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# General Terms & Conditions for supporting services (Professional Services)

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## 1. Scope / Conclusion of Contract

- 1.1 These General Terms and Conditions ("**GTC**") apply to the provision, against payment or free of charge, of supporting services by Personio (hereinafter "**Personio**") towards the customer (hereinafter "**Customer**") in connection with the web-based HR software-as-a-service (SaaS) of Personio ("**Software**"). Supporting services shall include consulting and training services, support in configuration and setup services, splitting or merging of Customer accounts in the Software (Account Split/Mergers), data migration services or any task expressly agreed between Personio and the Customer in writing ("**Services**"). Personio shall provide the Services exclusively in accordance with the GTC and the individual agreements made between the Personio and the Customer in this respect (hereinafter "**Orders**"). The use of the Software itself is subject to Personio's separate GTC.
- 1.2 Terms and conditions of the Customer which are contrary to or deviate from these GTC shall not become part of the contract - except in case of express written consent of Personio. These terms and conditions shall also apply if Personio performs the deliverables or services without reservation in the knowledge of conflicting or deviating terms and conditions of the Customer.
- 1.3 The contract between Personio and the Customer is concluded by both parties signing or otherwise agreeing on an Order (e.g. by email or phone).

## **2. Services**

- 2.1 The Services to be provided by Personio result from the Orders, any supplementary service descriptions and alternatively these GTC. Services other than those expressly described in the Order are not owed.
- 2.2 Unless expressly agreed otherwise in writing, scheduling commitments and cost estimates are to be understood as non-binding deadlines and estimates.
- 2.3 Descriptions of services are only to be regarded as details of the nature of the service. In case of doubt, the service descriptions are not considered as a guarantee. Guarantees by the Personio shall only be made in writing and, in case of doubt, shall only be interpreted as such if they are designated as a "guarantee".
- 2.4 Where Personio refers to legal requirements (e.g. tax aspects, consent requirements, data protection requirements) or provides legally relevant texts or content (e.g. role and authorisation concepts) these are merely drafts. Personio does not owe any legal advice and in this respect does not warrant the legal conformity of the mentioned services, especially with regard to the requirements of tax law, labour law or data protection law. The Customer has to specify and check the legal conformity of these services themselves or through legally competent third parties.

## **3. Customer's Duties and Obligations**

- 3.1 Personio depends on the cooperation of the Customer for a successful and timely performance of the Services to be provided by Personio. Personio therefore undertakes to provide all information, documents and content required for a proper performance of the Services in a timely and complete manner (e.g. data to be imported). The Customer is also obliged to point out, unprompted, circumstances which may be of importance for the performance of the Services by Personio and of which the Customer may be aware that they are unknown to Personio.
- 3.2 In the event of any defects or other malfunctions, the Customer is obliged to report them immediately to Personio and to provide the information necessary to rectify the defect.
- 3.3 Further details of the Customer's duties to cooperate and obligations may be set out in the Order.

## **4. Rights of use of Personio's Services**

Unless otherwise provided in these GTC or the Order, Personio hereby grants the Customer the non-exclusive, non-transferable and non-sublicensable right to use the Services for the contractually agreed purposes, in case of doubt for the Customer's own business purposes.

## 5. Payment Terms

- 5.1 All Services provided by Personio to the Customer shall be remunerated on a time basis, unless a fixed price has been agreed in the Order. The hourly rates stated or referred to in the Order shall apply.
- 5.2 If a fixed price has been agreed in the Order, Personio shall perform the Services agreed for the fixed price set out therein.
- 5.3 Unless otherwise agreed, an agreed fixed price will be invoiced when the Order is placed. In the case of remuneration according to time, Personio will invoice the working hours on a regular basis, usually at the end of each calendar month. In the case of remuneration according to time, an activity report must be attached to the invoice, which shows the date or period, duration and content of the activity. Invoicing shall be in 15 minute time units. Personio may issue invoices in electronic form.
- 5.4 Travel must be agreed with the Customer in advance. Travel time is considered 50 percent working time. Travel expenses shall be documented by Personio and reimbursed by the Customer. Travel to and from the Customer's premises is also considered working time (from Personio's closest office).
- 5.5 All prices are in Euro plus the respective statutory value added tax.
- 5.6 Invoices are payable within 14 days without deductions.

## 6. Limitation of Liability

- 6.1 Personio shall be liable for damages to the extent that such damages a) were caused intentionally or by gross negligence of Personio, or b) were caused by slight negligence of Personio and are due to material breaches of duty which endanger the achievement of the purpose of the contract, or to the breach of duties the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the Customer may rely (cardinal obligations). In all other respects Personio's liability is excluded, irrespective of its legal basis, unless Personio is compulsorily liable by operation of law, in particular due to injury to life, body or health of a person, assumption of an express guarantee (see also section 2.3), fraudulent concealment of a defect or under the German Product Liability Act.
- 6.2 In case of clause 6.1 sentence 1, letter b) (slight negligent breach of cardinal obligations) Personio's liability is limited to the typically foreseeable damage for a contract of this kind.
- 6.3 To the extent Personio provides its Services free of charge, Personio's liability is limited to intent, fraud and gross negligence, unless Personio's liability is mandatory by law.
- 6.4 The limitations of liability set out in sections 6.1 to 6.3 also apply to claims against employees, legal representatives and agents of Personio.

## 7. Confidentiality

- 7.1 **“Confidential Information”** shall mean any information, no matter whether written or oral, which (i) by its nature is confidential or subject to secrecy or (ii) which the party, whom the information is transmitted to, must have recognised as confidential and a subject to secrecy because of exceptional circumstances. Confidential Information includes, in particular, product descriptions and specifications as well as prices.
- 7.1.1 Not to disclose Confidential Information of the respective other party to third parties without express consent (at least in text form).
- 7.1.2 To undertake to use Confidential Information only for contractually agreed purposes.
- 7.1.3 To take at least the same precautions as they do in regards to their own Confidential Information. Such precautions shall at least be reasonable to prevent disclosure to unauthorised third parties. In addition both contracting parties are obliged to prevent the unauthorised disclosure or use of Confidential Information by their customers, employees, subcontractors or legal representatives.
- 7.1.4 To inform each other in text form of any misuse of Confidential Information.
- 7.2 Confidential Information shall not include information which:
- 7.2.1 Was known to the other party prior to transmission and without an existing confidentiality agreement,
- 7.2.2 Is transmitted by a third party not subject to a similar confidentiality agreement,
- 7.2.3 Is otherwise publicly known,
- 7.2.4 Was independently developed without using confidential information,
- 7.2.5 Is released for publication in text form, or
- 7.2.6 Is required to be transmitted due to a final legally binding court order or authority provided that the party affected by the transmission is informed in time in order to take legal protection actions.
- 7.3 Neither party shall obtain Confidential Information by means of reverse engineering. **“Reverse Engineering”** in this context means all actions, including observing, testing, examining and reassembling, with the aim of obtaining Confidential Information.
- 7.4 The restrictions contained in sections 7.1 to 7.3 will continue to apply until the earlier of the relevant Confidential Information ceasing to be confidential and a period of five years following termination of the Agreement.

## 8. Data Protection

If Personio processes personal data of the Customer on behalf of the Customer in the context of the provision of the Services, Personio acts as processor in the sense of Art. 4 No. 8 GDPR and the Customer as controller in the sense of Art. 4 No. 7 GDPR. This is in particular the case for data migrations, account splits/mergers as well as other services which require Personio's access to the Customer's personal data in the Software. The contract/addendum for data

processing concluded between Customer and Personio in connection with the provision of the Software pursuant to Art. 28 GDPR shall apply accordingly.

## **9. Contractual Services (“Dienstleistungen”)**

- 9.1 Unless otherwise agreed, Personio provides its Services as contractual services and therefore does not owe any concrete success.
- 9.2 The general location for the provision of Services is the business premises of Personio, unless the Services necessarily require a presence at the Customer's premises or a corresponding location has been agreed.
- 9.3 Employees assigned by Personio are not subject to any instructions of the Customer in the performance of the activities assigned to them. The assigned employee is free in the organisation of his activity (time, duration, type and place of work performance). However, they must take into account special operational concerns and requirements in connection with the activity. Furthermore, the assigned employee is not bound with regard to the place of work or the working hours. However, project-specific time requirements of the Customer shall be considered after consultation (e.g. meeting dates).
- 9.4 If Personio cannot perform its Services due to a default of acceptance by the Customer or any other reason arising from the Customer's business sphere, the provisions of § 615 German Civil Code shall apply.

## **10. Work Services (“Werkleistungen”)**

- 10.1 Insofar as the parties have agreed on the applicability of the provisions of the contract for work services, the provisions of this section 10 shall apply.
- 10.2 The Customer is obliged to inspect all Services without delay, unless otherwise agreed, within two weeks from the time of provision and to give notice of any recognisable and/or identified defects without delay in writing, giving a precise description of the defect (acceptance). Acceptance shall be deemed to have taken place if the Customer does not accept the Services within a reasonable period of time set by Personio, although they are obliged to do so. The same shall apply in the event that the Services are paid for without reservation or are used for a period of more than two weeks.
- 10.3 A material defect shall be deemed to exist if the performance owed cannot be used in accordance with the contract so that the purpose pursued with it under the contract cannot be achieved or can only be achieved with considerable difficulty. An insignificant defect does not justify refusal of acceptance.
- 10.4 In case of a defect Personio has the choice of subsequent performance. The supplementary performance has to be effected within a reasonable period of time irrespective of the number of attempts. The Customer does not have the right of self-execution.

10.5 Claims of the Customer due to a defect in Services under a contract for work services shall become statute-barred twelve (12) months after the statutory commencement of the limitation period. In the event of intentional or grossly negligent breaches of duty, fraudulent concealment of a defect, personal injury, claims under the German Product Liability Act and the assumption of a guarantee, the statutory provisions on the statute of limitations shall apply; in the event of an assumption of a guarantee, however, this shall only apply unless the respective guarantee agreement provides otherwise.

## 11. Final Provisions

11.1 Section 312 i para. 1 nos. 1, 2 and 3 German Civil Code as well as Section 312 i para. 1 sentence 2 German Civil Code, which provide for certain obligations of a company in the case of contracts in electronic business transactions, are waived.

11.2 The contract shall be governed exclusively by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

11.3 If the Customer is a company, a legal entity under public law or a special fund under public law, Munich is hereby agreed as the place of jurisdiction for all disputes arising from this contract.

11.4 The Customer may only set-off against claims of Personio with such counterclaims which are undisputed, legally established or ready for decision.

11.5 The Customer is only entitled to exercise a right of retention insofar as the counterclaim on which they base the right of retention is undisputed, legally established or ready for decision and is based on the same contractual relationship.

11.6 Except within the scope of Section 354 a of the German Commercial Code, the Customer may assign claims under this contract to third parties only with Personio's prior written consent, which Personio will not unreasonably withhold.

11.7 If any provision of these GTC are or becomes invalid, the validity of the remainder of the contract shall not be affected thereby. In this case, the parties agree to replace the invalid provision with a valid provision which corresponds as closely as possible to what was originally intended. The same applies to gaps in the contract.

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