

General Terms and Conditions for Kenjo Services for the Management and Recruiting of Staff as Software-as-a-Service (SaaS)

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1. SCOPE OF APPLICATION

- 1.2. These General Terms and Conditions (hereinafter referred to as: "**GTC**") apply to all contracts concluded between Kenjo GmbH, Urbanstraße 71, 10967 Berlin, Local Court Charlottenburg, HRB B 183681B (hereinafter referred to as: "Kenjo", "we" or "us"), and the customer (together referred to as the "**Parties**" or each individually as a "**Party**") in connection with the provision of software-as-a-service services via the Internet, in particular in the area of "HR software" / "personnel administration and recruiting software", including supplementary services such as the provision of an application interface (hereinafter referred to as "**Services**").
- 1.3. Any deviating terms and conditions of the customer shall not apply unless Kenjo has expressly agreed to these in writing. This shall also apply if we do not expressly object to their application and unconditionally execute our Services.

2. TEST PHASE AND CONCLUSION OF CONTRACT

- 2.1. Kenjo may provide the customer with test access free of charge for a period of 14 days prior to the conclusion of a paid contract for the use of the Services ("**Test Phase**"). With the exception of the remuneration provision, these GTC shall apply to the Test Phase as well. Unless the customer decides to subsequently use the service for a fee, the test access will be deactivated at the end of the Test Phase.
- 2.2. A contract for the use of the Services is concluded once the customer accepts (at least in text form) a valid offer sent by Kenjo, usually by e-mail. The contract shall become effective on the subscription start date stated in the offer.

3. SERVICES

- 3.1. The subject matter of the contract is the granting of the use of the Services by the customer via the Internet for the customer's own business purposes, said use being subject to a fee and limited in time to the term of the contract.
- 3.2. Kenjo grants the customer the non-exclusive and non-transferable right to use the Services in accordance with the provisions of the contract during the term of the contract. The customer shall be entitled to set up a user account for all employees and all other persons who, in connection with the provision of their services to the customer, use the Services as intended (each individually referred to as a: "**User**") and to provide them with access to the Services.
- 3.3. From the handover point, the Services shall have an availability of at least 99.5% per month. The handover point shall be the router exit of our data center. Availability is defined as the provision of the services without significant functional limitations. Announced maintenance times and periods of disruption for which the expected repair times are adhered to shall be deemed as periods during which the Services are available. Periods of insignificant disruptions shall not be included in the availability calculation.
- 3.4. The storage provided as part of the Services is limited to 150% of the average storage requirement per active employee (measured across all Kenjo customers), multiplied by the number of the customer's active employees (as defined in section 10.3) ("**Included Volume**"). Kenjo shall notify the customer if the Included Volume is exceeded. If the Included Volume is exceeded for a period of three (3) or more consecutive months, Kenjo shall be entitled to terminate the contract for cause. The termination shall take effect one month from the receipt of the notice of termination. Alternatively, Kenjo may offer an increase of the permitted storage for an additional compensation. Customers who have agreed on an

extended volume with Kenjo shall not be taken into account when calculating the permitted storage in accordance with sentence 1.

- 3.5. Kenjo may update and further develop the Services at any time and adapt them in particular due to a changed legal situation, technical developments or to improve IT security. In doing so, Kenjo shall give due consideration to the legitimate interests of the customer and shall inform the customer in a timely manner (generally at least four week days before the changes take effect) of any material changes. In the event of a significant impairment of the customer's legitimate interests, the customer shall have a special right of termination. If the customer exercises its special right of termination, any usage fees already paid shall be refunded on a prorated basis for the period during which the Services were not used.

4. PROPRIETARY RIGHTS

- 4.1. Kenjo or its licensors own all intellectual property rights (including copyrights, performance rights, design patent rights, trademark rights, design rights, database rights) relating to the Services. All uses of the Services not expressly permitted in this contract shall be prohibited and are permitted only with Kenjo's prior written consent. The customer shall, in particular, not be permitted to use the Services to provide services to third parties, to resell, lend, rent or to otherwise commercially exploit or utilize the Services.
- 4.2. The customer shall not attempt to obtain information about the programmatic design of the Services by way of reverse engineering. "Reverse engineering" in this context is defined as any and all actions, including any observing, testing, examining, and disassembling and, if necessary, reassembling, with the goal of obtaining confidential or proprietary information. Any statutory rights that cannot contractually be excluded or limited shall remain unaffected.

5. ACCESS DATA

- 5.1. The customer shall create a "User ID" (e-mail address) and a password for access to the use of the SaaS Services for itself and for each of its Users (together referred to as "**Access Data**").
- 5.2. The customer shall keep its Access Data confidential and shall also require its employees to keep the Access Data confidential.
- 5.3. Kenjo may also provide the customer and its Users with access to the Services via a so-called "single sign on" offered by third party providers (e.g., Google or Microsoft).

6. CUSTOMER DATA

- 6.1. Kenjo shall take state of the art measures to protect the data stored by the customer in the Services. Kenjo is not, however, subject to any custodial or safekeeping obligations with respect to the data. The customer is responsible for regularly backing up its data outside of the Services.
- 6.2. A release of the data, which must be requested within seven days from the end of the contract, may be made by providing an opportunity to retrieve/download the data in a common file format that is readable by means of standard software.
- 6.3. Kenjo shall delete all of the customer's data remaining on its servers after the termination of the contractual relationship. Kenjo has neither a right of retention nor a right of lien with regard to the customer's data.

7. CUSTOMER OBLIGATIONS

- 7.1. The customer shall review the general condition and the functionalities of the Services during a possible Test Phase and shall report to Kenjo any defects that cancel or reduce the suitability of the Services for the contractual use by the customer in text form without delay, but at a minimum during the Test Phase and before the conclusion of the fee-based contract. The customer acknowledges the suitability of the Services for the contractual use, unless the

customer has reserved the right to do otherwise or unless a property or defect was not recognizable during the Test Phase.

- 7.2. The customer shall be responsible for the system environment (hardware, software, network connection) required to use the services; Kenjo provides information in this regard at <https://help.kenjo.io/de/support/home>.
- 7.3. The customer shall be required to inform Kenjo in text form of an authorized contact person as well as said person's substitute, who is authorized to take the necessary actions and make the declarations required to provide the necessary contractually agreed Services. The customer shall provide Kenjo with the first and last name, e-mail address and a telephone number (contact details) of the contact person and said person's substitute. If contact person and/or the substitute change, the customer shall be required to inform Kenjo immediately and to provide the new contact details at least in text form. If the contact person for invoices differs from the aforementioned person, the customer shall provide this information separately to the same extent and notify Kenjo of said changes accordingly.
- 7.4. The customer undertakes
- (a) not to use the Services in connection with illegal content, content that violates laws or official requirements, or content that infringes the rights of third parties;
 - (b) to provide state-of-the-art security measures that prevent a transmission of viruses, Trojans and other malware to the Services;
 - (c) not generate excessive traffic or to submit an excessively high number of requests to the Services that significantly exceeds the normal use of the Services;
 - (d) to use the Services only in accordance with the specifications and usage instructions communicated by Kenjo;
 - (e) not to perform any load testing, penetration testing or similar measures without Kenjo's prior written consent;
 - (f) to require the Users authorized by the customer to use the Services to comply with the above provisions (a) to (e) and to monitor compliance with said provisions to an appropriate extent.
- 7.5. The customer shall inform Kenjo in text form as soon as the customer becomes aware or the reasonable suspicion exists that
- (a) an unauthorized third party is accessing or has accessed the protected areas of the Services;
 - (b) an access according to letter (a) is imminent or could be imminent, e.g., after the access information was lost.

8. BLOCKING

- 8.1. Kenjo shall be entitled to temporarily suspend and block access to the Services if
- (a) the customer fails to make due payments despite a reminder and a reasonable grace period;
 - (b) the customer is in serious breach of its duties set out in sections 7.4 and 7.5 or repeatedly breaches them despite appropriate notices from Kenjo;
 - (c) the security or integrity of the Services or the facilities used by Kenjo is compromised or threatened to be compromised directly or indirectly by the customer.

- 8.2. In case one of the above instances arise, Kenjo shall inform the customer of the suspension of Services without undue delay.

Kenjo shall lift the blocking if the reason for the blocking has demonstrably ceased to exist. If the reason for the blocking lasts for a period longer than four (4) weeks and the customer is responsible for this, Kenjo shall be entitled to the extraordinary notice of termination.

9. MALFUNCTIONS

- 9.1. Kenjo's support is available Monday through Friday (excluding legal holidays at the Berlin location) from 9:00 AM to 6:00 PM (service hours) and can be reached via the communication channels listed at <https://www.kenjo.io/contact>.
- 9.2. The customer shall immediately report any malfunctions that occur, stating the type, scope, duration and enclosing all information relevant to the remediation of the malfunction. To the extent possible, the customer shall provide screenshots of the image showing the malfunction at Kenjo's request.
- 9.3. Kenjo shall make all reasonable efforts within the service hours to correct serious malfunctions (the use of the Services as a whole or any essential functionality of the Services is unavailable) within four hours from the receipt of the malfunction notification (target resolution time). For other significant malfunctions (main or secondary functions of the Services are malfunctioning but can be used; or other malfunctions that are not merely insignificant), a target resolution time of one business day shall apply.
- 9.4. If it is foreseeable that a resolution of the malfunction is not possible within the target resolution time, Kenjo shall inform the customer immediately and communicate the estimated actual resolution time. Insignificant malfunctions shall be addressed at Kenjo's discretion.
- 9.5. Any other legal claims the customer may have against Kenjo shall remain unaffected.

10. COMPENSATION

- 10.1. Onboarding. The customer shall pay Kenjo the agreed upon one-time setup fee for the on-boarding services associated with the provision of the Services. The compensation shall be invoiced upon the conclusion of the contract.
- 10.2. The customer shall pay Kenjo a usage fee for the use of the Services beginning on the subscription start date that was agreed upon between the Parties. The usage fee shall be calculated in accordance with the compensation agreed upon between the parties on the basis of the offer. The compensation shall be invoiced at the beginning of the agreed billing period (month, quarter, half-year or year) as advance payment.
- 10.3. To the extent that the agreed-upon fee is based on the number of employees using the Services that are actively managed by the customer in a given month ("**Active Employees**"), Kenjo shall bill the license fee for the Active Employees at the beginning of the applicable billing period. If the number of Active Employees changes during the billing period, the license fee for the activated or deactivated Active Employees shall be calculated on a prorated, daily basis. The same applies to any changes to the license fees for other Active Employees, insofar as the license fees change due to the increase or decrease in the total number of Active Employees in accordance with this contract. Any differences shall be credited or charged to the customer during the next billing period. If the usage fee calculated in this manner falls below the minimum fee agreed between the Parties, Kenjo shall charge the minimum fee regardless of the number of Active Employees. If the number of Active Employees increases during the billing period and the new usage fee exceeds the amount paid in advance for this billing period, Kenjo is entitled to demand the remuneration attributable to the additional Active Employees in advance to the start of the next billing period. All prices are exclusive of statutory VAT.
- 10.4. Discounts:

- (a) The discounts contained in the offer are granted on the basis of the agreed Initial Contract Term and the selected billing period and are not transferable to future offers.
- (b) The total discount on the offer is composed of an advance payment discount if applicable, and a negotiation discount if applicable.
- (c) If the customer chooses to pay yearly upfront, they are granted an advance payment discount of 10%. If the customer chooses to pay bi-yearly upfront, they are granted an advance payment discount of 20%.
- (d) For any Extension Period (defined in §12.2), all negotiation discounts from this quote will lapse, and only advance payment discounts shall be applicable.

10.5. Payment Terms:

- (a) Payment is accepted via SEPA Direct Debit or Credit Card.
- (b) Payment is due immediately at invoice date.

11. LIABILITY FOR DEFECTS/LIABILITY

- 11.1. With regard to the rights in case of defects the statutory provisions apply unless agreed otherwise in the following.
- 11.2. The lessor's strict liability for initial material defects (Section 536a (1), 1st Alternative BGB (German Civil Code)) is excluded.
- 11.3. Kenjo shall be fully liable for deliberate or negligent damages resulting from the injury of life, body or health caused by Kenjo, its legal representatives or ancillary agents.
- 11.4. Kenjo shall only be liable for slight negligence if Kenjo, its legal representatives or ancillary agents did not meet an obligation that is essential to the contract. In such case, Kenjo shall only be liable for foreseeable damages, the occurrence of which must be typically expected. Essential contractual obligations are obligations the fulfillment of which is a prerequisite for the performance of the contract and the fulfillment of which the customer may reasonably rely on. Other claims for damages against Kenjo shall be excluded, regardless of the legal basis, unless Kenjo, its legal representatives or ancillary agents have acted intentionally or with gross negligence.
- 11.5. The Parties agree that the maximum foreseeable damages that can typically be expected to arise shall not exceed twelve times the average compensation paid by the customer in the twelve months preceding the damage event (or, if the contract is in force for less than 12 months, the months preceding the damage event) per damage event.
- 11.6. Kenjo shall not be liable for any loss of data if the damage is due to the fact that the customer failed to backup data to ensure that lost data can be restored with reasonable effort. Kenjo shall not be liable for damages resulting from use of the Services in violation of this contract, unless the customer proves that the damage would have occurred even if the Services had been used in accordance with this contract. Kenjo shall not be liable for damages caused by defects if and to the extent that the damage is due to a delay in reporting the defect.

12. TERM; TERMINATION

- 12.1. The contract is concluded for the Initial Contract Term designated in the offer (12, 24 or 36 months, depending on the agreement) ("**Initial Contract Term**").
- 12.2. The contract shall be automatically extended for consecutive further terms, each an ("Extension Period"), of the same duration as the Initial Contract Term , unless one of the Parties terminates the contract with eight weeks prior written notice to the end of the Initial Contract Term or the end of the respective Extension Period. Each Extension Period will be

subject to the same terms and conditions of the Initial Contract Term with the exceptions of discounts provided for the Initial Contract Term as set out in section 10.4 above.

- 12.3. The statutory right of each Party to terminate the contract for cause without notice remains unaffected. Kenjo shall, in particular, be entitled to terminate the contract without notice if the customer fails to make due payments despite a reminder and a grace period, or if the customer persistently or seriously violates the contractual provisions governing the use of the Services. A termination without notice shall, in any event, require that the other Party is warned in writing and asked to address the alleged reason for a termination without notice within a reasonable period of time.

13. CONFIDENTIALITY, DATA PROTECTION

- 13.1. The Parties shall each be responsible for compliance with the data protection regulations that apply to them. The Parties agree that the data processing agreement attached as Annex 1 shall become an integral part of the contract, and that it specifies, in particular, the subject matter and duration of the processing, the type and purpose of the processing, the type of personal data, the categories of data subjects and the obligations and rights the customer has within the scope of the data processing.

- 13.2. The Parties undertake to maintain confidentiality about all confidential information that they have become privy to in connection with this contractual relationship and not to use said information either directly or indirectly for their own purposes or those of third parties. The same shall apply to third-party business or trade secrets that become known or have become known to Kenjo in connection with the contractual relationship with the customer. Kenjo shall impose this confidentiality obligation also on all persons who are used as vicarious agents for this contract.

- 13.3. The information to be treated as confidential includes, in particular, information that has been expressly designated as confidential by the respective Party providing the information, as well as all other information whether disclosed orally or in writing, marked as confidential or confidential by nature by the other Party, including, in particular, business and trade secrets as well as customer and personnel data. Information that is not to be treated as confidential includes information that

- (a) was known or generally accessible to the recipient or the public prior to the receipt of the information,
- (b) must be disclosed due to legal regulations or a judicial or official decision or request.

In addition, the respective other Party shall indicate in the course of disclosure that, if this is the case, the confidential information is a trade secret, and shall endeavor to ensure that measures set out in Section 16 et seqq. GeschGehG (German Trade Secret Act) are taken.

- 13.4. To guarantee the non-disclosure of confidential information, the Parties undertake
- (a) to keep the confidential information in a safe location to protect it against theft and unauthorized access;
 - (b) not to use, reproduce, process or store the confidential information in any externally accessible computer or electronic information system or to transmit it outside its business premises;
 - (c) to notify the other Party promptly upon becoming aware of any actual or threatened unauthorized use or disclosure of confidential information and take all reasonable steps in order to, if necessary with the assistance of the other Party, prevent or stop such use or disclosure.

The Parties are aware that the disclosure of business secrets is punishable pursuant to Section 23 GeschGehG.

- 13.5. The obligations under section 13 (2) and (4) shall continue to exist for an indefinite period of time beyond the end of the contract. The obligation does not apply if information has to be qualified as no longer confidential without either Party's breach of the obligations under section 13 (2) and (4).

14. GOVERNING LAW/PLACE OF JURISDICTION/CONTRACT LANGUAGE

- 14.1. This contract shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods, unless the Parties individually agree otherwise.
- 14.2. If the Parties are merchants, they agree that Berlin shall be the exclusive place of jurisdiction for disputes arising from this contract.
- 14.3. In the event of any inconsistencies between the German and other language versions of these GTC, the German version shall prevail and be legally binding.

15. MISCELLANEOUS

- 15.1. Kenjo shall be entitled to amend these GTC at any time. Kenjo shall notify the customer by email or in writing at least six weeks before the changes take effect. At the same time, the customer is expressly informed that the respective amendment shall become an object of the contract existing between the contracting Parties if the customer does not object to this amendment within a period of four weeks from the announcement of the amendment by e-mail or in writing. In the event the customer objects, Kenjo shall be entitled to an extraordinary termination of the contract.
- 15.2. Should any provision of these GTCs be or become invalid, this shall not affect the validity of the remaining GTCs. The invalid provision shall be deemed to be replaced by a valid provision that comes as close as possible to the economic purpose of the invalid provision. The same shall also apply to a contractual gap.
- 15.3. The customer grants Kenjo GmbH a perpetual, worldwide, non-exclusive, royalty-free license to use the customer's name, logo, and trademarks for the purpose of identifying the customer as a customer of Kenjo GmbH, including on the Kenjo GmbH's websites, in promotional materials, and in other marketing and advertising initiatives. The customer may revoke this license by providing written notice (including by email) to Kenjo GmbH at any time.
- 15.4. Annexes referred to in these GTCs shall become an integral part of the contract.

If your offer was created from 1/11/2024, the link to your applicable General Terms and Conditions can be found in the offer.

Applicable General Terms and Conditions for offers prior to 1/11/2024 can be found in [this document](https://hr.kenjo.io/hubfs/offer/gtc/history/Kenjo_EN_GTC_History.pdf) [https://hr.kenjo.io/hubfs/offer/gtc/history/Kenjo_EN_GTC_History.pdf]