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**Swiss Startup Association**

in collaboration with



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Employment contract

of

[Date]

between

[Name]

[Street.]

[ZIP, City]

[Country]

(hereafter the **"Employer"**)

and

[Name]

[Street.]

[ZIP, City]

[Country]

(hereafter the **"Employee"**)

(Employer and Employee each a **“Party”** and jointly the **“Parties"**)

1. **Function and workplace**

The Employer employs the Employee for the position of [Position].

[The Employee agrees to fulfill those duties for the Employer that are specified in the current job description attached to this Agreement. The job description can be amended from time to time.]

The Employee shall [further] perform all duties that are customarily incidental to the position and that are assigned to him/her by the Employer.

The Employee shall in principle perform his/her work duties at [place]. The Employee agrees that, if necessary, he/she can also fulfill his/her work duties at other locations.

1. **Commencement and duration of the employment relationship**

The employment relationship shall commence on [DATE] and shall continue for an indefinite period. [The years of service of the employment contract between the Parties dated [DATE] shall be credited].

The employment of the Employee and the commencement of the employment relationship are subject to the condition precedent that the necessary residence and work permits have been obtained by the Employee.

1. **Probationary period, termination**

The first [number, max. 3] month(s) shall be deemed to be a probationary period during which a notice of termination may be given with a reduced notice period of 7 calendar days to any date.

[OR]

No probationary period is agreed.

The employment contract may be terminated [after the expiry of the probationary period of [x] months at the end of a calendar month with a notice period of [number] months in writing.

The employment relationship ends automatically without notice on reaching the retirement age at the end of the relevant calendar month.

1. **Duties of the Employee**

The Employee is obliged to perform the entrusted tasks diligently and to safeguard the interests of the Employer in every respect to the best of his/her ability.

[Any other work activity up to a workload of [...] % does not require prior approval by the Employer. However, any work activity in excess of a workload of [...] %, remunerated or unremunerated, self-employed and employed (irrespective of the legal form), requires the prior written consent of the Employer].

1. **Confidentiality**

The Employee undertakes to maintain strict secrecy about all facts concerning the Employer which become known during the course of the employment, in particular business and trade secrets, as well as about all internal matters and circumstances of the Employer, and not to exploit these either for own purposes or on behalf of third parties. This obligation also extends to facts concerning companies and persons directly or indirectly affiliated with the Employer. This confidentiality obligation also relates to the content of this agreement and shall survive the termination of the employment relationship.

Upon termination of employment, the Employee may not take any information or data with him/her, including, but not limited to, correspondence, notes, minutes or other records of meetings held by the Employer, client lists, memoranda, computer programs (whether in original or other form), even if the documents were prepared by the Employee and the information was collected by the Employee.

[Optional: Any breach of the duty of confidentiality is to be regulated according to Art. 321e CO].

1. **Compensation**
	1. **Salary**

The Employer shall pay the Employee an annual salary of CHF [AMOUNT] (gross), payable in [12 or 13] monthly instalments at the end of each calendar month.

* 1. **Expenses**

The Employer shall reimburse the Employee for all work-related expenses on presentation of the relevant original receipts, which the Employer has approved in advance.

The Employer shall reimburse the Employee for expenses not approved in advance which are incurred by the Employee in the course of his/her work for the Employer only to the extent that:

1. they are justified, and/or
2. the relevant original supporting documents are submitted to the Employer.
	1. **Gratuity**

In addition to the base salary, the Employee may benefit from a variable gratuity as a voluntary special payment by the Employer (the "**Gratuity**"). The Employee is not entitled to payment of such a Gratuity, even if a Gratuity has been paid out in previous years. The Gratuity, if any, is entirely at the discretion of the Employer, in particular its payment as such, as well as its amount.

The Gratuity, if any, is paid after the end of the financial year and depends on the Employee's individual performance and the business results achieved in the relevant financial year. The Gratuity is paid in cash or as part of an Employee’s participation program in the form of shares or other investments at the sole discretion of the Employer. The terms and conditions of the Employee participation are governed by the applicable provisions of the relevant participation program. The Employer reserves the right to amend, suspend or cancel the participation program at any time.

The Employee is not entitled to a gratuity if he/she is in a terminated employment relationship [at the time of the written notification of Gratuity/payment of Gratuity].

1. **Working hours and overtime**

The ordinary working hours for a [100% position] are [42.5] hours per week.

[Variant 1: Overtime is compensated but not remunerated] The Employee undertakes to work overtime on the instructions of his/her direct superior if overtime work is required. Overtime shall normally be compensated by time off of equal duration. The Employer shall determine the timing of compensation, taking into account the Employee's wishes to the extent that they are compatible with the interests of the Employer's business. Overtime shall not be remunerated.

[Variant 2: Overtime is compensated or remunerated] The Employee undertakes to work overtime on the instructions of his/her direct superior if overtime work is required. Overtime shall normally be compensated by time off of equal duration. The Employer shall determine the timing of compensation, taking into account the Employee's wishes to the extent that they are compatible with the interests of the Employer's business. To the extent that overtime cannot be compensated by time off, overtime shall be remunerated with the normal salary. A surcharge for the overtime worked is not owed.

[Variant 3: Overtime is compensated or compensated incl. surcharge] The Employee undertakes to work overtime on the instructions of his/her direct superior if overtime work is required. Overtime is generally compensated by time off of equal duration. The Employer shall determine the timing of compensation, taking into account the Employee's wishes to the extent that they are compatible with the interests of the Employer's business. Insofar as overtime cannot be compensated by time off, overtime shall be remunerated with the normal salary, including the statutory surcharge.

[Variant 4: Overtime is included in wages] The Employee agrees to work overtime as instructed by his/her immediate supervisor when overtime work is required. The Employee acknowledges that overtime is fully compensated with the salary according to clause 6.1.

[Variant 5: Overtime for Senior Employees] The Employee acknowledges that overtime (overtime and extra hours) is fully compensated with the salary according to Clause 6.1.

The Employee is obliged to record overtime in a written report and to have it signed by the direct superior at the end of each month.

[Note: The Employer is obliged to keep systematic time records or the Employer may introduce simplified time recording, which requires an agreement between the Employer and the Employee Representatives or, if there are fewer than 50 Employees, an agreement between the Employer and each individual Employee. Accordingly, the immediately preceding paragraph is only permissible if simplified time recording has been agreed].

1. **Deductions, social benefits, insurance**

The legally required Employee and Employer contributions for compulsory social insurance (AHV, IV, EO, ALV) as well as any withholding taxes are deducted from the gross salary.

Insofar as the Employer has a daily sickness benefits insurance policy which can be taken out at any time, the Employer shall pay half of the premiums for the daily sickness benefits insurance in accordance with the valid provisions of the daily sickness benefits insurance.

[Option: The Employer pays 100% of the premiums for the daily sickness benefits insurance in accordance with the valid provisions of the daily sickness benefits insurance.]

The entry into the Employer's pension fund is governed by the statutory provisions and is also subject to the current pension fund regulations in the relevant version.

The Employee is insured against occupational accidents. The Employer pays the full premium in accordance with the relevant accident insurance provisions. The premiums for non-occupational accidents shall be borne 100% by the Employee.

With respect to any other benefits and insurance, the Employer will comply with local laws and regulations.

1. **Illness and accident**

The Employer has taken out daily sickness benefit insurance for the Employee, which replaces the Employer's obligation to continue paying the salary in the event of illness.

[OR]

If no daily sickness benefits insurance has been taken out for the Employee, the Employee is entitled to continued payment of wages if he/she is prevented from working through no own fault.

The Employee shall immediately report any incapacity to work. In doing so, the Employee must inform the Employer of any urgent tasks. If the incapacity to work lasts for more than [x] working days, a doctor's certificate must be submitted without being requested. In the event of repeated short absences, the Employer may demand a doctor's certificate as of the first day. The Employer may at any time request a medical examination at its own expense.

1. **Non-competition clause [and non-solicitation clause].**
	1. **[Optional clause] Non-competition clause**

The Employee undertakes to refrain from any competition with the Employer during the term of this contract and for [number, max. 3] years after the termination of the employment relationship, whether in an independent or dependent capacity, and to refrain from participating in a competing company of the Employer. The prohibition of competition is limited to Switzerland [possibly other territories].

[Note: The non-competition agreement may be limited by explicitly stating the Employer's business area if the Employee considers the non-competition agreement to be too excessive.]

Within this framework, the Employee is in particular prohibited from:

1. working in any way for a competitor and/or
2. establishing a competitor or holding a direct or indirect interest in such a competitor, and/or
3. to engage in a competing self-employed activity, and/or
4. to advise a competing company, whether for a fee or free of charge, or to act as an intermediary for such a company.
	1. **[Optional clause] Non-solicitation clause**

The Employee undertakes not to solicit, directly or indirectly, any employees, staff or customers of the Employer or their affiliates for the duration of this Agreement and for [number, max. 3] years after termination of the employment relationship.

[Note: According to the Federal Supreme Court, the admissibility and effectiveness of such a non-solicitation clause is governed by the provisions on the post-contractual non-competition clause (BGE 130 III 353).]

The status of the Employee after termination of the employment relationship (self-employed/dependent gainful activity, owner of/participant in a company, etc.) is irrelevant for the applicability of this non-solicitation clause.

* 1. **[Optional clause] Contractual penalty**

If the clauses [10.1 and/or 10.2] are disregarded, the Employer may insist on the immediate cessation of the disregard of the said provisions and the rectification of the situation in breach of the contract.

In addition, each violation triggers a contractual penalty to be paid by the Employee in the amount corresponding to ½ of the salary converted to one month, which is immediately due for payment. Furthermore, i.e., in addition to and independently of the contractual penalty, the Employer is entitled to claim additional damages. Payment of the agreed contractual penalty shall not release the Employee from the obligations pursuant to clause 10.

1. **Inventions and intellectual property rights**

All inventions and all technical and commercial innovations, records, files, documentation, equipment and the like, and all intellectual property rights, also known as intangible property rights, of any kind relating to the business of the Employer created by the Employee during his/her employment shall be and remain the sole property of the Employer and shall be assigned by the Employee to the Employer.

The Employer reserves the right to acquire all intellectual property rights which the Employee creates while performing his/her official duties, but outside the performance of his/her contractual duties, in return for appropriate compensation within the meaning of Art. 332 para. 4 of the Swiss Code of Obligations.

With the transfer of the copyrights, the Employer receives in particular the exclusive right to use, transfer and modify the work.

The Employer may acquire intellectual property rights which are created by the Employee while performing his/her official duties but outside the performance of his/her contractual duties. The Employee shall notify the Employer in writing of the creation of such rights. The Employer may acquire the intellectual property rights and must notify the Employee of any acquisition within 6 months. During this period, any exploitation or disposal by the Employee is prohibited.

The Employee is obliged to inform the Employer immediately of the development or production of intellectual property rights.

1. **Return obligation**

Upon termination of this employment relationship, for whatever reason, or at the time of any garden leave, the Employee is obliged to hand over to the Employer all business documents and items then in his/her possession (such as keys, mobile phone, laptop, badges, diskettes, and other data carriers and records of any kind).

1. **Vacation**

The Employee is entitled to [number] days' holiday per year. In the event of an employment relationship lasting less than one year, the holiday entitlement shall be calculated *pro rata temporis.*

The timing of the holidays shall be determined by mutual agreement with the Employer.

1. **Final provisions**
	1. **Final agreement**

This Agreement with its appendices, if any, sets forth the entire agreement between the Parties relating to the employment relationship and supersedes all prior written or oral agreements between the Parties relating thereto.

* 1. **Contract amendments**

Amendments, supplements or the cancellation of the present contract are only legally valid in writing and signed by both Parties. This also applies in particular to this written form clause.

* 1. **Severability clause**

Should this agreement be or become legally ineffective in whole or in part, the remaining provisions shall remain unaffected. The Parties undertake to replace an invalid provision with a valid provision that comes as close as possible to the economic purpose of the invalid provision. The same shall apply in the event of any gaps or omission.

* 1. **Swiss Code of Obligations**

Insofar as this contract does not provide for any regulation, the provisions of the Swiss Code of Obligations shall apply.

* 1. **Applicable law and place of jurisdiction**

This contract is subject to Swiss law (to the exclusion of international private law). The place of jurisdiction is governed by the provisions of the Swiss Code of Civil Procedure.

Signatures on the next page.
These should be handwritten.

**Employer:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Location, Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
[Name, Function] [Name, Function]

**Employee:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Location, Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
[Name, Function]