

Supplementary terms and conditions of business for the KLARA Expert Portal

1. Scope of application

1.1. These supplementary terms and conditions of business for the KLARA Expert Portal (“GTCB Expert Portal”) govern the relationship between the customers (“Customer”) and KLARA Business AG (“KLARA”) for services provided for the software solution by KLARA (“Platform”).

1.2. These GTCB Services apply as a supplement to, and an integral part of, KLARA’s General Terms and Conditions of Business. If contradictions are found to exist between the two, these GTCB take priority.

1.3. By activating the KLARA Widget, the Customer accepts these GTCB and, when booking third party offers, also the relevant terms and conditions of the particular third party.

2. General

2.1. The KLARA Expert Portal with the dedicated Coach offering gives service providers in many different branches (referred to below as “Partners”) Internet-based software solutions for booking and organising interactive online consultancy and face-to-face consultancy.

The solutions comprise in particular:

- the opportunity for the service provider to make appointments with his customers using the software.
- Provision of the technical solutions needed for online communication in virtual conference rooms.
Dispatch of text-based information, including data exchange.
- Management of customer information.
- Provision of a web page window that can be freely designed by the Customer (referred to below as the “Coach Widget”) on a KLARA sub-domain.

KLARA reserves the right to amend these GTCB at any time. The amended GTCB enter into force when they are published in the KLARA Widget Store.

3. Software as a Service (SaaS) contract

KLARA provides SaaS services for its Partners in the area of business management software via the Internet. KLARA may provide the services in cooperation with third parties.

The object of the contract is:

- the provision of KLARA’s software for use via the Internet and
- storage of the Partner’s data (data hosting)

4. Software provision

4.1. KLARA gives the Partner access via the Internet for the contractual term to the latest release of the KLARA Expert Portal using the KLARA Coach

Widget against payment. For that purpose, KLARA stores the software on a server which can be accessed by the Partner via the Internet.

4.2. KLARA continuously develops the software and improves it by means of ongoing updates and upgrades.

4.3. KLARA constantly monitors the working of the software and eliminates software errors to the extent that this is technically feasible. An error occurs in particular if the software fails to perform the functions indicated in the performance specifications or otherwise fails to work in a functionally satisfactory manner so that use of the software is impossible or substantially restricted.

5. Rights of software use

5.1. KLARA grants the Partner a non-exclusive and non-transferable right to use the software for the intended purpose for the contractual term within the framework of the SaaS services.

5.2. The Partner may not duplicate or edit the software unless that is specifically permitted in the latest performance specification on the website. In particular, even temporary installation or storage of the software on data carriers (hard discs etc.) in the hardware used by the Partner (except for working memories) is prohibited.

5.3. The Partner is not permitted to make this software available for use by third parties, either with or without payment. The Partner is specifically prohibited from making the software available to third parties in any form whatsoever.

5.4. The Partner undertakes to organise his potential contractual relations with third parties in such a way that use of the software by third parties without payment is effectively prevented.

5.5. The Partner has the possibility of ordering various additional packages (“Add-ons”) from KLARA over and above the Expert Portal. These add-ons may in particular facilitate the integration of third-party providers’ software and extend the functional scope. Insofar as access rights are needed to make use of an add-on of this kind, by ordering the add-on the Partner specifically agrees to grant all the access rights needed for this purpose.

6. Data hosting

6.1. KLARA gives the Partner defined memory space on a server to store his data. If the memory space is insufficient to store the data, KLARA will inform the partner in good time. If the Partner then fails to order further memory space against payment, data which exceed the available storage space will no longer be stored.

6.2. KLARA makes sure that the stored data can be retrieved via the Internet insofar as that is technically feasible.

6.3. The Partner is not authorised to make this storage space available to a third party for use, either in whole or in part, with or without payment.

6.4. The Partner undertakes not to store any content on the memory space which, should it be made available, published and used, will be in breach of applicable law or agreements with third parties.

6.5. Insofar as this is technically possible, KLARA must take appropriate and reasonable measures to prevent data loss and unauthorised third-party access to the Partner's data. To that end, KLARA will regularly perform backups, monitor the Partner's data for the presence of viruses and install firewalls.

6.6. The Partner always retains sole entitlement to the data and may therefore require KLARA, during the contractual term, to release some or all of the data without KLARA having a right of retention. The data are released by transfer via a data network. The Partner has no entitlement to the software required for application/use of the data.

6.7. After notice to terminate the contract has been given, the Partner is still entitled to require his data to be released for one month (from the date of termination) pursuant to the provisions set out above. KLARA is not obliged to store the Partner's data on its systems beyond that date. If a Partner asks for the data to be released once the one month's time limit has expired, and if such data are still held by KLARA, KLARA shall release the data to the Partner after payment of the costs effectively incurred for this purpose.

7. Support and customer service

7.1. KLARA will answer, either by telephone or in writing, enquiries made by the Partner (by email) about the Expert Portal or specifically about the KLARA Coach offering and other SaaS services; it will do so during the hours of business announced on the KLARA.ch website as soon as possible after receipt of the particular question.

7.2. Save where otherwise contractually agreed, KLARA is under no obligation to respond to and answer an enquiry within a specified time limit.

8. Impairment of accessibility

8.1. Adaptations of, and amendments and additions to, the SaaS services that are the object of the contract and actions designed to enable functional defects to be detected and remedied will only lead to a temporary interruption or impairment of accessibility in cases where this is unavoidable for technical reasons.

8.2. The basic functions of the SaaS services will be continuously monitored. Maintenance of the SaaS services is in principle performed between 08:00 and 18:00 on Monday to Friday. In the event of serious defects which render use of the SaaS services impossible or substantially more difficult, maintenance will, as a rule, take place within two hours of detection or reporting of the defect by the Partner. KLARA will inform the Partner in good time of the maintenance work and perform it as quickly as possible.

8.3. KLARA has no influence on the maintenance work and availability of third-party providers and services, which are used for part of the KLARA service (including Microsoft Azure and Twilio).

8.4. The availability of the individual SaaS services amounts to 99.5% on an annual average.

9. Duties of the Partner

9.1. The Partner must take suitable measures to prevent unauthorised third-party access to the software. To that end, the Partner will, as far as necessary, call his employees' attention to the requirement to respect copyright. In particular, the Partner will instruct his employees not to make any copies of the software nor to disclose access data to third parties.

9.2. The Partner is himself responsible for entering and maintaining his data and information required to use the SaaS services – without prejudice to KLARA's obligation to assure data security.

9.3. Before entering his data and information, the Partner must check them for the presence of viruses or other harmful components; he must use state of the art anti-virus programs for that purpose.

9.4. The Partner is himself responsible for all content which he makes available for retrieval or stores in his Coach Widget. KLARA is not required to check the Partner's Coach Widget for possible infringements of rights.

9.5. No information may be provided, statements made, data files or content set up on the Coach Widget and in the online events, that are in breach of statutory prohibitions, decency (in particular pornographic, racist, discriminatory, radical or other reprehensible content) or rights of third parties (in particular personal rights, trademark and naming rights or copyright). The Partner further undertakes to refrain from using his Coach Widget for spamming purposes. Should legal action be taken against KLARA as a third party or co-perpetrator (e.g. seeking cessation, cancellation, correction, compensation etc.) on the grounds of unlawful content which the Partner makes available on his Coach Widget, the Partner must compensate KLARA for all the resulting costs. The Partner is also required to assist KLARA in every possible way with its defence against any such legal action.

9.6. The Partner undertakes to satisfy of his own accord the obligation to include notifications required by law on his Coach Widget (or to respect the equivalent statutory requirements existing in the country of use).

9.7. The Partner must himself regularly back up all data files and software settings to which he may have access. Data backup is compulsory in every case before any modification is made by the Partner and prior to the performance of maintenance work by KLARA, insofar as timely notice of such work has been given by KLARA.

10. Remuneration

10.1. The Partner undertakes to pay KLARA the remuneration agreed in his subscription, plus VAT at the statutory rate, for making software available and for data hosting.

10.2. KLARA makes an account showing the contractually payable remuneration available to the Partner in the KLARA Widget Store.

10.3. KLARA is entitled to adjust the remuneration and performance content by sending a written notification to the Partner, in each case before the next possible termination date. Reasons for such a change of performance are in particular technical progress and further development of the software. If the Partner does not wish to continue the contract at the amended rates, he is entitled to give extraordinary notice of termination 14 days ahead of the date on which the amendment is due to take effect.

11. Warranty and liability

11.1. KLARA guarantees the functional and operational readiness of the SaaS services in compliance with the provisions of these GTCB.

11.2. The Partner undertakes to release KLARA from all third-party claims based on the data stored by him and to reimburse all costs incurred by KLARA because of potential breaches of rights.

11.3. KLARA is entitled to place an immediate block on the memory space if justified suspicion exists that the stored data are unlawful and/or in breach of third-party rights. Justified suspicion of unlawful content and/or breach of rights arises in particular if courts of law, public authorities and/or other third parties make KLARA aware of this. KLARA must notify the Partner without delay of the removal and of the reason for such removal. The block will be lifted as soon as the suspicion has been lifted in full.

11.4. KLARA reserves the right, without stating reasons, to exclude the Partner from using the software, either temporarily or permanently, in

whole or in certain specific areas, at its own discretion and to delete the Partner's account and all data if KLARA has reason to suppose that the Partner is in breach of substantial obligations arising out of his contractual relationship with KLARA.

11.5. To the extent permitted by law, KLARA excludes all liability to the Partner (or to any third party), in particular for performance of its contractual and non-contractual obligations and for the loss of data and loss of profit (including in case of negligence). This exclusion of liability likewise applies to prejudice caused either directly or indirectly by use of the Coach Widget software.

11.6. In all cases, regardless of the grounds for liability, reciprocal liability of the contracting parties is confined to the amount of the monthly access fees for the last twelve months prior to occurrence of the prejudice.

12. Contractual term and notice of termination

12.1. The contractual term begins when the Partner orders the Coach Widget in the Widget Store. The contract is concluded for the period of use chosen in the Widget Store.

12.2. A monthly period of use can be terminated by giving notice to the end of any month, with the exception of the first month of use. In the first month of use, pro rata billing will be effected.

12.3. An annual contract can be terminated with effect from the end of the contractual year by giving 30 days advance notice. If the notice is received too late, the contract will automatically be renewed for one further year.

12.4. Notice of termination must be given electronically in the KLARA Widget Store or in writing.

13. Secrecy

13.1. KLARA undertakes to maintain secrecy in respect of all confidential matters, in particular business and operational secrets of the Partner, which come to its attention on the occasion of the preparation, performance and implementation of this contract and to refrain from disclosing such information to outside third parties without the Partner's permission. This applies in particular to any unauthorised third parties if disclosure of information is not required for the proper performance of KLARA's contractual obligations.

13.2. The Partner authorises KLARA to name the Partner in public as a reference and to use general features of the agreed contract in a suitable way for marketing and distribution purposes.

14. Data protection

14.1. By accepting these GTCB, the Partner simultaneously gives his consent to the latest version of the KLARA [data protection declaration](#). The text of that declaration can be consulted on the KLARA website.

15. Intellectual property rights

15.1. All intellectual property rights in the services, the "KLARA Coach Widget" software, the website and documentation about the services remain the property of KLARA.

16. Notifications

16.1. All notifications are to be sent in writing to the addresses indicated upon registration of the Partner or on the KLARA website, save where some other more stringent method is prescribed in this contract or by law. Sending by email satisfies the requirement of written communication. Notifications sent by KLARA to the email address indicated by the Partner upon registration are regarded in every case as a written notification.

16.2. Each contracting partner is required to notify the other contracting partner without delay of any changes of address (including email address), failing which notifications sent to the latest address previously notified in writing shall be deemed to have been served with due legal effect.

17. Disclaimer

17.1. Should individual clauses of this agreement be invalid either in whole or in part, the invalid provisions shall be interpreted, supplemented or replaced in such a way that the economic purpose of the invalid provision can still be achieved. The same stipulation shall apply if there are any gaps in the provisions of this agreement.

18. Place of jurisdiction and applicable law

18.1. The parties agree, in respect of all the legal relations arising out of this contractual relationship, that the law of the Swiss Confederation shall apply under all circumstances to the exclusion of the provisions of international private law (IPL) and contracts for the international sale of goods (CISG).

18.2. Lucerne (Switzerland) is agreed as the sole place of jurisdiction over all disputes arising out of the implementation of this contractual relationship.