronic Service. To be able to make use of the Electronic Service, the Customer requires a Username and Password which are made available by Blue Radix B.V.
5. The Customer must handle the Username and Password with care:
 - a. The Customer ensures that the Username and the Password will not be made known to others.
 - b. If the Customer knows or suspects that a Username and Password have become known to another person, he is obliged to report this immediately to Blue Radix B.V.
 - c. If the Customer wishes to end the use of a Hardware Component and/or Username and Password made available to him (in the event of loss and/or theft for example), the Customer must report this to an information line indicated by Blue Radix B.V. stating the specifications of the Tool and/or the Username. In that case Blue Radix B.V. shall as soon as possible after the notification suspend the use of the relevant Tool and/or the relevant Username.

- d. From a security point of view, the Customer changes his Password in accordance with the available procedure.

Article 7 - The Agreement

1. Subject to the provisions in article 4, the Agreement is formed the moment the Customer accepts the offer and complies with the set terms and conditions in that respect.
2. If the Customer has accepted the offer by electronic means, Blue Radix B.V. immediately confirms receipt of the acceptance of the offer by electronic means. As long as receipt of this acceptance has not been confirmed by Blue Radix B.V., the Customer may terminate the Agreement.
3. If the Agreement is formed electronically, Blue Radix B.V. takes appropriate technical and organisational security measures to protect the electronic data transfer and provides for a safe web environment. If the Customer can pay electronically, Blue Radix B.V. shall take suitable security measures to this end.
4. Blue Radix B.V. may, within the limits of the law, gather information about Customer's ability to fulfil his payment obligations, as well as all the facts and factors relevant to responsibly entering into the Agreement. If, acting on the results of this investigation, Blue Radix B.V. has sound reasons for not entering into the Agreement, it is entitled to refuse an order or request stating reasons or make the performance subject to special conditions.
5. Blue Radix B.V. shall at the latest on delivery of the Product, Service or Digital Content send the Customer the following information in writing, or in a way the Customer can store in an accessible manner on a Durable Data Carrier:
 - a. the visiting address of Blue Radix B.V.'s business establishment where the Customer can lodge complaints;
 - b. information on guarantees and existing after-sales Service;
 - c. the price, including all taxes, of the Product, Service or Digital Content; insofar as applicable, the costs of delivery; and the manner of payment, delivery or performance of the Agreement;
 - d. the requirements for cancelling the Agreement if the Agreement has a term of more than one year or is for an indefinite period of time;
6. In the event of a Continuing Performance Contract, the provisions in the previous paragraph only apply to the first delivery.

Article 8 - The price

1. Blue Radix B.V. can offer Products or Services with variable prices; these prices are tied to fluctuations on the financial market which are outside the control of Blue Radix B.V. This tie to fluctuations and the fact that any stated prices are guide prices only, shall be stated in the offer.
2. Price increases within 3 months after the formation of the Agreement are only permitted if they are the result of statutory regulations or provisions.
3. Price increases from 3 months after the formation of the Agreement are only permitted if Blue Radix B.V. has stipulated this (a subscription for example) or they are the result of statutory regulations or provisions.
4. If during the term of the Agreement the date of 31 December of a calendar year passes, Blue Radix B.V. is entitled to index the agreed payments. Indexation takes place on the basis of the CBS Services Price Index of January compared to January of the previous year.
5. A composite quotation does not oblige Blue Radix B.V. to carry out a part of the order or delivery at a corresponding part of the stated price.
6. The prices referred to in the offer of the Products or Services are exclusive of VAT and other levies imposed by government.

Article 9 - Liability

1. Without prejudice to article 9.3, Blue Radix B.V. is under no circumstances, pursuant to contract, unlawful act (in both cases including negligence), misrepresentation of facts (other than fraudulent misrepresentation), breach of the statutory obligations or otherwise, liable for any loss of profit, anticipated savings, income, business, loss or damage of data, loss of use, loss of goodwill, loss due to delay or for any (other) indirect loss or consequential loss or any loss whatsoever.
2. Blue Radix B.V. is not liable for a shortcoming in the Service provision as a result of force majeure, expressly including (but not limited to) internet (connections) interruptions, loss of passwords or

access codes (insofar as outside the fault of Blue Radix B.V.), power failures, internet connection failures, telecommunication infrastructure failures, malfunctions caused by Blue Radix B.V. supplied Hardware Component required for the provision of services, network failures, shortcomings by engaged third parties or suppliers, strikes and business closures. In the event of force majeure, Blue Radix B.V.'s obligation to perform the Agreement lapses in respect of the part or parts to which the force majeure relates. Blue Radix B.V. is then not liable to pay compensation. If the force majeure situation has continued for more than four weeks, both parties have the right to terminate the Agreement wholly or in part, insofar as the force-majeure situation justifies this. In the event of force majeure, the Customer is not entitled to compensation.

3. Without prejudice to article 9.1 and 9.2, Blue Radix B.V.'s total liability (including in respect of the reversal of commitments) pursuant to contract, unlawful act (in both cases including negligence), misrepresentation of facts (other than fraudulent misrepresentation), breach of the statutory obligations or otherwise, is limited to: (i) the amount paid by the Customer to Blue Radix B.V. (exclusive of VAT) for the Products or the Services in respect of which such liability arises; or (ii) - if the limitation at (i) or (ii) does not hold, (iii) the amount in relation to Continuing Performance Contracts, the net price paid by the Customer during maximum the three (3) months prior to the first date on which liability arose for the first time.; or (iii) covered and paid out by Blue Radix B.V.'s corporate liability insurance.
4. Nothing in the Agreement is deemed to exclude or limit Blue Radix B.V.'s liability:
 - a. in relation to loss or damage caused by an intentional act or wilful recklessness by Blue Radix B.V. or by the management of Blue Radix B.V.;
 - b. in the event of injury or death of a person, caused by Blue Radix B.V. or the officers, employees, agents or contractors of Blue Radix B.V.; or
 - c. in a manner which is unenforceable or void on the basis of mandatory law.
5. Blue Radix B.V. must within fourteen (14) Days from the date on which the loss was caused be notified of any claims due to loss or damage, failing which this claim lapses.
6. Blue Radix B.V. is not liable for and the Customer indemnifies Blue Radix B.V. against claims by third parties which arise from or in any way relate to information or advice provided by Blue Radix B.V. to the Customer or its customers.
7. The Customer indemnifies Blue Radix B.V. against claims by third parties, including Product liability claims, as a result of a shortcoming in a Product or system that the Customer has delivered to a third party and (partly) consisted of Products delivered by Blue Radix B.V., subject to the extent that the Customer proves that the loss was caused by said Products and without prejudice to the other provisions in this article.

Article 10 - Continuing Performance Contract: duration, termination and extension

Termination:

1. The Customer can at all times terminate an Agreement entered into for an indefinite period of time and which sees to the regular delivery of Products or Services with due observance of the termination provisions agreed to this end or, if the termination rules do not dictate otherwise, a notice period of one month.
2. The Customer can at all times terminate an Agreement entered into for a fixed period of time and which sees to the regular delivery of Products (including electricity) or Services taking effect from the end of the specified term with due observance of the termination provisions agreed to this end and a notice period of at most one month.
3. The Customer can:
 - at all times terminate the Agreements referred to in the previous paragraphs and cannot be restricted to terminate them at a specific time or in a specific period;
 - in any case terminate the Agreements referred to in the previous paragraphs in the same manner as they have been entered into by the Customer;
 - always terminate the Agreements referred to in the previous paragraphs with the same notice period as Blue Radix B.V. has stipulated for itself.
4. In the event of termination of the Agreement, the Customer has the obligation to remove any installed Software and any Hardware components in good condition to Blue Radix B.V. no later than 2 weeks after the end of the Agreement. to return.

Extension:

5. An Agreement entered into for a fixed period of time and which sees to the regular delivery of Products or Services may not be tacitly extended or renewed for a fixed period unless expressly otherwise agreed.
6. An Agreement entered into for a fixed period of time and which sees to the regular delivery of Products or Services, may only be tacitly renewed for an indefinite term if the Customer is entitled to terminate the Agreement at all times with a notice period of at most one month.
7. A fixed term Agreement for the regular introductory delivery of the Service or Product (trial and introductory subscriptions) is not tacitly renewed and terminates automatically after the trial or introductory period has ended.

Duration:

8. If the Agreement is for a term of more than one year, the Customer may after a year at all times terminate the Agreement with due observance of a notice period of at most one month, unless reasonableness and fairness preclude termination before the end of the agreed period.

Article 11 - Payment

1. Insofar as not otherwise determined in the Agreement or additional conditions, the Customer must pay the due amounts within 14 Days from the commencement of the Cooling-off Period or, in the absence of a Cooling-off Period, within 14 Days from entering into the Agreement. In the event of an Agreement to render a Service, this term commences on the Day after the Customer has received the confirmation of the Agreement.
2. If an advance payment is stipulated, the Customer cannot exercise any right relating to the execution of the relevant order or Service(s) before the stipulated advance has been paid.
3. The Customer is obliged to notify Blue Radix B.V. immediately of any inaccuracies in provided or stated payment details.
4. If the Customer does not comply with his payment obligation(s) on time, and, after having been notified by Blue Radix B.V. of the late payment and being granted a term of 14 Days to as yet comply with his payment obligations, still fails to make the payment within this 14 Day term, he shall owe on the still outstanding amount the statutory interest and Blue Radix B.V. is entitled to charge any incurred extra-judicial collection costs. These collection costs are maximum: 15% on the outstanding amount up to € 2,500; 10% on the following € 2,500 and 5% over the next € 5,000 with a minimum of € 40. Blue Radix B.V. can deviate from said amounts and percentages in favour of the Customer. The mentioned amounts are excl. VAT.

Article 12 - Complaints procedure

1. Blue Radix B.V. has a sufficiently published complaints procedure and handles the complaint in accordance with this complaints procedure.
2. Complaints relating to the performance of the Agreement must be submitted to Blue Radix B.V. within 14 days after the Customer has observed the defects in full and accompanied by a clear description in writing.
3. Complaints submitted to Blue Radix B.V. will be answered within a period of 14 Days calculated from the date of receipt. If a complaint requires an anticipated longer processing time, the Customer will receive an answer within the period of 14 Days with a notification of receipt and an indication as to when the Customer can expect a more comprehensive answer.
4. The Customer must give Blue Radix B.V. in any event 4 weeks to resolve the complaint in mutual consultation. After this period, a dispute arises which is eligible for the dispute procedure.
5. Lodging a complaint and Blue Radix B.V. processing a complaint, does not release the Customer from its obligation to pay the amounts owing within the set periods.

Article 13 - Intellectual property

1. Subject to the limited rights as expressly granted in article 5, Blue Radix B.V. and/or its licensors reserve all rights to, ownership of and interests in, the Products, including all associated intellectual property rights. The Customer is not granted any other rights than the rights as expressly stated in these conditions.
2. All changes, adjustments or improvements made or developed in relation to the Product, whether or not made or developed at the request of the Customer, are and remain the property of Blue Radix B.V.

3. Blue Radix B.V. is the exclusive owner of all rights to, ownership of and interests (including intellectual property rights) in all materials, documentation, Software, websites or information arising from the performance of the Services or which have been developed for, or made available to, the Customer in the context of or in relation to the Agreement.
4. Blue Radix B.V. shall indemnify the Customer against any claim, legal action or proceedings by third parties where it is alleged that a Product, in unchanged form and as originally delivered by Blue Radix B.V. and used as permitted pursuant to this Agreement, breaches intellectual property rights (a Claim), and pays all settlement amounts the contending parties agree or the compensation as eventually awarded by a competent court. If Blue Radix B.V. is reasonably of the view that an element of the Products could become the subject matter of a Claim, Blue Radix B.V. can, at its discretion, (a) obtain a licence to permit the Customer to use such Product in accordance with this Agreement; (b) adjust such Products in such a way that it no longer infringes; or, if neither of the previous options is commercially feasible, (c) retrieve the Product in exchange for the refund of the Purchase Price (minus a deduction in proportion to the beneficial use of such).
5. Blue Radix B.V. is exclusively held to indemnify the Customer on the basis of article 13.4 if the Customer notifies Blue Radix B.V. immediately in writing of the Claim, transfers the control of the defence and the settlement of this Claim to Blue Radix B.V. and renders his reasonable cooperation to Blue Radix B.V. during such a defence.

Article 14 – Confidentiality

1. The Party receiving Confidential Information shall observe the same degree of care as it observes in the protection of the confidentiality of its own Confidential Information of a similar nature (but under no circumstances less than reasonable care) and agrees:
 - a. not to use Confidential Information of the disclosing Party for any purpose outside the context of the Agreement, and
 - b. subject to written permission of the disclosing Party to the contrary, to limit the access to Confidential Information from the disclosing Party to its employees, affiliated companies, contractors and agents who require such access for purposes in accordance with the Agreement and who have signed confidentiality agreements with the receiving Party containing protection measures which are no less strict than the protection included in these conditions.
2. The receiving Party can disclose Confidential Information of the disclosing Party if this is required on the basis of laws and regulations, on condition that the receiving Party notifies the disclosing Party in advance of this disclosure (insofar as legally permitted) and renders its reasonable cooperation, for the account of the disclosing Party, if the disclosing Party wishes to dispute the disclosure.
3. If the Agreement ends or is terminated, the receiving Party immediately returns or destroys all Confidential Information of the disclosing Party, this however on condition that the receiving Party is exclusively obliged to make commercially reasonable efforts to return or destroy any Confidential Information which is stored electronically and that it is not demanded, neither from the receiving Party nor its Representatives, that an electronic copy of Confidential Information created on the basis of the standard electronic back-up procedure and archiving procedure of the receiving Party or its Representatives, is returned or destroyed. If a Party is of the opinion that returning or destroying all Confidential Information is not feasible, or if on the basis of applicable legislation or accounting rules a Party is obliged to retain a copy of the Confidential Information for a particular period, this Party can retain a copy of the Confidential Information, which will be stored with due observance of the protection of this Agreement.
4. The conditions of the Agreement are confidential and may not be disclosed by either of the Parties without the prior consent of the other Party.

Article 15 – Sanctions

1. The Customer warrants that it complies and will continue to comply with all obligations and restrictions arising from all applicable sanctions and regulations of the United Nations, the United States of America, the European Union, the Netherlands and any other country that is or may become relevant for the implementation of the concluded agreement (“Sanctions legislation”).
2. In particular, the Customer guarantees that he will not directly or indirectly sell, transfer, deliver, or otherwise make the purchased Products and / or Services available to (legal) persons, entities, groups or (government) organizations that are sanctioned on the basis of the Sanctions Legislation.

3. If the Customer does not, not timely or not properly fulfill the obligations arising for him from this article, Blue Radix has the right to suspend or dissolve the agreement with immediate effect without notice of default without any obligation to pay compensation from Blue Radix and with full liability for damages on the part of the Customer towards Blue Radix, all this at Blue Radix's discretion.

Article 16 – Applicable law and disputes

The Agreements between Blue Radix B.V. and the Customer to which these general terms and conditions relate are exclusively governed by Dutch law. The Court in the legal district in which Blue Radix B.V. has its offices at the time the dispute commenced has jurisdiction to hear it. The United Nations Convention on Contracts for the International Sale of Goods of 1980 (Vienna Sales Convention) is declared non-applicable.

Article 18 – Version History

version	Starting date	Changes
May 2021	01-05-2021	Art. 5 & 6 regarding the Blue Radix data bridge Art. 6.3 ownership of personal data
September 2020	1-10-2020	Art. 2 – Place of business Art. 15 - Sanctions
May 2020	27-5-2020	Art. 11 – Liability Art. 14 – Taks charges Art. 12 – Complaints procedure
November 2019	15-11-2019	First version