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## General Terms and Conditions (GTC)

### clever hr, beeVisto GmbH

HR services and clever hr portal for companies

Convenience translation – only the German version is legally binding

Version October 10, 2026

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### 1 Scope and parties

- 1.1** These GTC govern the contractual relationship between beeVisto GmbH, trading as «clever hr», Münchhaldenstrasse 10, 8008 Zurich (CHE-265.196.369) («clever hr» or «Provider»), and its customers («Customer» or «Client»). Each is a «Party», together the «Parties».
- 1.2** The GTC apply to all services the Customer obtains from clever hr, including all follow-up and additional services, even if they are not expressly referred to in an individual case. The version incorporated into the respective Individual Contract applies; a later version applies to an existing contract only under section 14.3.
- 1.3** Deviating or supplementary terms of the Customer apply only if clever hr has expressly agreed to them in writing.
- 1.4** At the time the contract is concluded, clever hr points the Customer to the GTC and their key clauses in a suitable, highlighted manner, in particular to advance payment and the full Monthly Price (sections 4.2 to 4.5), default from the first day with default interest, late payment fee and reminder fees (sections 4.6 and 4.9), suspension (section 4.10), compensation for early termination (section 12.5), liability and indemnity (section 9), data protection (section 11) and legal compliance (section 18). It ensures the Customer can reasonably take note of them before accepting the contract.

## 2 Services and conclusion of contract

- 2.1** clever hr provides HR services to SMEs, in particular payroll and social insurance administration, HR administration (contracts, references, joiners and leavers, changes), recruitment as RPO and in-house recruitment on behalf of the Customer, in the Customer's system and in the Customer's name (section 17), and outplacement and application coaching. Recruitment includes in particular applicant management in the Customer's system, active sourcing, direct sourcing, executive search on the Customer's instructions, peak recruitment, and interviews and selection as support. Shortlists and interviews are produced in the Customer's name and in the Customer's system. The Customer alone decides on hiring and on the employment contract. clever hr also sets up and operates the clever hr portal for companies (section 16). The exact scope is set out in the offer, order confirmation or service agreement («Individual Contract»).
- 2.2** Unless the Individual Contract provides otherwise, the services are mandates within the meaning of Art. 394 et seq. of the Swiss Code of Obligations (CO). clever hr acts as the Customer's auxiliary person and agent. clever hr owes careful, professional work to industry standards, but not a specific result. For recruitment under section 17, no hiring success is owed. A fee tied to a hire is excluded.
- 2.3** Payroll as pure administration: in payroll, clever hr provides administrative services only (in particular payslips, calculations, filings and payroll documents). clever hr is not the employer of the Customer's employees and does not pay out salaries, social security contributions or withholding taxes. This responsibility stays with the Customer (see section 3.5).
- 2.4** Unless stated otherwise, offers are valid for 30 days. An Individual Contract comes into being when an agreement is signed, a contract offer or order confirmation is accepted, or work starts with the consent of both Parties. Services start only once the first invoice has been paid (section 4.4), unless the Individual Contract provides otherwise.
- 2.5** In the event of conflict, the data processing agreement («DPA») takes precedence over the Individual Contract and these GTC on questions of data processing. Otherwise, the Individual Contract takes precedence over these GTC. Section 18 (legal compliance) takes precedence over all other provisions, including those of the Individual Contract and the DPA. Further annexes apply in the order set out in the Individual Contract.
- 2.6** Private customers / consumers: contracts with private individuals for services for their personal needs (e.g. application coaching, career advice, purchases in the private shop) are governed by the separate General Terms and Conditions for Private Customers ([www.clever-hr.ch/agb-privatkunden](http://www.clever-hr.ch/agb-privatkunden)). Where these GTC exceptionally apply to a contract with a private individual, mandatory consumer protection law prevails; clauses limiting liability and warranty apply only insofar as mandatory law does not prevent this.

### 3 Customer's duty to cooperate and payroll responsibility

- 3.1** The Customer provides clever hr in good time, in full and in the agreed form with all information, documents, data and access needed to provide the services (e.g. payroll data, personnel master data, employment contracts, time records, system access).
- 3.2** The Customer names a responsible contact person with decision-making authority and a deputy. The Customer reviews the work results it receives (e.g. payslips) before using them or making payments.
- 3.3** The Customer ensures that it is entitled to pass on the personal data of its employees and applicants to clever hr for processing, and that the data protection requirements for this (information, any consents) are met.
- 3.4** If the Customer breaches its duty to cooperate, agreed deadlines are postponed accordingly. The Customer bears additional work and damage caused by such a breach. A duty to pay compensation arises after prior written warning by clever hr.
- 3.5** Payroll responsibility (Client): the Customer is and remains the employer of its employees under employment, social security and tax law, and is solely responsible for payroll. It is responsible in particular for paying salaries on time and for paying all social security contributions (AHV/IV/EO/ALV, BVG, UVG, etc.) and withholding taxes to the competent authorities on time. clever hr only prepares the administrative basis for this (payroll runs, calculations, filings) and does not act as a paying agent. The Customer always provides the funds needed for salaries and contributions itself. The Customer alone is responsible for the consequences of late payment, fines, back payments or damage resulting from payments it did not make or made late.
- 3.6** Accuracy of information: the Customer is responsible for the accuracy, completeness and lawfulness of all information, documents and instructions it gives clever hr, in particular payroll, working time, social security, withholding tax, residence and personnel data and the classification of persons as employees or self-employed. It reports changes and errors it has identified without delay and, on justified request, provides the evidence needed for lawful performance. clever hr may rely on this information and checks it only for obvious errors. If clever hr identifies inconsistencies, it points them out to the Customer; the decision remains with the Customer, subject to section 18.

## 4 Fees, advance payment and late payment

- 4.1** Prices: the prices agreed in the Individual Contract apply. All prices are net. VAT is charged in addition only if and from the time beeVisto GmbH is entered in the register of VAT-liable persons and the tax is legally owed, at the rate then applicable by law. Expenses are charged additionally only if agreed in advance and at actual cost.
- 4.2** Advance payment: clever hr works exclusively against advance payment. The Customer pays first: clever hr need not provide a service until the fee invoiced for it has been credited in full to its account. If clever hr starts earlier in an individual case, this is neither a deferral of payment nor a waiver of advance payment. The recurring fee («Monthly Price») is invoiced in advance for each calendar month (section 4.5). At the Customer's request or under section 4.11, clever hr invoices the Monthly Price up to three months in advance. Section 4.13 applies to services charged by time.
- 4.3** Full Monthly Price: the Monthly Price always applies to a whole calendar month. It is owed in full for every calendar month in which the contract exists, even if the service starts or ends during the month; there is no pro-rata calculation by days. If the Monthly Price depends on the number of employees or the scope of services, clever hr invoices the status known when the invoice is issued. If the number or scope increases during a month, the higher price applies to the whole month; the difference is charged with the next invoice for a service period. If they decrease, the lower price applies from the following calendar month. Section 12.5 applies to early termination.
- 4.4** First invoice and start of services: after the contract is concluded, clever hr issues the first invoice. It covers the one-off amounts, in particular the set-up fee under section 4.8, and the full Monthly Price for the calendar month of the agreed start of services; if the services start after the 20th of a month, it also covers the Monthly Price for the following month. clever hr starts the set-up and the ongoing services as soon as the first invoice has been paid in full. If the Customer pays later, the start of services is postponed accordingly. If the actual start thereby falls into a later calendar month, the Monthly Price is owed from that month; Monthly Prices already paid are credited. The consequences of default under sections 4.6 and 4.9 remain reserved.
- 4.5** Invoicing and due date: clever hr issues invoices for a service period. It invoices ongoing services in advance; as a rule, it issues the invoice for the following month on the 20th of the preceding month. If services start during the current month, clever hr immediately invoices the full Monthly Price for that month (sections 4.3 and 4.4). All invoices are payable within ten days of the invoice date. Every invoice states the resulting calendar date «payable by». This date is an agreed due date within the meaning of Art. 102 para. 2 CO. If the due date falls on a Saturday, a Sunday or a public holiday recognised in the Canton of Zurich, the next working day applies. clever hr sends invoices by e-mail on the invoice date (section 14.6). Payment is on time if it has been credited to clever hr's account on the due date at the latest. The Customer raises justified objections to an invoice in text form (including e-mail) by the due date; they entitle it only to withhold the disputed part. If the Customer raises no objection by then, the invoice is deemed approved, subject to errors the Customer could not detect.
- 4.6** Default from the first day: if an invoice has not been paid in full by the due date, the Customer is in default from the following day without a reminder. From that day it owes default interest of 10% per year on the outstanding amount, as well as the late payment fee and reminder fees under section 4.9. Interest is calculated by calendar days; no default interest is charged on interest. Further damage remains reserved.
- 4.7** Set-off, retention and assignment: the Customer may set off only undisputed or legally established counterclaims. Because of alleged defects it may withhold payments only in the amount of a sum complained of under section 7 and disputed in time under section 4.5. The Customer may assign claims against clever hr only with clever hr's written consent. clever hr may assign its claims for financing or collection purposes; in doing so it discloses only the invoice details needed for this, and no personal data of the Customer's employees.

- 4.8** Set-up fee: for a corporate customer's first order, we charge the set-up fee stated in the offer once. It applies regardless of which services are agreed and whether a subscription is concluded. It includes four hours of set-up work. Each further hour is charged at the hourly rate stated in the offer, based on actual time, and is invoiced in advance under section 4.13. What counts is the duration of the work, not the number of people we deploy. We inform the Customer of the additional work and obtain its approval before carrying it out. The fee is payable in advance with the first invoice under section 4.4 and is not charged again for follow-up orders from the same corporate customer. Once set-up work has begun, the fee is earned; it is not refunded even in the event of early termination, unless clever hr gave the Customer justified cause for termination. If the contract ends before clever hr has begun the set-up, clever hr refunds the fee paid. For mandates under section 17 (recruitment as RPO / in-house recruitment) this set-up fee does not apply. Set-up of such mandates is billed by the hour (section 4.13).
- 4.9** Late payment fee and reminder fees: when default occurs, the Customer owes a late payment fee of CHF 40 per invoice for payment monitoring and the payment reminder. For each formal reminder it additionally owes a reminder fee of CHF 40. clever hr sends formal reminders no earlier than ten days after the due date and thereafter at intervals of at least ten days, at most twice per invoice; the late payment fee and reminder fees therefore amount to no more than CHF 120 per invoice. If one formal reminder covers several invoices, the reminder fee is charged only once. The late payment fee and reminder fees are contractual penalties for failure to meet the payment deadline; they are owed in addition to payment, even if clever hr suffers no damage, and remain owed if clever hr accepts a late payment (section 4.12). clever hr may prove higher damage; the late payment fee and reminder fees are credited against it.
- 4.10** Suspension in the event of default: if the Customer is in default, clever hr may, after giving notice in text form with a period of five working days, suspend all or some services until all amounts due, including interest, the late payment fee and reminder fees, have been paid. The notice may be combined with a payment reminder or a formal reminder. For the clever hr portal, clever hr may restrict access to read-only after the period has expired; the data export under section 16.10 remains possible. Agreed deadlines are postponed by the duration of the suspension. The suspension does not affect the obligation to pay; after full payment clever hr resumes the services and catches up on deferred work as far as possible. clever hr is not liable for the consequences of a justified suspension, in particular late payslips, filings or missed deadlines towards authorities and social insurers; payroll responsibility under section 3.5 remains with the Customer. clever hr does not start new or additional services without payment (section 4.2).
- 4.11** Termination and security in the event of default: if the Customer is in default with an amount for more than 20 days, or in default for the third time within twelve months, clever hr may terminate the contract with immediate effect. Because the Customer gives cause, this termination is not at an inopportune time. The Monthly Price for the current calendar month remains owed; advance payments for later full calendar months are refunded after set-off against outstanding amounts. clever hr may also make future services subject to advance payment of up to three months or to security if the Customer has been in default or there are justified doubts about its solvency.
- 4.12** Allocation, reservation and reminders: payments are allocated first to debt enforcement costs, then to the late payment fee and reminder fees, then to default interest and finally to the oldest outstanding invoice. If clever hr accepts a late payment or a part payment, it does not thereby waive default interest, the late payment fee or reminder fees; this reservation applies to every acceptance of a late payment. Payment reminders and formal reminders setting a new deadline do not postpone the due date or the start of default. A deferral of payment exists only if clever hr expressly declares it as such in text form.

- 4.13** Services charged by time in advance: the Customer also pays in advance for additional services, additional set-up hours, services charged by the hour and mandates under section 17. For this, clever hr invoices an advance for the approved or estimated hours before work starts, for ongoing mandates for one calendar month at a time. clever hr starts work beyond the advance only after approval and payment of a top-up; if additional work has exceptionally been incurred without a top-up, it is payable with the statement. clever hr charges the actual time spent; any unused advance is credited against the next invoice or refunded at the end of the contract. Third-party expenses may be charged afterwards. Billing by time spent is not a pro-rata calculation of a Monthly Price.
- 4.14** Debt enforcement and legal action: the Customer bears the costs of debt enforcement under Art. 68 of the Swiss Debt Enforcement and Bankruptcy Act (DEBA). The Customer reimburses the costs of necessary legal action outside debt enforcement proceedings, in particular pre-litigation legal fees, insofar as they are not covered by a party compensation award and the law permits this. The costs of representation before the debt enforcement and bankruptcy offices are not passed on (Art. 27 para. 2 DEBA).

## **5 Work results and intellectual property**

- 5.1** Results for the Customer: work results that clever hr creates for the Customer as instructed and that by their nature belong to the Customer (in particular payslips, references, contracts and personnel documents) pass into the Customer's ownership or unrestricted control on full payment of the fee owed for them. The Customer's data, in particular the personal data of its employees and applicants, belong to the Customer regardless of payment; clever hr does not exercise any right of retention over them (section 16.10 and DPA).
- 5.2** clever hr's methods and tools: all rights to clever hr's own methods, templates, processes, checklists, software, AI-based tools and other existing or generally usable know-how remain exclusively with clever hr. The Customer receives a non-exclusive, non-transferable right to use them to the extent needed to use the services.
- 5.3** clever hr may also use the general knowledge and experience gained while providing the services for other customers, provided no confidentiality or data protection duties are breached.

## **6 Use of artificial intelligence**

- 6.1** clever hr uses AI-based tools to work more efficiently, for example when drafting references, for administrative tasks and, in recruitment under section 17, for search and screening in the Customer's system and in the Customer's name. They are always used under human control. Final results are reviewed by clever hr before being handed over. The Customer alone decides on a hire.
- 6.2** clever hr takes appropriate measures to ensure that personal data is used only in compliance with data protection law and not for uncontrolled training by third parties. Automated individual decisions that have legal consequences for the persons concerned or significantly affect them (Art. 21 FADP) are not made without human review.

## **7 Review and complaints**

- 7.1** Where clever hr delivers a defined work result (e.g. a payroll run), the Customer reviews it promptly after receipt. Complaints must be made in text form (including e-mail) within a reasonable period, at the latest within ten (10) working days of receipt.
- 7.2** For ongoing services without a defined work result, a complaint is on time if it is made promptly after the defect becomes known. There is no formal acceptance.

## 8 Warranty

- 8.1 clever hr warrants that the services are provided with the care customary in the industry and professionally. For mandates, no specific result is owed.
- 8.2 If a delivered work result has a defect for which clever hr is responsible, clever hr remedies it within a reasonable period by correction (e.g. correcting a faulty payslip). If this fails despite a reasonable grace period, the Customer may demand a reasonable reduction of the fee.
- 8.3 The warranty does not apply if a defect is due to incomplete or incorrect information from the Customer, insufficient cooperation, or later changes made by the Customer or third parties.

## 9 Liability

- 9.1 clever hr is liable without limitation for damage caused intentionally or by gross negligence and for personal injury.
- 9.2 Otherwise, clever hr is liable only for direct damage that the Customer can prove was caused by a culpable breach of contract.
- 9.3 To the extent permitted by law, this liability is limited per event to the fee owed for the service concerned in the twelve months before the event, but no more than CHF 10,000; if the contract has existed for a shorter time, the fee owed up to the event counts. For all events in a calendar year, liability is limited to CHF 50,000 in total. Several losses from the same cause count as one event. What counts is the time of the breach of duty causing the damage, not the time it is discovered.
- 9.4 To the extent permitted by law, liability for indirect and consequential damage is excluded. This includes in particular lost profit, unrealised savings, recourse claims by third parties, and fines and back payments from late or incorrect payroll processing, unless caused by clever hr's gross negligence. Salaries, social security contributions and taxes that the Customer owes in any case are not damage caused by clever hr, even if they are only claimed later. The Customer's sole payroll responsibility under section 3.5 remains unaffected.
- 9.5 clever hr is liable for auxiliary persons it engages as for its own actions. Any further liability is excluded.
- 9.6 Indemnity: the Customer indemnifies clever hr, its officers, employees and auxiliary persons against claims by third parties, in particular by employees, applicants, social insurers and authorities, and against back payments, damages and reasonable costs of legal defence arising because (a) the Customer's information, documents or instructions are incorrect, incomplete or unlawful, (b) the Customer breaches its duties as employer, as the party responsible for payroll or as data controller, or (c) the Customer breaches section 18. The indemnity does not apply to the extent clever hr caused the damage intentionally or by gross negligence. clever hr informs the Customer of claims asserted, insofar as legally permitted, and does not acknowledge them without the Customer's consent unless this is necessary to avert greater damage. Fines and penalties against clever hr or its employees are covered only insofar as passing them on is legally permitted.

## 10 Confidentiality and references

- 10.1 Each Party keeps all confidential information of the other Party secret and uses it only to perform the contract. This duty continues after the contract ends.
- 10.2 This does not apply to information that is demonstrably already known, publicly available or lawfully obtained from third parties. The Parties pass the confidentiality duty on to their employees and any third parties they engage.
- 10.3 clever hr may name the Customer as a reference (name/logo) only with its prior consent.
- 10.4 The duty of confidentiality does not apply insofar as a Party is obliged to disclose by law, by an authority or by a court, or obtains legal advice under professional secrecy, and it does not apply to the preservation of evidence and reports under sections 18.7 and 18.8.

## 11 Data protection and data processing

- 11.1 Roles: where clever hr processes personal data on the Customer's behalf as part of the services (in particular payroll, HR administration and recruitment under section 17), clever hr acts as processor within the meaning of Art. 9 of the Swiss Federal Act on Data Protection (FADP). The Customer remains the controller. Applicants' data in recruitment stay in the Customer's system.
- 11.2 The Parties conclude a separate DPA for this, which forms an integral part of the Individual Contract. It covers in particular the subject and purpose of processing, categories of data subjects and data, technical and organisational measures, sub-processors, processing abroad, support with data subject rights, reporting of data security breaches, and return or deletion of data at the end of the contract. On questions of data processing, the DPA takes precedence over the Individual Contract and these GTC.
- 11.3 clever hr processes the Customer's data only according to its documented instructions and as part of providing the services; clever hr does not carry out unlawful instructions (section 18). Data is disclosed abroad only if adequate data protection is ensured (e.g. recognised countries or suitable safeguards). The member states of the European Union are countries with adequate data protection (Art. 16 para. 1 FADP, Annex 1 of the Data Protection Ordinance).
- 11.4 The Customer warrants that the data it transmits was lawfully collected and that clever hr may lawfully process it.
- 11.5 If the Customer provides its own software or data system for the services, the agreed processing takes place within that system, following the access and security rules set out in the Individual Contract and the DPA. Choosing and operating the system, and engaging the system provider, are the Customer's responsibility. clever hr is responsible for its own access and for following instructions.
- 11.6 If the Customer does not provide its own system, the use of a software solution provided or engaged by clever hr is governed by the Individual Contract and the DPA. Software costs, sub-processors and data processing locations must be agreed in writing before services start. Section 16 additionally applies to the clever hr portal.

## 12 Term, termination and end of contract

- 12.1** Ongoing services (subscription / continuing obligation): contracts for ongoing services (e.g. payroll, HR administration, recruiting subscription) run for an indefinite period unless agreed otherwise. Either Party may terminate them with two (2) months' notice to the end of a calendar month. Section 16.13 applies to the clever hr portal. The right to terminate at any time under section 12.5 remains reserved. Advance payments for full calendar months after the contract ends are refunded; a calendar month that has begun is not refunded pro rata (section 4.3).
- 12.2** Project / one-off services: contracts for time-limited one-off services (e.g. a single outplacement mandate, recruiting on an hourly basis) end once the service has been fully provided.
- 12.3** Either Party may terminate the contract without notice for good cause, in particular in the event of a material breach of contract that is not remedied within 30 days despite a request, and in the event of bankruptcy, a debt restructuring moratorium or an unsuccessful seizure of the other Party. For clever hr, sections 4.11 (late payment) and 18.5 (legal compliance) also apply.
- 12.4** Terminations must be made in text form. When the contract ends, clever hr hands over the Customer's data and work results in a common format and deletes the remaining data under the DPA and the statutory retention duties; section 18.7 remains reserved.
- 12.5** Termination at any time and compensation: where a contractual relationship qualifies as a mandate under Art. 394 et seq. CO, either Party may terminate it at any time under Art. 404 para. 1 CO; this right remains unaffected. clever hr plans staff and capacity for each calendar month in advance and provides payroll runs and HR work in monthly cycles. If the Customer terminates the contract with effect before the end of a calendar month without clever hr having given it objectively justifiable cause, the termination is at an inopportune time. The Customer then owes the Monthly Price for the current calendar month as lump-sum compensation; a Monthly Price already paid for it is not refunded (contractual penalty under Art. 160 et seq. CO). clever hr may prove higher damage under Art. 404 para. 2 CO. No fee is owed for the period after the termination date, in particular for a notice period not observed; section 18.5 remains reserved. If clever hr gave cause for the termination, or if clever hr terminates the contract without the Customer having given it cause, clever hr refunds the part of the Monthly Price attributable to services no longer provided. Advance payments for full calendar months after the termination date are refunded in all cases.

## 13 Force majeure

- 13.1** Neither Party is liable for failure to perform its obligations insofar as this is due to force majeure (e.g. natural events, epidemics/pandemics, official orders, prolonged failure of public infrastructure). Deadlines are postponed accordingly. The Customer's duty to pay for services already provided remains.

## 14 Final provisions

- 14.1** The Parties are independent of each other. The contract does not create an employment, partnership, joint venture or agency relationship.
- 14.2** Amendments and additions to the contract must be made in writing. Electronic signatures are treated as equivalent. Verbal side agreements are not valid.
- 14.3** Amendments to the GTC: clever hr may amend these GTC for the future. It notifies the Customer of changes in text form at least 30 days before they take effect and highlights the amended passages. Changes to prices, payment terms, consequences of default, liability, term or consequences of termination to the Customer's disadvantage apply to an existing contract only if the Customer expressly agrees to them, for example by signing an addendum; silence or continued use of the services does not count as consent for this purpose. Without such consent, the previous version continues to apply to the Customer, and either Party may terminate the contract ordinarily under the previous rules. Other changes are deemed accepted if the Customer does not object in text form before they take effect; if it objects, the previous version continues to apply and either Party may terminate the contract as of the date the changes take effect. Changes that implement mandatory law or official requirements apply to the extent mandatorily required from the date they take effect.
- 14.4** If individual provisions are invalid, the rest remain valid. The invalid provision is replaced by a valid one that comes closest to its economic purpose.
- 14.5** Non-solicitation: during the term of the contract and for twelve months after it ends, the Customer does not solicit any employees of clever hr who worked for it in the preceding twelve months and does not hire them, either directly or through third parties. If the Customer breaches this duty, it owes a contractual penalty of CHF 10,000 per person concerned; higher damage remains reserved. Hiring a person who applies on their own initiative in response to a general job advertisement is permitted. The rule does not apply to candidates whom clever hr approaches on the Customer's behalf, nor insofar as Art. 22 of the Swiss Federal Act on Recruitment and the Hiring Out of Staff (AVG) prevents it.
- 14.6** Notices: clever hr sends invoices, payment reminders, formal reminders and notices under these GTC by e-mail to the billing or contact address provided by the Customer. The Customer reports changes to these addresses without delay.

## 15 Governing law, place of jurisdiction and place of performance

- 15.1** The contract is governed exclusively by substantive Swiss law, excluding the UN Convention on Contracts for the International Sale of Goods (CISG). To the extent permitted by law, the exclusive place of jurisdiction is Zurich.
- 15.2** Place of performance and special domicile: the place of performance for all payments is Zurich. If the Customer does not have its registered office in Switzerland, it expressly elects a special domicile in Zurich within the meaning of Art. 50 para. 2 DEBA for all payment obligations under the contract.

## 16 Special terms for the clever hr portal

- 16.1** Scope and precedence: this section applies if the Individual Contract includes the clever hr portal («Portal», managed dedicated HR system). It supplements sections 1–15 and takes precedence over them for the Portal. The Individual Contract takes precedence over this section; section 2.5 applies to questions of data processing.
- 16.2** Service: clever hr sets up the clever hr portal for the Customer and operates it on a server reserved exclusively for the Customer. Set-up covers in particular providing the server, installation, basic configuration with Swiss templates and the web app for employees. Employees use the Portal in the browser; an app from an app store is not part of the contract. The specific functions are set out in the Individual Contract.
- 16.3** Operation exclusively by clever hr: clever hr operates, monitors, backs up and maintains the Portal. The Customer receives personal logins giving insight into the system to the agreed extent. No software is licensed to the Customer or installed on its premises, and the Customer receives no access to the server, database or system administration. clever hr provides the agreed payroll and HR services in this system under sections 1–15.
- 16.4** Updates and maintenance windows: clever hr regularly installs current versions and security updates, as a rule monthly; urgent security updates may be installed at short notice. Where possible, clever hr carries out planned maintenance causing noticeable interruptions outside normal office hours (Monday to Friday, 8 am to 6 pm) and announces it in text form at least three working days in advance, except for urgent security measures. Updates may change functions and layout; clever hr informs the Customer in advance if an agreed function is materially restricted.
- 16.5** Availability and incidents: clever hr aims for high availability. A specific availability is owed only if expressly agreed in the Individual Contract. Announced maintenance windows, incidents within the Customer's sphere of responsibility and incidents outside clever hr's control (e.g. general internet or power outages, force majeure) do not count as downtime. The Customer reports incidents to [office@clever-hr.ch](mailto:office@clever-hr.ch) or by phone; clever hr resolves them on working days (Monday to Friday, excluding Zurich public holidays) with a priority appropriate to their severity.
- 16.6** Backups: clever hr backs up the Portal's data regularly, as a rule daily, encrypted and separately from the server, and tests restorability at reasonable intervals. Backups serve to restore the system. The Customer remains responsible for its statutory retention obligations; clever hr provides the data export under section 16.10 for this purpose.
- 16.7** Location: in the Individual Contract the Customer chooses whether the server is operated in Switzerland or in a member state of the European Union. The country of the server is changed only with the Customer's consent. The personal upload link for business customers temporarily stores documents in the clever hr portal at netcup in Austria, regardless of that server choice; the DPA sets out the details. Backups are always stored encrypted in the European Union (Cloudflare R2, EU jurisdiction), including when the server is in Switzerland. Disclosure to the European Union relies on Art. 16 para. 1 FADP, because the member states of the European Union provide adequate data protection; no additional consent is required for this. Any further disclosure abroad is governed by Art. 16 et seq. FADP and the DPA.
- 16.8** Customer cooperation: the Customer appoints a responsible contact person for the Portal, requests its users' logins and permissions from clever hr and reports leavers without delay. It keeps access credentials confidential, uses the two-factor sign-in offered and reports any suspected misuse immediately. It informs its employees about the use of the Portal and the related processing of their personal data. Security or load tests on the Portal require clever hr's prior consent. clever hr may temporarily block individual accounts if a security risk or misuse is imminent and informs the Customer without delay.

- 16.9** Right of use and software: for the term of the contract the Customer receives a non-exclusive, non-transferable right to use the Portal for its own purposes through its authorised users. Ownership of and rights in the software, configurations, templates and operating tools remain with clever hr or the respective rights holders; there is no right to delivery of software, source code or server images. The Portal uses, among other things, third-party open-source components governed by their respective licence terms; any rights the Customer mandatorily has under them remain reserved. clever hr may replace components provided the agreed functions are essentially preserved.
- 16.10** Customer data, export and deletion: the data stored in the Portal belongs to the Customer; clever hr processes it solely to perform the contract. When the contract ends, the Customer receives a complete export of its data in common machine-readable formats (e.g. CSV or XLSX for records, files in their original format); the export is included in the price and is provided within 30 days of the end of the contract. After the Customer confirms receipt, and no later than 60 days after the end of the contract, clever hr deletes the data on the server and in the backups and confirms the deletion in text form, subject to clever hr's statutory retention obligations and different instructions in the DPA. clever hr does not exercise any right of retention over the Customer's data.
- 16.11** Data processing on behalf: for the personal data in the Portal, clever hr is a processor within the meaning of Art. 9 FADP; section 11 and the separate DPA apply. As sub-processors, clever hr uses in particular the provider of the Portal server in the chosen country, netcup GmbH for the upload intake in the clever hr portal in Austria, Cloudflare R2 as the storage location for backups in the European Union and a service for sending system notifications; the list is set out in the DPA. clever hr gives prior notice of any new sub-processor; the Customer may object for good cause. clever hr reports data security breaches to the Customer as soon as possible (Art. 24 para. 3 FADP).
- 16.12** Supervised customers: if the Customer is subject to government supervision (e.g. by FINMA) and obtaining the Portal or the HR services counts as outsourcing under supervisory law, the Parties will, at the Customer's request, agree in a separate agreement in particular on information, disclosure and audit rights of the Customer, its audit firm and the supervisory authority, on location and access, on sub-outsourcing and on contingency and exit planning. The resulting additional work is remunerated as agreed. The Customer assesses whether the arrangement is permissible under supervisory law.
- 16.13** Fees, term and termination: the one-off amounts (set-up of the clever hr portal and the HR administration and payroll set-up fee under section 4.8) are payable in advance with the first invoice under section 4.4; clever hr starts the set-up once payment has been received. The monthly fees (ongoing IT system fee and HR software operating fee) are charged from the calendar month of the official go-live, the date of which the Parties set jointly in text form, and are invoiced in advance under sections 4.2 to 4.5; the full Monthly Price applies to the go-live month (section 4.3). The Portal has a minimum term of three months from the official go-live. Thereafter either Party may terminate it with one month's notice to the end of a calendar month, for the first time to the end of the minimum term; sections 12.5 and 16.14 remain reserved. Payroll and HR administration are governed by the Individual Contract and section 12.1; if only the Portal ends, clever hr continues to provide these services under section 11.5 or 11.6.
- 16.14** Relationship with Art. 404 CO: insofar as the right to terminate at any time under Art. 404 para. 1 CO applies mandatorily, it remains reserved (section 12.5). Early termination does not create an obligation to pay fees for calendar months after the termination date; section 12.5 applies to the current calendar month. If termination occurs at an inopportune time, the terminating Party compensates the resulting damage under Art. 404 para. 2 CO; this includes in particular demonstrably unavoidable costs that clever hr owes to the server provider for the Customer's server up to the next possible termination date; the compensation under section 12.5 is credited against this. Set-up services already provided are not refunded (section 4.8); advance payments for full calendar months after the termination date are refunded.

**16.15** Liability and late payment: section 9 applies. In the event of data loss, clever hr is liable, except in cases of intent or gross negligence, only for the effort of restoring the data from the last proper backup. In the event of late payment, sections 4.6 and 4.9 to 4.12 apply; after notice under section 4.10, clever hr may restrict access to read-only. The data export remains possible even then.

## **17 Recruitment as RPO / in-house recruitment**

**17.1** Scope: this section applies if the Individual Contract covers recruitment, RPO or in-house recruitment. It supplements sections 1–15 and takes precedence over them for these services. The Individual Contract takes precedence over this section. Data processing is governed by section 2.5, section 11 and the DPA.

**17.2** clever hr is not a personnel placement agency and not a personnel consultancy. We do not place jobs or candidates. We work as a recruiting team on behalf of our clients, in their systems and in their name.

**17.3** For these services clever hr acts as the Customer's auxiliary person and agent. The contract is a mandate under Art. 394 et seq. CO. Candidates are approached only in the Customer's name and for the Customer, never for third parties and never in clever hr's own name.

**17.4** The mandate may include in particular applicant management in the Customer's system, active sourcing, direct sourcing, executive search on the Customer's instructions, peak recruitment (additional recruiters for peaks) and interviews and selection as support. Search, shortlist and interviews take place in the Customer's name and in the Customer's system. The Customer alone decides on hiring and on the employment contract.

**17.5** clever hr keeps no candidate database and no candidate pool of its own and does not pass candidates on to other customers. All applicants' data stay in the Customer's system. The Customer is the controller and clever hr is the processor under section 11 and the DPA. After the mandate ends, clever hr keeps no copies of this data. Return and deletion follow section 12.4, section 11.2 and the DPA.

**17.6** clever hr never charges a fee to job seekers.

**17.7** The fee is an hourly rate for time worked. The Customer pays it in advance as an advance under section 4.13; clever hr charges the actual time spent. The fee does not depend on whether the Customer hires anyone, or whom. A success fee and a retainer with a success share are excluded. A fee tied to a hire is not agreed. For RPO mandates the set-up fee under section 4.8 does not apply. Set-up is billed by the hour.

**17.8** Direction and organisation of clever hr's employees remain with clever hr, including when they work on site at the Customer. clever hr is their employer and keeps the time report. The Customer sets the professional instructions for the mandate, in particular profile, process and tools.

## 18 Legal compliance and protection against unlawful conduct

- 18.1** Customer's duty: in everything it gives clever hr, instructs or intends to achieve with clever hr's services, the Customer complies with applicable law, in particular employment contract law and the Employment Act, equality and anti-discrimination law, foreign nationals law, social security, tax and withholding tax law, collective labour agreements declared generally binding, minimum wage and posting rules, data protection law and the law against undeclared work and money laundering.
- 18.2** No participation in unlawful conduct: clever hr does not participate in any conduct that, in its reasoned assessment, is unlawful or intended to deceive third parties. In particular, it does not carry out such instructions and does not create, change or send documents or filings with untrue content, for example: payslips, salary certificates, social security or withholding tax filings with false salaries, working hours or persons; payroll for undeclared employment; treating employees as self-employed contrary to their social security status; backdated or untrue contracts, employment references and employment, salary or income confirmations; salaries or working conditions below mandatory minimum requirements; selecting, disadvantaging or excluding applicants or employees on discriminatory grounds; processing of personal data that the Customer itself would not be allowed to carry out. Approval, confirmation or assumption of liability by the Customer does not make an unlawful instruction permissible. Such a refusal is not a breach of contract; the obligation to pay remains, and agreed deadlines are postponed accordingly.
- 18.3** Notice and clarification: if clever hr has specific indications of a breach, it informs the Customer in text form, insofar as legally permitted, and gives it the opportunity to clarify the facts or restore a lawful state within five working days, unless waiting is unreasonable. clever hr points out breaches it identifies in the course of its work; there is no duty to monitor the Customer or to investigate breaches.
- 18.4** Suspension: as long as a suspicion based on specific indications has not been dispelled, clever hr may suspend the services concerned immediately, and all services if the relationship of trust no longer exists. The obligation to pay remains, and clever hr is not liable for the consequences of a justified suspension; section 4.10 applies accordingly. The security and the return of the Customer's data remain ensured. If the suspicion proves to be clearly unfounded, clever hr credits the Monthly Price for the duration of the suspension.
- 18.5** Termination without notice: in the event of a serious breach, repeated breaches, if the Customer does not restore a lawful state within a reasonable period or refuses the necessary clarification, or if the Customer attempts to induce employees of clever hr to act unlawfully by pressure, threats or benefits, clever hr may terminate the contract with immediate effect. The termination is not at an inopportune time. The Customer owes the fee for services provided and the Monthly Price for the current calendar month. Because of the breach of its duty under section 18.1, it additionally owes, as lump-sum compensation, the Monthly Price up to the next ordinary termination date under section 12.1, for no more than two calendar months (contractual penalty under Art. 160 et seq. CO). clever hr may prove higher damage.
- 18.6** Costs and indemnity: section 9.6 applies. The Customer also reimburses clever hr for the reasonable costs of investigations, legal advice, information to authorities and preservation of evidence caused by its breach.
- 18.7** Preservation of evidence: by way of derogation from sections 12.4 and 16.10 and the DPA, clever hr may retain documents, instructions and correspondence relating to a breach or a suspicion under section 18.3 insofar and for as long as this is necessary to protect or defend its own rights, at most until the matter is settled or the limitation period has expired. It restricts access, protects this data like the Customer's other data and uses it for no other purpose.

- 18.8** Authorities and reports: confidentiality under section 10 and the DPA do not prevent clever hr from (a) complying with statutory duties to provide information, produce documents or report, (b) obtaining legal advice under professional secrecy and (c) informing the competent authority in the event of a justified suspicion of a criminal offence or a serious breach of social security, tax, foreign nationals or employment law, insofar as this is necessary to safeguard overriding interests and legally permissible. In doing so, clever hr discloses only the information required and informs the Customer insofar as this is permitted and does not defeat the purpose. To this extent, the Customer releases clever hr from contractual confidentiality; the rights of its employees and other third parties remain reserved. This section does not create a duty to report, and clever hr never uses reports as leverage for payment claims. Claims by the Customer arising from such information or a report are excluded unless clever hr intentionally or through gross negligence provides untrue information.
- 18.9** Precedence: this section takes precedence over all other provisions of these GTC, the Individual Contract and the DPA (section 2.5).

**Convenience translation – only the German version is legally binding**