



GENERAL TERMS AND CONDITIONS (T&C) OF THE COMPANY TALENTER AUSTRIA GMBH (14.9.2022)

§ 1 General Aspects

1.

The following Terms and Conditions apply to all contracts concluded between Talenter Austria GmbH (hereafter: "Talenter") and a client (hereafter: "client"), especially such pertaining to the search for, the mediation and appointment of employees including the provision of all services connected hereto, such as placing of advertisements or preparing of expert opinions (personality profile analyses, attentiveness under stress tests and social competence tests), etc. They also apply for all future conclusions of contracts in the scope of the business relationship, even if they should not be expressly concluded again.

2.

Talenter exclusively concludes contracts on the basis of these General Terms and Conditions and rejects provisions in General Terms and Conditions of the client that deviate from these General Terms and Conditions, in as far as Talenter does not expressly recognize these in writing.

3.

The contract is concluded with Talenter according to civil law principles; it is therefore especially the case that a contract is deemed to have been concluded with Talenter as a result of the client signing or digitally confirming an offer or an order confirmation (in digital form or by e-mail) from Talenter, as a result of an agreement having been reached by the client regarding a candidate, whose name Talenter has provided regarding the decisive conditions of a service, freelance, work, order or other employment contract (hereafter "employment contract"), or if the candidate has commenced employment with the client or the work commissioning party respectively.

The conclusion of an employment contract with the client shall be considered equivalent to the conclusion of an employment contract with a person who, due to legal or de facto personal connections or potential influence, enters an employment relationship with a candidate with whom the client came into contact in connection with the order placed with Talenter (hereafter: "affiliated company").

4.

Offers made by Talenter are binding for a period of two weeks after they have been submitted.

5.

Talenter will act solely as an exclusive contractor and will refuse orders involving other contractors. For example, should candidates also become involved in the scope of the Talenter search mandate that result from contacts made by the client in the search process, this also does not have an effect on the fee agreed to with Talenter.



§ 2 Special duties of the client to cooperate and liability

1.

The client has an obligation to make every possible effort to conclude an employment contract, provide all information required in connection with the search order, submit all required documents in full and without delay, and keep Talentor informed with regard to all processes and situations that could be of relevance for the handling of the order. This especially includes all facts with regard to the client and its company including its financial situation, which might concern the content, extent, place of the work, requirements on the person / qualification, or the remuneration of the candidate. The obligation expressly also includes information, documents, procedures, and situations that the client only gains knowledge of after the search order had been placed. Talentor is entitled to issue an invoice with the hourly rates that have validity in the company or cancel the order (§1168 of the Austrian Civil Code, ABGB) in the event of it incurring losses or damages that result from information withheld by the client or delayed, incorrect, obsolete, or incomplete information, such losses and damages especially being with regard to additional expenditure incurred as a result of frustrated search attempts. This especially has validity for circumstances with which a candidate has already applied for employment with the client, but Talentor has not been informed of this immediately or when essential requirements or a majority of other requirements placed on the candidates for the search order have changed.

2.

Unless otherwise agreed in individual contracts, Talentor does not provide a warranty for the achieving of a specific successful search, especially for it finding suitable candidates with the search order or other orders within a specified period of time.

3.

Should Talentor find suitable candidates as a result of the search order, it exclusively assumes liability for the appropriate candidates having the required qualification (= vocational training); a liability or warranty on the part of Talentor over and above the foregoing is excluded. Talentor especially does not assume liability for work results or successes provided by the appropriate candidates, nor does it do so for losses or damages incurred by such when completing his work or in connection with the same; this also has validity with regard to a lack of punctuality, a non-appearance or other misconduct. The client is also to indemnify and hold Talentor harmless with regard to any claims for compensation that are made by third parties.

4.

The client has an obligation to also validating the qualifications of the candidates and to filing a complaint without delay should this be necessary; Talentor merely assumes liability for cases of intentional or grossly negligent losses or damages; compensation for pecuniary damages is also excluded.



§ 3 Special Provisions for Personnel Placement and Executive Search Services

1.

The subject of the personnel placement performance is the search, selection and nomination (naming) of candidates by Talenter in keeping with the written order, such candidates especially being suitable when taking a job profile / job description provided by a client into account. Should additional performances (placement of advertisements, expert opinions, credit checks, travel expenses for the candidates, etc.) be necessary, these shall be ordered and invoiced separately. Search orders can however also result from the actual needs of the client that are known to Talenter or such as it presumes.

2.

The client has an obligation to paying for the services provided by Talenter as stated in the valid offer.

3.

Should the employment contract of the candidate suggested by Talenter by the client be terminated on grounds other than commercial or organizational grounds within the first 3 (three) months after conclusion of the employment contract, Talenter provides an additional one-off search and selection process for the same position without costs being incurred (with the exception of any costs incurred for advertisements), as long as the order for a replacement candidate is placed in writing within a period of 2 weeks of the employment being terminated. For the new search, the client will only be charged the order fee and expense allowance, which are of the same amount as already agreed to for the first search order. This guarantee shall not apply if the employment contract was terminated on grounds other than commercial or organizational grounds or as a result of the death or illness of the candidate or of an accident involving the candidate.

4.

Should an additional employment contract be concluded by the client in connection with the work done by Talenter, then a separate fee shall be invoiced for each candidate of at least 80% of the fee agreed to for the first position. Should the appointment of numerous employees be planned (e.g. in the event of a company expansion), we would be pleased to make you an offer that is adapted to your situation.

§ 4 Data Protection and Discretion

1.

The client undertakes to comply with the EU General Data Protection Regulation (GDPR) and to handle all information on the candidates suggested by Talenter confidentially. In particular, the client undertakes to use the data and information concerning proposed candidates only in connection with the search project and to delete the data and information after completion of the search project or after the expiration of the statutory retention periods.

2.

The client agrees to Talenter storing and automatically internally processing the data it obtains in connection with the business relationship, subject to the terms of the issued data protection declaration.



3.
Talenter assures clients and candidates confidential treatment of all information made available to them.

§5 Fees

1.
Provided that no flat-rate fee or any another fee was agreed to separately, Talenter shall receive a fee for the search project equal to 33% of the gross target annual salary of the candidate according to the job profile and / or job description for a 40-hour contract, plus all variable salary portions and flat-rate fees to which the candidate is expected to be entitled.

Unless otherwise agreed in writing in individual cases and regardless of written invoices, all costs and compensation for expenses are due immediately, one third of the total fee of Talenter is due when the order is placed, one third is due after presenting a candidate, and one third is due after closing an employment contract with a candidate, but no later than upon termination of the particular search project. In the event of a payment default, Talenter is entitled to assert a claim for default interest of 1% per month and for the cost of appropriate legal action (collection costs). The offsetting against claims asserted by Talenter is excluded. Talenter is entitled in the event of a default of payment to terminate the provision of its services immediately and to cancel the search order after setting an appropriate grace period according to §5(2).

2.
Upon withdrawal from or cancellation of the search order, Talenter is entitled to invoice at least 80% of the total fee agreed or to invoice the cancellation fees defined in the offer plus any additional expenses incurred according to §2(1). Any partial payments already made shall be taken into account.

3.
Should a client or a company affiliated with it conclude an employment contract with a candidate nominated by Talenter within a period of two years from receipt of his data or within a period of one year from termination of (another) employment contract, the client also has an obligation to pay the fee to Talenter that is due according to the conditions valid at the time the contract was concluded. In the event of any liability for loss or damage, the client shall inform the affiliated company before such a contract is concluded that Talenter is entitled to a corresponding fee should employment be entered into.

4.
In all cases, the client and candidate are to notify Talenter of an employment contract with it or a company stated in Para. 3 and the situation that serves as a basis for the calculation of the remuneration without delay and completely, within two weeks after conclusion of the agreement at the latest or, should a contract not have been concluded, after the effective date of the employment contract. In the event of the client being in default of the foregoing, Talenter is entitled to charge the success fee in addition to a contractual penalty, regardless of fault, of 8% of the gross annual target salary of the candidate or the anticipated gross annual fee respectively, whereby the candidate and the client are jointly liable for this.

5.
Talenter has the right to invoice extraordinary expenses and additional costs after consultation with the client.



§ 6 Termination of the Contract

1.

Talenter has the right to terminate orders in writing with 14 days' notice to the end of the month if the client is in arrears with a payment despite being granted a reasonable grace period, if it breaches its duties to cooperate, in particular its duties according to §2, or, due to – albeit gradual – changes to significant requirements or to several less significant requirements for the position to be filled compared to the requirements stated at the beginning of the assignment, then it must be assumed that the last position (person) to be filled represents a new search order. The termination without notice for good cause and the termination according to §1168 ABGB shall remain unaffected.

§ 7 Final Provisions

1.

Should nothing to the contrary be expressly stated, all payment amounts are deemed to be exclusive of the taxes and duties that are payable on the ground of statutory provisions.

2.

The place of jurisdiction for all disputes arising from and in connection with contracts concluded between the client and Talenter is Vienna. Austrian law shall apply to the exclusion of the reference norms and the UN Convention on Contracts for the International Sale of Goods.

3.

Agreements with which provisions in these Terms and Conditions are amended or supplemented, require the written form. This also has validity for an amendment to this written form clause. Written notifications can be made by means of a letter sent by registered mail, a fax or an e-mail sent to the e-mail address that was last notified by Talenter.

4.

Should a provision in these Terms and Conditions be invalid or should this be the case in the future, this has no effect on the general and legal validity of the other provisions. The invalid provision is to be replaced with one that comes as close as possible to achieving the commercial purpose intended with the invalid provision and that is legally effective.

5.

Differentiation between a female and a male form has been dispensed with in these T&Cs for improved legibility with the male form being used throughout; the word concerned related to both sexes, however.