

General Terms and Conditions audeoSoft GmbH staffITpro Web (SaaS)

Responsible for the content: audeoSoft GmbH, Kreuzberger Ring 44a, 65205 Wiesbaden, Germany +49(0)611/580440 hereinafter referred to as audeoSoft.

§ 1. Definitions

- (1) staffITpro Web: is a tool for data processing technical assistance for the recruitment of permanent and freelance IT specialists. The installation of staffITpro WEB in the SaaS version is performed on a web server provided by audeoSoft. The total acquired package is referred to as staffITpro WEB – covering all additional services and modules purchased.
- (2) Software as a Service (SaaS) is a method of software delivery where the software is not processed on customer's own servers and computers, but is installed centrally on servers in a data center and is used by customer via the internet.
- (3) Additional services / modules: audeoSoft offers in addition to the basic package staffITpro WEB additional services / modules to be paid for. These include, for example, smartCV and TAPI function. More details are set out in the product descriptions in the Attachment [Web staffITpro additional services and modules \(SaaS\)](#). Purchasing of additional payable services or modules is optional.

§ 2. Scope

- (1) audeoSoft GmbH (hereinafter referred to as audeoSoft) provides all supplies and services in the field of software as a service-contracts staffITpro WEB exclusively on the basis of these terms and conditions, the service descriptions and price lists for the ordered service. This applies even if the customer is using opposing or deviating terms, and even if these regulations have not been expressly contested by audeoSoft.
- (2) These terms and conditions shall also apply to future transactions of the parties for SaaS services.

§ 3. Conclusion of Contract and Adjustments

- (1) All offers are not-binding and without obligation for audeoSoft, unless they are expressly designated as binding. audeoSoft may accept orders or contracts within fourteen days after receipt.
- (2) The conclusion of the contract and other agreements becomes binding only after written confirmation by audeoSoft. This also applies to an alteration, addition or specification of these contract terms and associated attachments and descriptions.
- (3) The customer may at any time during the agreement acquire further licenses in accordance with the license levels pursuant to staffITpro WEB SaaS products and licenses.

§ 4. Subject of Contract

With the written confirmation of the contract or the provision of the server components by audeoSoft the customer obtains the technical ability and the right to use staffITpro WEB in the SaaS version including the licenses referred to in the form "Order staffITpro WEB SaaS" and the agreed payable additional services for the duration of the contract via internet. The total package and the resulting monthly leasing rate and possibly non-recurring fees for additional services are set out in the form [Order staffITpro WEB-SaaS](#).

§ 5. audeoSoft Services for staffITpro WEB SaaS

- (1) For the duration of the contract audeoSoft provides for staffITpro Web SaaS an operational staffITpro server component in the respectively valid version including the space agreed in the service description and takes over the backup of the transmitted data (see attachment "Technical and Organizational Measures BDSG audeoSoft GmbH"). Transfer point for the contractual services of audeoSoft is the exit of the router of the data center used by audeoSoft.
- (2) The component staffITpro Web Client is provided to customer for download on www.staffITpro.com. The same applies to an electronic user manual in German/English language.
- (3) As part of the service *Support and software maintenance*, customer shall receive.
 - a enhancements of functions to optimize its processes (updates)
 - b access to the support hotline for inquiries regarding the operation, adjustment and integration of staffITpro WEB
 - c access to additional resources, such as training videos and online tests to facilitate training on the job for new employees
- (4) The provision of the service will be effected within 7 work days after written confirmation of the contract by audeoSoft and receipt of the first payment agreed upon.
- (5) Agreed additional services will be performed as set out in the respective product description provided.

§ 6. Service Level Operation

- (1) staffITpro WEB SaaS can be used 7 days a week, 24 hours / day (operating time). An attended service is available Monday to Friday excluding public holidays in Germany, Hesse and at 24.12 and at 31.12 of a calendar year between 08:30 a.m. to 12:00 p.m. (if these days do not fall on a Saturday). The average availability of the operating time is 99%.
- (2) For necessary maintenance customer will be informed in advance of maintenance intervals. If maintenance work should be required during normal working hours, the customer will be informed in good time if possible.

§ 7. Service Support and Software Maintenance, Fault Classification, Troubleshooting

- (1) The staffITpro support hotline is available Monday to Friday excluding public holidays in Germany, Hesse from 08:30 a.m. to 17:30 p.m. and on the 24.12 and the 31.12 of a calendar year from 08:30 a.m. to 12:00 p.m. (provided such days do not fall on a Saturday) in the service areas of Germany, Switzerland and Austria

via phone number +49 (0) 611/580440, by fax at fax +49 (0) 611/5804411 or by e-mail at support@staffITpro.com. The hotline service covers:

- Hotline / E-Mail service assistance in the installation of staffITpro WEB client
 - Hotline / E-mail Service for reporting of bugs
- (2) The installation of client updates is performed automatically via integrated update service. Customer will be able to update the client manually after consultation with audeoSoft.
- (3) If customer should report a defect to audeoSoft, audeoSoft will begin to work on the troubleshooting with qualified personnel within 4 hours after the reporting.
- (4) The following service levels apply to the troubleshooting.
- (a) Blocking messages / crashes: When blocking messages change the essential features of the software and render customer's work impossible audeoSoft shall begin with the de-blocking within four hours. Immediately after repair audeoSoft shall send an update to the customer. Examples of blocking messages are: "The search for candidates does not work", "The application does not work" or "Contact cannot be saved".
 - (b) Non-blocking messages: In case of this type of defect the essential features of the software are not affected and working is generally possible. The customer receives a new update when the general update of the software that is made available to all customers is provided. In general, for non-blocking messages there is always a workaround. Examples of non-blocking messages are: It is not possible to scroll through a large list with the mouse wheel, but it is possible it to use the mouse.
 - (c) If defects cannot be eliminated within short time, audeoSoft will inform customer accordingly and where possible and appropriate a workaround is provided eliminating the effects of the defect.
- (5) not included in the contractual services:
- Consulting beyond the agreed standby times according to § 7 (1)
 - A service by a specialist consultant at customer's location exceeding the support services set out in § 7 (1)
 - Service – Elimination of malfunctions due to improper operation of the software, customer's manipulating the program code, caused by force majeure, third-party intervention or by other influences.

These services are offered separately and are subject to remuneration. They can be requested by customer when necessary.

§ 8. Rights of Use

- (1) staffITpro WEB (software and user manual) is protected by copyright. audeoSoft is the owner of the rights and shall remain the owner of the exclusive rights to use staffITpro WEB, unless expressly agreed otherwise.
- (2) staffITpro WEB is available to customer for the duration of the staffITpro WEB SaaS contract. For this purpose, a simple, perpetual, non-transferable, not sub licensable right is transferred to customer for staffITpro WEB on the system in the data center used by audeoSoft respectively the Web Client used on customer's systems. Any other use of the program – in particular for commercial purposes – e.g. Application

Service Providing, software as a service, leasing or free transfer to third parties, and the related supply via download is expressly excluded.

- (3) If audeoSoft should provide individual adjustments (see § 15) , new versions, updates or upgrades of staffITpro WEB during the term of this contract, the foregoing rights of use are applicable in the same way.
- (4) If customer uses staffITpro WEB to such an extent that the scope of the utilization exceeds the acquired rights of use (in terms of the type of permitted use) or quantitatively (in terms of the number of purchased licenses) (see contract § 4), he shall be obligated to immediately acquire the necessary licenses for the permitted use. If he fails to do so, audeoSoft will take the necessary legal steps.
- (5) The regulations contained in this section shall be binding upon the parties in accordance with the law of obligations.
- (6) If customer should request optional services and modules or additional programming services (see § 15), the provisions on rights of use shall also apply for these services.

§ 9. Adjustments of Services

- (1) audeoSoft shall be entitled at any time to change their scope of services or parts thereof or to supplement same. For this purpose, audeoSoft will execute updates. As far as possible, audeoSoft will provide to customer the relevant supplement or change and their impact to the service will be announced at least 3 weeks prior to their effective date in writing. The customer may object stating the objective reason within two weeks after receipt of the notice in writing claiming the amendment or change is unreasonable. If customer does not or not timely object, the additions or changes will become part of the contract. If customer's objection should be justified, audeoSoft may terminate the contract to the earliest possible date.
- (2) audeoSoft reserves the right to make any changes which are urgently required for bug fixes and service improvements within short time and without observing the notice procedure according to sec. § 9 (1).

§ 10. Services, Customer's Obligations, Reporting of Defects

- (1) Customer's connection to the internet, the permanent availability of the net as well as the procurement and functioning provision of the hard- and software necessary at customer's place of business is subject to customer's sole responsibility.
- (2) Therefore, necessary technical prerequisites are set out in the attachment [Technical Requisitions for staffITpro WEB \(SaaS\)](#) client component are to be provided by customer in time prior to the start of the services.
- (3) Customer will communicate to audeoSoft a permanently available contact person for the performance of the services under this contract.
- (4) Customer is obliged to describe any occurring defects as detailed and precisely as possible, so that the hotline will be able to reconstruct the defect. If necessary, audeoSoft may request from customer a written defect description with the pertaining screenshots. As an alternative, audeoSoft may provide to customer a version of the program with additional protocol functions (debug version) to be used by customer for the reconstruction of defects. Customer shall be obliged to send the protocol to audeoSoft without any changes

per email. audeoSoft obligates itself to actively support customer in the provision of the necessary information and to send all information without delay. Defects of any kind have to be reported to audeoSoft in writing without delay giving a most detailed description of the defect. With customer's description audeoSoft has to be able to reconstruct the existence of the defect employing a suitable amount of work.

- (5) Customer is obliged not to abuse staffITpro in any way or let it be abused by third parties. Customer is expressly obliged to take suitable precautions to avoid unauthorized third party access to staffITpro Web.
- (6) He will refrain to manipulate staffITpro Web or intervene in related modules or to allow manipulation by third parties or manipulate data networks, which are operated by audeoSoft or the companies sub-contracted by audeoSoft.
- (7) Subject to the terms of staffITpro Web, customer will comply with all applicable laws and regulations of the Federal Republic of Germany. Customer is solely responsible for data and content provided by him.

§ 11. Anti-virus Protection and Security, Obligations regarding Information

- (1) Customer should be aware that he has to take its own security measures in order to prevent damage from viruses or other illegal and immoral data. Such measures are intended to protect his own area of responsibility established against unauthorized access. These protection mechanisms are not subject to audeoSoft's scope of services.
- (2) audeoSoft and customer will conclude a separate written agreement on the regulations for commissioned data processing.
- (3) Customer is obliged to refrain from any improper use, especially not to transmit any computer viruses or other malicious software or calling for their transmission or execute other applications, that might damage the systems of audeoSoft or the systems of the data center commissioned by audeoSoft, its networks or other networks. Customer is obliged to check data for viruses before loading them into the network and to load only checked files on to the server.
- (4) audeoSoft reserves the right to block contents that might affect normal operation or the security of the server or to stop their operation in single cases. This may also lead to a blocking of the use of staffITpro WEB.
- (5) If customer becomes aware of a violation of these provisions, he is obliged to cooperate in the solution, in particular he has to inform audeoSoft hereof without delay.

§ 12. Reverse Engineering and Program Changes

- (1) Any kind of re-engineering of the different steps of production of the software (reverse engineering) including program changes is not permitted. Any access to the structure of the database is regarded as a program change.

- (2) The removal of any copy protection or similar protective mechanisms is strictly prohibited. Customer shall bear the burden of proof for any impairment or prevention of trouble-free usability of the protection mechanism.
- (3) Copyright notices, serial numbers and other program-identification features may not be removed or changed under any circumstances.

§ 13. Compensation Concept, Terms of Payment, Maturity

- (1) Rates and billing periods are set out in attachment [staffITpro WEB products and licenses \(SaaS\)](#) Remuneration to be paid depends on the number of users / licenses and a basic storage capacity provided per user. If the agreed total storage capacity is exceeded, additional fees will be due as of this billing period. The amount of additional compensation is set out in attachment [staffITpro WEB products and licenses \(SaaS\)](#).
- (2) The payment for fees regarding recurring services has to be made monthly on the 1st. of each month via direct debit or recurring debit via credit card. In case the debit should fail because of insufficient funds or other reasons which audeoSoft is not responsible for, audeoSoft will charge customer a lump sum price for banking cost in the amount of 20 Euros per individual case.
- (3) If the first provision/adjustment is performed within a calendar month, this period will be charged on a pro rata basis.
- (4) All offers are directed to companies exclusively. All payments have to be made in Euros and in advance.
- (5) Invoices will be due for immediate payment after receipt.

§ 14. Price Adjustments

In case of changes in data center cost, personnel or other cost, audeoSoft is entitled to adjust the remuneration for contractual services. A price adjustment is possible for the first time, 12 months after conclusion of the contract and as a maximum twice a year. audeoSoft will inform customer in writing of the change no later than 4 weeks prior to the effective date of the change. If the price increase should be higher than 10 % in comparison to the previous price, customer may terminate the respective contract with a period of notice of 1 month to the end of the calendar month. In this case, the previous prices continue to apply until the contract is terminated.

§ 15. Additional Programming Services

audeoSoft offers upon request a choice of programming services on the field of staffITpro Web – including, for example: data migration, customization of style sheets, adaptations to the internet job market (smartCV) and reports. AudeoSoft will create together with customer a documentation in writing (hereinafter called “programming services”) of the programming services to be procured. The creation of the respective service description may be subject to payment in the individual case. Prior to the start of its work audeoSoft shall submit

a proposal in writing stating all cost incurred. audeoSoft shall start with the programming services only after the written agreement with customer has been executed. Furthermore, the following regulations shall apply

- (1) Both parties shall designate a project manager *programming services* as well as nominate an alternate. Should the respective project manager not be available, the respective proxy must be available. The proxy must be informed of the latest state and continue the project if necessary.
- (2) If one of the parties should see that the agreed programming service raises questions or, if changes are required to achieve or secure the success agreed with audeoSoft, the parties agree to answer requests regarding programming services within 2 work days at the latest. AudeoSoft will check change requests with regard to the time consumption for their realization, effect on due dates agreed upon and compatibility with the other services. The performance of change requests is subject to remuneration. audeoSoft will inform customer on short notice if payment will be due for the respective change request and will start with the performance only after customer's consent to the performance of the examination.
- (3) audeoSoft will provide the agreed programming services according to the agreed schedule for acceptance. During acceptance tests customer will test the performance of the contractual service. The programming services provided by audeoSoft shall be in accordance with the contract, if they are free of material defects and defects in title. Partial acceptance is not accepted, unless expressly agreed upon between the parties.
- (4) Customer will begin the acceptance test within 3 days after receipt and first training with suitable acceptance tests. Customer will report in writing all detected defects of the program within a period of a maximum of 7 days following the start of the acceptance test as detailed as possible with regard to defect and the effect thereof. Defects of minor effect that do not hinder the function or use of the program will not prevent acceptance. If defects are detected that hinder acceptance audeoSoft will repair these defects immediately and shall declare readiness for acceptance again. The cost for a repeated acceptance shall be borne by each contracting partner individually. The parties to this contract agree that acceptance of the programming services requires written declaration and has to be put down in an acceptance protocol. However, the programming service is deemed to be accepted – also without formal acceptance protocol – if customer should use the programming service for more than three weeks without complaining about a defect.
- (5) Defects in the programming service (material defects and defects of title) are remedied by audeoSoft within the warranty period of one year beginning with the acceptance, upon respective notification by the customer. Customer's warranty claims are restricted in the first place to immediate remedy – audeoSoft shall still be free to supply a replacement. In case of failure of the defect solution or replacement, the purchaser may, after a reasonable additional period may claim reduction of the price or withdraw from the agreement with regard to the programming services. Defects of any kind or are to be reported to audeoSoft immediately upon discovery in writing by fax to +49 (0) 611/5804411 or by mail. audeoSoft has to be supplied with a detailed and comprehensible description of the defect to be able to understand the existence of the defect with reasonable effort. Customer will describe his problem as detailed and accurate as possible at the same time indicating its hardware and software environment so that it can be reconstructed by the hotline. audeoSoft may at any time request from the customer a detailed, comprehensible and written description of the defect associated with screen-shots.

§ 16. Arrears and Compensation

- (1) If the customer is in default of payment, interest at a rate of 8 percent above the respectively valid base rate is charged.

- (2) If the customer should come into arrears with the payment of the compensation for recurring services for two consecutive months respectively or with a significant amount of the remuneration or for a period extending over more than two months with the payment of the fee in an amount exceeding the compensation for two months, audeoSoft is entitled to terminate this service without notice and to claim immediately a lump sum liquidated damage in the amount of 40% of the monthly payable remuneration until the end of the agreed remaining contract term. Proof of a higher or lower damage is reserved to the parties.
- (3) Customer shall only be entitled to set off against the claims of audeoSoft if he holds a final title, customer may only claim retention if his claims are based on the contract concerned.

§ 17. Liability for Defects

- (1) audeoSoft shall be liable for defects of the agreed services pursuant to this paragraph 17 if there are impairments to the services that are not based on limitations of availability.
- (2) Also an impairment of the function of the software resulting from hardware defects of the client, customer's environment, defects in the use of telecommunication services, faulty operation or similar are not considered as defects. A minor reduction of the service shall remain without consideration. The description of the software is not considered as a guaranty of special features of the software.
- (3) Defects of the software (material defects or defects in title) including the user manual, which audeoSoft is liable for, will be remedied by audeoSoft within a reasonable period time after receipt of the complaint or the services will be repeated. If the remedy should be delayed due to customer's lack of compliance with its obligations to cooperate (e.g. description of defect is not precise contrary to § 10 (4), defect is not reproducible), audeoSoft shall not be liable for the delay. The time for the defect solution will be enhanced accordingly.
- (4) In case the defect solution or replacement of service should fail customer shall be entitled to claim a suitable reduction of the remuneration after setting an additional period. The right to claim reduction is limited regarding the amount to be claimed to the monthly remuneration for the respective part of the service.
- (5) If the reduction according to sec. 17 (4) above should come to the maximum amount mentioned in sec. 17 (4) during two consecutive months or in 3 months of a calendar year, customer shall be entitled to terminate the contract without notice. Notifications regarding material defects may be sent in writing per Fax to +49(0)611/5804411 or via email.

§ 18. Liability of audeoSoft, Limitation of Liability, Force Majeure

- (1) Claims for damages or reimbursement of expenses are subject to this clause without regard to the legal nature of the claim.
- (2) audeoSoft shall not be liable for lost profits, lost savings, or other incidental or consequential damages.
- (3) audeoSoft shall be liable only for intent and gross negligence, unless it is the breach of a material contractual duty, violation of life, body or health or the lack of quality specifications or warranties.

- (4) In case of a violation of material obligations under the contract audeoSoft's liability is restricted to typical, foreseeable damages. In case of slight negligence liability is limited to 10.000 Euros per case of damage up to a total of 15,000 Euros under this contract. Liability under the product liability law remains unaffected (§ 14 ProdHG).
- (5) audeoSoft is released from the obligation to render the services if and in so far as the non-compliance with its service obligations is due to force majeure. As instances of force majeure are considered e.g. war, strikes, turmoil, storms, floods, other natural disasters (especially water leaks, power outages and disruption of data transferring lines).

§ 19. Rights of Third Parties

audeoSoft shall defend customer against all claims, which are derived from a culpable infringement of an industrial property right or copyright by licensed material used according to contract and shall reimburse customer for all cost and damage claims resulting therefrom, provided customer has notified audeoSoft of such claims without delay in writing and all rights to defensive measures and settlement agreements have been reserved.

§ 20. Contract Term, Notice of Termination and Termination

- (1) If a minimum contract period has been agreed with customer, the contract shall automatically renew after the expiry of the minimum period by 12 months respectively, provided the contract is not terminated 3 months prior to the expiration of the initial term. The right to terminate the contract applies to both parties.
- (2) If a contract for recurring services is concluded for an indefinite period of time, the contract may be terminated for the first time in writing via fax or mail after 12 months observing a period of 3 months.
- (3) In case of termination audeoSoft will provide customer's data at the end of the agreement upon request as tables in the format CSV. After provision of the data by audeoSoft these will no longer be available or editable on audeoSoft's data system. All data backups will be deleted immediately.
- (4) After expiry of the minimum contract term customers shall also be entitled to termination of parts of the service in accordance with the license levels and the current license conditions.
- (5) If additional services are purchased or canceled individually, this does not affect the contract term of the other services purchased. The right of extraordinary termination for good cause remains unaffected.

§ 21. Secrecy, Confidentiality

The contracting parties will undertake all necessary steps to keep confidential all items (documents, information) disclosed to them before or during the performance of the contract, that are subject to copyright or contain business secrets or that are designated as confidential also beyond the end of this contract, unless they are known to the public without violation of confidentiality obligations. The contracting parties will keep these items safe and secure so access of third parties is excluded.

§ 22. Final provisions

- (1) Changes or additions to this agreement shall only be effective if they have been completed in writing or confirmed mutually.
- (2) The law of the Federal Republic of Germany under exclusion of the UN Sales Convention (CISG) shall apply.
- (3) Place of performance for all services is the registered office of audeoSoft.
- (4) If the contract partner is a merchant for all legal disputes such court shall have exclusive jurisdiction which is competent for the place of business of audeoSoft.

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