

TERMS AND CONDITIONS

EXECUTIVE SEARCH | MANAGEMENT CONSULTANCY

Heads! International GmbH & Co. KG (hereinafter referred to as "Heads!"), together with all its business units, supports its clients in the search for and selection of executives and specialists (executive search), as well as in the area of management consulting.

A) GENERAL

- 1) All business relations between Heads! and the client (Client) are subject to the following Terms and Conditions. In the event of conflict between these Terms and Conditions and any terms and conditions of the Client, the former will prevail, unless expressly agreed to the contrary by Heads! in written form.
- 2) Heads! shall provide consulting and other services to the Client under the terms of the respective individually drawn up offer or assignment confirmation.
- 3) Heads! accepts search assignments solely on an exclusive basis. As a prerequisite for Heads! accepting a search assignment, the Client shall for the duration of the assignment abstain from engaging a third party to search for a candidate (m/f/d) for the advertised position, or from undertaking any such search activities itself.
- 4) The confirmation of an assignment by the Client is not restricted to any specific form.
- 5) A contractual relationship between the Client and Heads! is deemed to be established by, but not limited to, the following actions:
 - The signing of a contract agreement by the Client and Heads!
 - The transmission of an assignment confirmation via e-mail, fax or letter by Heads!
 - The transmission of a contract by Heads! and its informal confirmation by the Client, e.g., via the payment of the first instalment of the fee.
 - The start of activities by Heads! with the positive knowledge of the Client.

B) CLIENT PROTECTION

- 1) For a period of six months following the completion of all search assignments, i.e., upon signing the employment contract with the most recently placed candidate (m/f/d), Heads! shall not, in the course of conducting a search assignment on behalf of a third party, approach any employees of the Client who are on the same hierarchical level as the placed candidate (m/f/d). Within a corporate context, this rule only applies to the subsidiary (or division/business unit/department) that has commissioned the assignment, regardless of whether this is a stand-alone legal entity. Furthermore, the rule is limited to the respective country in which the assignment was commissioned.
- 2) The above-mentioned obligations do not apply in the following cases:
 - the Client's business discontinues operations or is in the process of liquidation;
 - bankruptcy or probate proceedings or similar have been initiated against the Client, or such proceedings have not been initiated due to lack of sufficient assets, or there is some other apparent reason why the Client cannot fulfil its payment obligations;
 - there is a change in the controlling majority of the beneficial owners of the Client, leading to the termination of business relations with Heads!;
 - the Client is in arrears with its payment obligations.

C) CONFIDENTIALITY

- 1) Both Heads! and the Client are bound to strictest confidentiality regarding all data published in the course of a search assignment that relates to the Client's business and its executives as well as proposed or approached candidates (m/f/d), and shall ensure that this data is on no account made accessible to third parties.
- 2) Candidate profiles and documents submitted to the Client are confidential and shall remain the property of Heads! These are used exclusively and to the required extent for filling the specific vacancy and for the respective selection process. Candidate profiles and any further candidate (m/f/d) documents are entrusted to the Client to be used for this purpose. In the case of the respective candidate (m/f/d) being rejected, the submitted candidate profiles, including any documents thereto pertaining, shall be deleted, taking into account statutory retention and deletion periods, above all in accordance with the requirements of data protection regulations and the German General Equal Treatment Act (AGG).
- 3) Any unauthorized transmission of candidate profiles to third parties – especially to third parties outside the European Union (EU) and the European Economic Area (EEA) – is prohibited and, should the candidate be employed at the third party or a work/employment contract be signed between them, will lead to a legal claim to compensation against the Client on the part of Heads! Third parties within the meaning of this paragraph include any organizations operating in the market, especially those companies (majority shareholding, control, group, reciprocal shareholding) affiliated with the Client according to §§ 15 et seq. German Stock Corporation Act (AktG).
- 4) Insofar as it is necessary to share information with third parties outside the EU/EEA for the purpose of filling the specific vacancy and the selection process related thereto, the Client shall take every care to ensure that all requirements regarding the transmission of data comply with data protection regulations.
- 5) Insofar as Heads! is required by the candidate to correct, delete or limit processing of candidate profiles or personal data contained therein, the Client shall react immediately with appropriate measures as soon as it is notified by Heads! of the candidate's request. Irrespective of any individual request, the Client is obligated to delete all candidate profiles including pertaining documents after a period of 6 months after receipt, subject to any overriding retention and deletion obligations.

D) SELECTION

- 1) To guarantee optimum candidate selection, all candidates, whether they have been approached directly by Heads! or based on the Client's recommendations or wishes, or whether they applied spontaneously, are subjected to a standardized selection procedure or a standardized test and evaluation using standardized criteria in compliance with the German General Equal Treatment Act (AGG).
- 2) Heads! shall carry out the candidate search and selection carefully to the best of its ability as specified in the confirmation of the assignment. The candidate (m/f/d) is assessed for suitability and interest, based on verbal and written statements. Heads! is not obligated to run background checks on documents (especially certificates) and other details disclosed by the candidate (m/f/d). Heads! does not carry out clarifications/research into a candidate's prior legal record (for breaches of criminal, civil or bankruptcy law). Should the Client request a compliance check, all parties shall come to an agreement regarding the involvement of an expert; if such an expert is called in on the recommendation of Heads!, Heads! cannot be made liable for this recommendation.

E) FEES AND EXPENSES

For the execution of the search assignment and rendering the related services, Heads! is entitled to fees and reimbursement for expenses as stipulated below, regardless of whether or not the vacancy advertised by the Client is filled as a result of these services, and in the full amount and irrespective of whether a candidate was put forward by the Client itself.

1) PROFESSIONAL FEES

- a) The agreed final fee is calculated based on the candidate's (m/f/d) gross annual compensation in the first year of employment as contractually agreed in the work/employment contract (i.e. fixed and variable cash salary components including sign-on bonus, as well as short-, mid- and long-term incentives such as management participation at nominal value or stock option programs, and taxable benefits in kind like housing allowances), even if these are made payable at a later date. The Client is entitled to prove to Heads! that the non-cash benefits amount to less. In the case of variable remuneration, a target achievement of 100% is assumed. All payments to the Client above and beyond this, such as pension plans and other forms of social security contributions, are excluded.
- b) The amount of the final fee is determined in a separate contract. Should no other contractual regulation exist, the final fee shall be one third (33%) of the gross annual compensation according to item E1a).
- c) The candidate (m/f/d) is entitled to the final fee after signing the work/employment contract with the Client – or with an organization affiliated with the Client according to §§ 15. et seq. German Stock Corporation Act (AktG) (majority shareholding, control, group, reciprocal shareholding). The Client is obligated to give written notice to Heads! whether and when a work/employment relationship has been entered into and specifying the agreed remuneration. In the same way, the candidate (m/f/d) is entitled to the final fee if they were first rejected by the Client, but then, within 12 months after presentation by Heads!, they enter into a work/employment contract with the Client – or an organization affiliated with the Client according to §§ 15. et seq. German Stock Corporation Act (AktG) (majority shareholding, control, group, reciprocal shareholding).
- d) Unless otherwise contractually agreed, Heads! sends the Client an invoice for the basic fee according to the instalments agreed on in the offer, commencing on the date of the assignment confirmation. The basic fee represents Heads!' minimum fee.
After completion of the assignment, Heads! charges the Client any possible difference between the already invoiced basic fee and the fee as payable based on the effectively determined gross annual income according to item E1c). Heads! reserves the right to require the assigning party to submit any relevant receipts relating to the remuneration. Heads! is still entitled to the basic fee, regardless of whether or not the position advertised by the Client is filled as a result of activities undertaken by Heads!.
- e) Heads! may conclude individual contract agreements with the Client regarding further fee instalments for specific project targets (e.g., candidate presentation/interviewing). Heads! is entitled to demand reasonable fee instalments for project services already provided to the Client, and to issue partial invoices according to the progress of the project to this end.
- f) Should the Client hire one or more candidates (m/f/d) presented by Heads! within the scope of a single search assignment, or if a candidate (m/f/d) presented by Heads! is hired by the Client – or by an organization affiliated with the Client according to §§ 15. et seq. German Stock Corporation Act (AktG) (e.g. majority shareholding, control, group, reciprocal shareholding) – for a different position than originally stated in the assignment, Heads! is entitled to an extra fee according to item E1c) This is called an "additional placement".
- g) All fees are subject to the applicable value added tax.

2) EXPENSES

Expenses incurred in connection with the execution of the assignment shall be invoiced in the amount and at the due date agreed in the contract – plus any applicable value added tax.

Any costs incurred by consultants and candidates (m/f/d) for travels outside the EU are not included in the lump sum and must be invoiced separately.

Heads! is entitled to the payment of expenses regardless of whether or not the position offered by the Client is filled as a result of activities undertaken by Heads!.

3) PAYMENT OF FEES AND EXPENSES

All Heads! invoices are payable upon receipt by the Client and are due within a payment period of 10 days as of date of issue. Should fees and expenses not yet be invoiced fully or in part at the time the search assignment is completed, the outstanding amount payable is due immediately upon completion of the search assignment.

If fee and/or expense invoices are not paid within the period of 10 days as of invoice issue date, Heads! is entitled to suspend the search assignment until all outstanding fees and expenses at the time have been paid in full, and continue it only after all invoices have been paid. As a result, the duration of the assignment in question may be extended accordingly.

F) TERMINATION, SUSPENSION OR MODIFICATION OF THE ASSIGNMENT

- 1) Both the Client and Heads! may terminate a search assignment at any time. Notice of termination must be given in writing. The Client acknowledges that, to carry out this assignment, Heads! needs to ensure the provision of services over a longer period of time. As a result, they may not be terminable immediately after notice is given (or not without incurring additional costs). If notice is given before all fees and expenses have been settled, Heads! is therefore entitled to invoice the Client for all services rendered until receipt of notice in writing, as well as one month's fees and expenses (to the amount of the next payable instalment of the basic fee according to aforementioned items E1) d) – e)), plus value added tax (payable immediately). If the search assignment is terminated by the Client after all fees and expenses have been invoiced, the total amount is due without deductions.
- 2) In the case of a subsequent modification of the assignment, a new fee arrangement shall be agreed that takes into account the new circumstances and interests of both parties.
- 3) Existing search assignments may be suspended once by the Client for a maximum of 90 calendar days by written notice to Heads! During this time, all activities in connection with the assignment are suspended. Settlement deadlines and any other relevant due dates are also suspended and only resumed once this period is over. Exemption is granted for submitted and due invoices for rendered services.
- 4) If the search assignment is suspended by the Client after all fees and expenses have been invoiced, the total amount must be paid without deductions.

G) WITHDRAWAL OF A CANDIDATE

Should a candidate (m/f/d) recommended by Heads! leave the company within the first six months due to a lack of professional qualifications, Heads! shall search for a suitable replacement free of charge. In this case, the Client will only be invoiced for expenses and travel costs incurred by candidates (m/f/d) and consultants.

If a candidate leaves in the course of a change of supervisor or a change of ownership/control, Heads! no longer has the obligation to find a replacement free of charge.

H) LIABILITY DISCLAIMER

Heads! cannot be held liable for any damages to the Client in connection with the services provided on the basis of this assignment. Damages caused by gross negligence or intent on the part of Heads! are exempted from this disclaimer. In this case, liability is limited to the amount of the fee for this assignment.

Furthermore, Heads! cannot be held liable for indirect damage, consequential damage or foregone profits.

I) OFFSETTING, RETENTION

- 1) The Client may only offset if its counterclaims have been legally established, are undisputed or recognized by Heads!, or if offsetting rights pertain to the Client's rights based on incomplete or defective performance within the same contractual relationship.
- 2) Heads! is entitled to exercise its right of retention with respect to all claims arising from the business relationship with the Client.

J) FINAL PROVISIONS

- 1) To be legally effective, changes to assignments and ancillary agreements require the written form, as does the revocation of the written form requirement.
- 2) Should one or more of the clauses contained in these Terms and Conditions become wholly or partially unenforceable, this does not otherwise affect the validity of these Terms and Conditions. The parties shall replace the invalid or unenforceable clause with a provision that comes as close as possible to the meaning and purpose of the invalid clause from a permissible economic and legal point of view. The same applies to any gaps found in these Terms and Conditions.
- 3) Legal relations between the parties are subject exclusively to the law of the Federal Republic of Germany. The language of the contract is German. If the Client is a merchant, a legal entity under public law, or a special fund under public law, the place of jurisdiction and performance for all mutual obligations and any disputes arising from the contractual relationship is the registered office of Heads! in Munich.