

## General Terms and Conditions Leadership Services of Deloitte Consulting GmbH

### **1. General principles**

- 1.1 Deloitte Consulting GmbH (hereinafter referred to as "Deloitte") provides as part of Leadership Services Executive Search, Assessments, Interim Management and general consulting on the basis of these General Terms and Conditions for Leadership Services ("GTC") and the individual written offer issued by Deloitte.
- 1.2 These GTC also apply to all future contractual relationships, even if they are not expressly referred to in each offer issued by Deloitte.
- 1.3 Any diverging general terms and conditions of the client only apply if Deloitte has expressly recognised these in writing.
- 1.4 Any amendments to these GTC require a written form. Any subsidiary agreements and declarations shall only be effective if Deloitte confirms these in writing and shall only apply to the individual transaction concerned.

### **2. Scope of services, conclusion of contract**

- 2.1 The scope of services shall be in accordance with Deloitte's written offer. Based on the information received from the client, Deloitte shall define tasks, procedures, selection methods, diagnostic testing methods, time schedule, etc. in the offer.
- 2.2 Offers are valid for four weeks, unless specified otherwise in the offer.
- 2.3 The contract is concluded once the client accepts Deloitte's offer. Acceptance is either implied (e.g. approval of the job description and/ or advertisement, instruction to place a job advertisement, appointment for interviews, delivery of online potential diagnoses, etc.), or given through transmission of the duly signed confirmation attached to the offer.
- 2.4 With acceptance of the offer, the client agrees that Deloitte's services may contain recommendations, but Deloitte is neither responsible nor liable for their implementation nor for decisions that are based on the recommendations or serve their implementation. Deloitte is entitled to wholly or partly assign agreed services to cooperation partners or third parties for execution.

### **3. Obligations to cooperate**

- 3.1 The client undertakes to provide all required documents and information in a timely manner. This applies in particular to information regarding requirements to the applicant, qualifications, job descriptions and company descriptions. The client is obliged to deliver or to formally approve a complete and truthful description of the initial situation and details regarding the advertised position. If necessary, the client shall assist Deloitte in preparing the job description and specification, which forms the basis of Deloitte's search and selection and assessment procedure, and in designing advertisements. In the event that the client requests a job advertisement to be placed with the company's logo or layout, the client shall provide the relevant graphics, templates etc. to Deloitte on time and in the appropriate form.
- 3.2 The mutual trust between the client and Deloitte requires that Deloitte be fully apprised of previous and/or current consultancy activities relevant to the consultancy services to be provided.
- 3.3 The client shall ensure that all the requirements set out in the quotation are correct.
- 3.4 The client shall make all decisions that are necessary for the provision of the agreed consultancy services in a timely manner and obtain any approvals required (e.g. the consent of the group management, supervisory board, employees or works council etc.).

- 3.5 With acceptance of this offer, you shall be solely responsible for, among other things:
- a. making all management decisions and performing all management functions;
  - b. designating one or more individuals who possess suitable skill, knowledge, and/or experience, preferably within senior management to oversee the Services;
  - c. evaluating the adequacy and results of the Services;
  - d. accepting responsibility for the results of the Services, establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities
- 3.6 In the event that the client breaches its duty to cooperate, or other circumstances beyond Deloitte's control arise which prevent Deloitte from rendering the agreed consultancy services, any timetable agreed to (milestones) shall be postponed. In addition, Deloitte shall be entitled to charge the client for any additional expenses (e.g. availability of employees assigned).

#### **4. Rights of use, protection of intellectual property rights, confidentiality**

- 4.1 All documents provided by Deloitte in paper or electronic form (in particular offers, job descriptions and specifications, candidate evaluations, analyses, opinions etc.) constitute intellectual property belonging to Deloitte. The client acknowledges Deloitte's exclusive rights to the documents, whether or not the documents are protected by copyright, trade mark or competition law. The client is only allowed to use the received documents exclusively for his own business purposes. The client is not entitled to amend analyses, opinions etc. rendered by Deloitte.
- 4.2 During and after termination of the contractual relationship, the documents provided by Deloitte may be used exclusively for such own business purposes, which are covered by the contract and the scope of the services particularly agreed upon. Any use beyond said purposes and therefore particularly any transmission (in whole or in part) to third parties or any form of publication is only permitted with Deloitte's prior written consent, which may be subject to compliance with further specified conditions, except (i) where applicable laws, regulations, rules and professional obligations prohibit limitations on disclosure, (ii) in the event that you or your affiliates have securities registered with the United States Securities and Exchange Commission and any Deloitte Entity is your or your affiliates auditor, or (iii) to the extent the United States Internal Revenue Code and applicable Internal Revenue Service guidance relating to confidential tax shelters (or comparable law or guidance from other taxing authorities) apply.
- 4.3 Any application documents which are sent to Deloitte during the search and selection procedure shall remain with Deloitte.
- 4.4 Candidate evaluations and names of potential candidates which Deloitte provides to the client shall be treated confidentially.

## 5. Data protection

- 5.1 Deloitte is controller within the meaning of Art. 4 no. 7 of the General Data Protection Regulation ("GDPR") with regard to all personal data processed within the scope of the contractual consultancy services provided by Deloitte. Within the scope of its consultancy services, Deloitte is entitled to process personal data entrusted to it, to store such data in electronically managed files or to allow such information to be processed by third parties with whom a data processor agreement within the meaning of Art. 28 GDPR has been concluded. Materials (paper and data carriers) provided to Deloitte shall be handed over to the client or to third parties named by the client or, if this has been agreed separately, stored or destroyed by Deloitte. Deloitte is entitled to keep copies of these materials insofar as Deloitte needs them for the proper documentation of his services or it is legally required or customary in his profession.
- 5.2 Deloitte undertakes to observe data secrecy in accordance with the provisions of the GDPR and the Datenschutzgesetz (actually Data Protection Act as amended by the Data Protection Adaptation Act 2018 – Datenschutz-Anpassungsgesetz 2018) as amended from time to time and to bind its employees and any third parties engaged to the same.
- 5.3 For the purpose of preventing conflicts of interest, securing the guaranteed independence given by law and compliance with stock exchange law, Deloitte and all other member firms of the Deloitte Network are authorized to save contract data (name, address, contact person, size of order, size of fee and process period) electronically and forward these data to other member firms of the Deloitte Network.
- 5.4 Deloitte will provide the client with a reasonable amount of information and notifications regarding services, events etc. in the field of consulting offered by Deloitte by e-mail (based on § 107 of the Telecommunication Act and moreover on the client's consent) as well as by post, telephone and fax (based on the client's consent). The client may disagree with being provided with the aforementioned information and notifications at any time and without giving any reason, respectively revoke his consent. After such disagreement/revocation, the personal data necessary for the provision of the aforementioned information and notifications (title, first and last name, e-mail address, postal address, telephone number, fax number) will no longer be processed for this purpose and will therefore be deleted in this regard. The disagreement/revocation does not affect the legality of the processing of the personal data based on the consent until revocation.
- 5.5 Deloitte uses appropriate technical and organizational measures to secure the data processed, taking into account the nature, scope, circumstances and purposes of the processing as well as the different probabilities of occurrence and severity of risks to the rights and freedoms of the data subjects, and always adapted to the current state of the art, in order to ensure that the data processing is carried out in accordance with the requirements of the GDPR. In the absence of a written agreement to the contrary on an individual basis, electronic communication between the client and Deloitte or vice versa will be unencrypted and unsigned; therefore, reading or manipulation by third parties cannot be excluded with certainty.
- 5.6 Further details on data protection and in particular on the information obligations under Art. 13 and 14 GDPR can be found on the website [www.deloitte.at/Datenschutz](http://www.deloitte.at/Datenschutz).

## 6. Fees

- 6.1 Deloitte's fee shall be in accordance with the type and scope of the agreed services and is specified in Deloitte's offer.
- 6.2 Any travel expenses incurred by Deloitte employees and candidates shall be invoiced separately upon presentation of the relevant receipts. The costs for placing advertisements shall also be charged directly to the client (in accordance with the currently valid advertisement rates), unless the advertisement is placed as part of an agreed service package.
- 6.3 In the event of a later amendment of the job and requirements profile, Deloitte reserves the right to charge the additionally incurred costs (time expenses, advertisements etc.) separately.
- 6.4 Unless agreed otherwise, the invoice shall be charged in thirds respectively upon conclusion of the contract between Deloitte and the client (order placement), presentation of candidates, and filling of position (conclusion of employment or service contract with a presented candidate). In the event that the client terminates or withdraws from the contract, any time spent on the search shall be charged on the basis of Deloitte's daily rate, which however is capped at 2/3 of the agreed fee. If a candidate presented by us is employed by the client within 12 months either directly or indirectly by a company within its sphere of influence, or as a freelancer, Deloitte shall be entitled to the agreed fee in accordance with the offer.
- 6.5 If the vacant position is permanently filled by the interim manager delivered by Deloitte, Deloitte is entitled to charge a success fee of 1/3 of the candidate's annual gross salary. If a candidate presented by Deloitte in regard to interim management is employed by the client for another position (than the respective one to be filled) - either directly or by a company in the client's sphere of influence within six months with effect from the presentation, Deloitte is entitled to charge a fee of 1/3 of the candidate's annual gross salary.
- 6.6 In case of assessments and general consulting projects, a fee is either charged after rendering agreed performance packages (milestones) or by the expenditure of time - monthly afterwards.
- 6.7 Invoices are due immediately without any deductions. Any discounts or rebates apply only to the transaction concerned.
- 6.8 Any objections with regard to invoices have to be expressed in writing against Deloitte within seven days of receipt of the respective invoice. If the client does not make any objections by the stipulated deadline, the invoice is regarded as acknowledged.
- 6.9 In the event of payment default Deloitte is entitled to charge default interest at a rate of 9,2% above the base interest rate (in accordance with §456 UGB Unternehmensgesetzbuch [Austrian Business Code]). Deloitte is also entitled to suspend ongoing services and to withdraw from the contract after unsuccessful reminders have been issued. The client shall be liable for any incurred dunning and collection fees necessary for Deloitte to assert its legal rights, and for any litigation costs. Deloitte is entitled to claim compensation for any damages arising from the default, and, in the event that the client withdraws from the contract, to claim compensation on grounds of non-performance. If the client fails to meet payment deadlines, Deloitte is also entitled to demand immediate payment of any outstanding amounts owed by the client.

## **7. Replacement search**

If a new employee recruited by Deloitte leaves the client's company within three months for reasons which are within the sphere of Deloitte's influence (clear pre-selection error) and the client immediately informs Deloitte of this, Deloitte makes a specific undertaking to search for a replacement candidate - in case of an externally recruited candidate - within a period of three months without charging an additional consulting fee. Costs for advertisement placements, travel expenses and other applicable fees, as i.e. costs for test methods, will continue to be charged. This undertaking shall not apply if the candidate leaves the client's company within three months for reasons which are not within Deloitte's sphere of influence.

## **8. Liability**

- 8.1 Deloitte's consulting services during the staff search and selection procedures and assessments in no way replace detailed examination of the candidate by the client. Upon conclusion of an employment or service contract with a candidate suggested by Deloitte, the client assumes full responsibility for its choice. Deloitte therefore assumes no warranty and liability in particular for any statements made by the candidate, for the correctness and completeness of information and references obtained by Deloitte about the candidate, and with regard to the responsibilities entrusted to the candidate as part of the new employment relationship.
- 8.2 Deloitte is only liable for damages if there is evidence of intention or gross negligence. Any liability for minor negligence is excluded. This also applies if Deloitte resorts to third parties in fulfilling the contract.
- 8.3 Deloitte shall in no event be liable for lost profits, consequential damages, direct and indirect damages, and any kind of pure pecuniary damages. Deloitte is also not liable for damages caused by wrong or incomplete information provided by the client, in particular regarding collectively agreed or statutory minimum wage, willingness to overpay, etc. The client shall hold Deloitte harmless in case of damages caused by wrong information – even in case of minor negligence; in particular, a client's right for recourse is excluded.
- 8.4 Beyond this, Deloitte's liability is limited to the contractual amount. An individual case of damages shall be considered to be the sum of all claims for damages made by all claimants and which arise from one standard service. Equally, Deloitte's liability shall be limited to the contractual amount for any damages arising as part of several similar, standard services by reason of several breaches based on the same professional error.
- 8.5 In the event of any other exclusion, any further claims for damages must be legally asserted within three months of knowledge of the damage, however, at the latest three years after the event giving rise to the claim.
- 8.6 Provided that graphics, templates etc. are transmitted to Deloitte for the purpose of placing advertisements, the client warrants that these are free from any third party rights and indemnifies and holds Deloitte harmless in this respect.
- 8.7 Deloitte shall be exempt from any obligation to perform in the event of force majeure and its consequences. In this case any claims for damages by the client shall be excluded.

## **9. Loyalty, customer protection**

- 9.1 Deloitte undertakes not to poach any employees from the client's company within 12 months of the completed recruitment contract. This does not relate to employees who actively apply for advertised positions on their own initiative or who have subscribed to Deloitte's database.
- 9.2 During the period of this contract and during a subsequent period of six months after termination of the consulting services, the client is prohibited from employing employees of Deloitte who have been occupied with fulfilling the contract. In case of breach of this obligation, the client has to pay a penalty in the amount of the respective contract value.

## **10. Final provisions**

- 10.1 Deloitte is entitled to include the client's company and the project in its reference list, i.e. the company's name and symbol/brands, and to mention or list a general description of the project to third parties. With prior notification, the client agrees to provide a reasonable amount of information about Deloitte.
- 10.2 The client is not entitled to assign rights or obligations arising from this contract to third parties without Deloitte's prior written consent. Deloitte is entitled to assign rights and obligations arising from this contract without the client's specific consent to any of its subsidiaries or affiliated companies or to members of Deloitte Touche Tohamtsu, with debt-discharging effect. (Further information about Deloitte Touche Tohamtsu's members is available at [www.deloitte.com/at/about](http://www.deloitte.com/at/about).)
- 10.3 Deloitte may terminate the contract in whole or in part, with immediate effect upon written notice to the client, if Deloitte determines that (i) a governmental, regulatory, or professional entity or other entity having the force of law has introduced a new, or modified an existing law, rule, regulation, interpretation, or decision, the result of which would render Deloitte's performance of any part of the contract illegal or otherwise unlawful or in conflict with independence or professional rules or (ii) in case of a change in circumstances (including, without limitation, changes in ownership of you or of your affiliates) so that Deloitte's performance of any part of the contract would be illegal or otherwise unlawful or in conflict with independence or professional rules.  
Deloitte uses state-of-the-art technology to recognise and filter out unwanted e-mails (spam). Notwithstanding, an e-mail may accidentally be classified as spam. Therefore, Deloitte cannot guarantee that sent e-mails will actually be received by the intended recipient.
- 10.4 The place of fulfilment is Vienna. The Vienna Commercial Court has jurisdiction with regard to any disputes arising from this contract.
- 10.5 This contract shall be governed exclusively by Austrian law, with the exception of Austria's rules regarding conflict of laws.
- 10.6 Should individual provisions of these GTC be or become ineffective, this shall not affect the remaining provisions.