

ClayHR Terms of Service

Date Effective 15th Aug, 2023

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Welcome to the ClayHR Terms of Service (“ToS” or “Terms”). Your use of the Service is subject to these Terms of Service. This is a legal contract between you and BizMerlinHR Inc. (“Company/ClayHR”), for use of the ClayHR service.

IMPORTANT – READ CAREFULLY – BY CHECKING THE “I ACCEPT THE ClayHR TERMS OF SERVICE” CHECKBOX OR BY UTILIZING THE ClayHR SERVICE YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

The ClayHR [Privacy Policy](#) and [Data Processing Agreement](#) is incorporated herein by reference. This Agreement governs your use of the Service however accessed, including via an Internet browser, smartphone, tablet, or other mobile device.

“You” refers to any individual who agrees to the “I accept the ClayHR Terms of Service” checkbox option on the Service homepage or while registering for the Service, or, if the Service is being used on behalf of an entity by an individual authorized to agree to such terms on behalf of such entity, then “You” refers to such entity. If you do not agree with the terms of this ToS, do not select the “ClayHR Terms of Service” checkbox and do not use the Service. The ToS will also be applicable to the use of the Service on a trial basis.

The website and software associated with the Service are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

The Company reserves the right, in its sole discretion, to change, modify or otherwise alter these ToS, or any policy or guideline applicable to the Services, at any time. Unless otherwise specified, any changes or modifications will be effective immediately upon posting of the revised Terms on this Site, and your continued use of the Services after such time will constitute your agreement to be bound by such modified Terms. You should from time to time review the Terms and any policies and documents incorporated in them to understand the terms and conditions that apply to your use of the Services. The Terms of Service will always show the ‘last updated’ date at the top. If you do not agree to the modified Terms, you must stop using the Services. You can cancel your account with us without further obligation, except for the amount due for the balance of the billing period in which you cancel your account (if your billing period is monthly, we will prorate your account to the nearest month-end after cancellation). If you have any questions about the Terms of Service, please email us at privacy@clayhr.com

DESCRIPTION OF SERVICE

The Service includes the ClayHR Software, a set of cloud and server hosted applications and related iOS/android based software products and use of a single or multiple ClayHR Accounts, with Support from the company. A “ClayHR Account” or “Account” referred to herein means a suite of web and mobile applications, provided by the company in exchange for Your payments, where You may use ClayHR to create, update, manage, share, and publish information, data, processes, forms, messages or other materials (“Content”). “Support” referred to herein means support from the company, available via email, chat, phone or other available support channels.

Without limiting the foregoing, the Service is not designed or licensed for use in hazardous environments requiring fail-safe controls, including without limitation operation of nuclear facilities, aircraft navigation/communication systems, air traffic control, and life support or weapons systems.

Unless explicitly stated otherwise, any new features that augment or enhance the current Service, including the release of new tools and resources, shall be subject to the Agreement. In order to use the Service, You must obtain access to the World Wide Web, either directly or through devices that access web-based content, and pay any service fees associated with such internet access. In addition, you must provide all equipment necessary to make such a connection to the World Wide Web, including a computer and modem or other access device. You also understand and agree that the service may include certain notifications, messages from ClayHR, such as service announcements, administrative messages, etc., and that these are considered part of the Service and for some of these you will not be able to opt-out of receiving them for as long as you stay active in the ClayHR application. You agree not to access the Service by any means other than through the interfaces that are provided by ClayHR for use in accessing the Service.

REGISTRATION

In order to use the Service, You must have a valid Account. To acquire an Account for the Service, You must provide the company with an email address and other information (“Registration Data”). You are responsible for maintaining the confidentiality of the access data for Your Account and are fully responsible for all activities that occur under Your Account. You agree to (a) immediately notify the company of any unauthorized use of Your Account or any other breach of security, and (b) ensure that You exit from Your Account at the end of each session. The company cannot and will not be liable for any loss or damage arising from Your failure to comply with this section. In consideration of use of the Service, You agree to (a) provide true, accurate, current and complete information about Yourself as prompted by the Service’s registration form, and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete.

The company assumes no duty to verify registration information. If you provide any information that is untrue, inaccurate, not current or incomplete, or the company has

reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, the company has the right to suspend or terminate Your Account and refuse any and all current or future use of the Service (or any portion thereof). If You register to use the Service on a free-trial basis, You will also have to go through the registration process. If You are under 18 years of age then you are required to have a parent or guardian review and complete the registration process on your behalf.

Unless otherwise agreed to by you and the company, by accepting these terms, You agree that the Company may disclose your name as a customer of the Company and/or subscriber to the Service, and You hereby grant the company the right to display your name, company, and logo in the company's marketing materials and on the company's public website.

BILLING/PAYMENT TERMS

1. You stand responsible for your account which means You should delete or close Your account if You do not intend to use it any further. Invoices are due once they have been generated.
2. You agree that the Company may raise an invoice or charge your credit card all amounts due and owing for Your Account on the service initiation and agreed-upon periodic basis.
3. The Company may at any time, upon notice of at least 30 days, or a longer period if required by Applicable Law, change the price of your subscription or any part thereof, or institute new charges or fees. Price changes and institution of new charges implemented during your annual subscription period will go into effect for any subsequent annual subscription periods and to all new subscribers after the effective date of the change. If You do not agree to any such price changes, then You must cancel Your subscription and stop using the Service prior to the commencement of the renewal subscription period for which the price change applies.
4. You agree that in the event the company is unable to collect the fees owed to the Company for Your Account through Your Subscription Fee, the Company may take any other steps it deems necessary to collect such fees from You and that You will be responsible for all costs and expenses incurred by the company in connection with such collection activity, including collection fees, court costs and attorneys' fees.

TERMINATION, SUSPENSION, AND CANCELLATION

1. If Your Trial Period has expired and the Company has not received your payment information, the Company may disable your access, and Your Users' access to your Account, and close the account.
2. If your invoice or subscription fee is overdue, due to declined credit card or for some other reason, the Company will notify you about the declined payments on the email

address or via the portal. In case, we do not hear back from you, or the payment information is not updated in the account, the company reserves the right to close the account. As a general practice, we would give a 30 days grace period before deleting or terminating the account. The Company reserves the right to take the legal action in the event of default payments; all legal expenses will be borne by the defaulters.

3. The Company may also, at its sole discretion, at any time and for any reason, terminate the Service, terminate this Agreement, or suspend or terminate Your Account by giving you 90-day notice and refunding any unused portion of the subscription fee. In the event of suspension or termination, Your Account will be disabled after the notice period and You may not be granted access to Your Account or any files or other Content contained in Your Account, and the Company may delete Your Content.
4. You are solely responsible for the proper cancellation of your subscription. You may cancel your subscription by contacting your account manager.
5. If you choose to terminate Your Account, via means provided for cancellation on the Company website via Your Account, or electronic mail to the Company, and you request that the Company delete Your Content, the Company will do so.
6. After the Content is deleted, residual copies of information may remain in our system for up to six months for back-up purposes. This information is not accessible in ordinary processing and is only used in the case of a true disaster, such as data center loss.
7. In the event of termination, the Company may also withdraw and at its discretion reallocate the public web address of Your Account.

OWNERSHIP OF WEBSITE ACCOUNT AND SECURITY

1. You are responsible for maintaining the security of your Content and ClayHR Account, and You are fully responsible for all activities that occur under the account and any other actions taken in connection with the ClayHR Account, including those of Your Users.
2. You agree to immediately notify the Company of any unauthorized uses of the Account or any other breaches of security associated with the account or the use of service. The Company cannot and will not be liable for any loss or damage from Your failure to comply with this security obligation. You acknowledge and agree that under no circumstances will the Company be liable, in any way, for any acts or omissions by You, including any damages of any kind incurred as a result of such acts or omissions.

PROVIDING A RELIABLE AND SECURE SERVICE

1. We take reliability and security seriously, and put a great deal of effort into ensuring that our service operates all the time, and that it is a secure environment for your data. We use what we believe to be “best-of-class” hosting services and security technologies and services that we believe provide you with a secure and safe environment. More information about these services and technologies is available on the Site.
2. However, no system is perfectly secure or reliable, the Internet is an inherently insecure medium, and the reliability of hosting services, Internet intermediaries, your Internet service provider, and other service providers cannot be assured. When You use ClayHR, You accept these risks, and the responsibility for choosing to use a technology that does not provide perfect security or reliability. If at any time, You assess the system security does not meet your organizational requirements, immediately discontinue the use of Service and close Your account.
3. Finally, ClayHR provides the ClayHR API to facilitate the use of the Services with other services on the Internet. If a third party is authorized through Your ClayHR account to have access to Your User Content through the ClayHR API, we cannot control and are not responsible or liable for the third party’s use of your User Content. You can also read about our [shared responsibility](#).

USING THE ClayHR API

The Company grants you a limited, revocable, non-exclusive, non-sublicensable license to use the ClayHR API as provided by the Company, in the manner permitted by the Terms. If you integrate with ClayHR using our API, you must use efficient programming, which will not cause an excessive number of requests to be made in too short a period of time, as-determined solely by the Company. If this occurs, the Company reserves the right to throttle your API connections or suspend or terminate your ClayHR account.

Your use of the ClayHR API is also subject to the following restrictions. You may not:

1. interfere or attempt to interfere in any manner with the proper workings of the ClayHR API, or create or distribute any ClayHR API Implementation that adversely affects the functionality or performance of the Services or adversely impacts the behavior of other applications using the ClayHR API;
2. misrepresent your identity or intentions when communicating with us or with a third party in relation to the ClayHR API, use the developer credentials licensed to a different individual or entity, allow your credentials to be used by others, or mask your usage of the ClayHR API
3. use the ClayHR API in association with, or as a component of, any website that in the sole discretion of the Company is determined to be obscene or otherwise inappropriate;
4. use the ClayHR API for any application that constitutes, promotes or is used in connection with spyware, adware, other malicious programs or code;

5. use the ClayHR API in any manner or for any purpose that violates any law or regulation, any right of any person, including but not limited to intellectual property rights, rights of privacy, or rights of personality;
6. disparage or otherwise negatively represent the Company in your ClayHR API Implementation;
7. reverse engineer, decompile or otherwise attempt to extract the source code of the Services or any part thereof;
8. circumvent or render ineffective any quotas or restrictions imposed by the ClayHR API;
9. circumvent technological measures to prevent direct database access, nor manufacture tools or products to that effect;
10. solicit, interfere with or endeavor to entice away from us any of our Subscribers.

We reserve the right to rate limit other functionality to prevent abuse, spam, denial-of-service attacks, or other security issues.

The Company has no responsibility to any person for any use or misuse of any Content obtained through the ClayHR API. If you are a Subscriber, you should consider carefully whether you wish to give an API Developer access to your Content through the ClayHR API. If you wish to revoke access to your Content through the ClayHR API, you should change your ClayHR access credentials or revoke authorization of the ClayHR API Implementation to your Content. Please contact us at privacy@clayhr.com or your account manager if you require any assistance doing this.

The Company may monitor your use of the ClayHR API for any reason, including but not limited to: quality assurance, the improvement of ClayHR products and services, and for verification of your compliance with these Terms. You shall not interfere with such monitoring or otherwise obscure from ClayHR any aspect of your use of the ClayHR API. The Company may use any technical means to overcome such interference. The Company may suspend access to the API by you or your API client without notice if the Company reasonably believes that you are in violation of the Terms. You acknowledge that any use by us of your ClayHR API Implementation for such purpose will not constitute our agreement to any terms of use you purport to require us to comply with in such use.

SHARED USER CONTENT

Certain features of the Site may enable users to submit, upload, post, share, or display (hereinafter, “post”) comments or content, as well as to interact with others through user ClayHR blog, discussion forums, knowledge base articles, product feedback and roadmap areas, and similar discussion areas, as applicable (such comments and content shall be collectively referred to as “Shared User Content”). User Content includes any comments or reviews you provide to ClayHR about the Service but excludes all Data.

You hereby grant to the Company an irrevocable, perpetual, non-exclusive, transferable, sublicensable, assignable, royalty-free, worldwide right and license to use, reproduce, display, perform, distribute, and prepare derivative works of any Shared User Content you post on or through the Service for any purpose and in all forms and all media, whether now known or that become known in the future, and you waive any and all claims that you may have now or may hereafter have in any jurisdiction to any moral rights and all rights of “droit moral” in your Shared User Content. If you post Shared User Content, you represent and warrant to the Company that you own or control all rights in and to such Shared User Content and have the right to grant the rights above to the Company.

PROPRIETARY/INTELLECTUAL PROPERTY RIGHTS

The Company retains ownership of all proprietary rights in the Service and in all trade names, trademarks and service marks (collectively referred to as “Trade Marks”) associated or displayed with the Service. You will not remove, deface or obscure any of these Trade Marks.

ClayHR copyright or trademark notices and/or legends or other proprietary notices, incorporated therein, or associated with the Service. You may not reverse engineer, reverse compile or otherwise reduce to human readable form any software associated with the Service.

EXPORT RESTRICTIONS

You acknowledge that the service or portion thereof may be subject to the export control laws of the United States. You will not export, re-export, divert, transfer or disclose any portion of the Service or any related technical information or materials, directly or indirectly, in violation of any applicable export law or regulation.

INJUNCTIVE RELIEF

You acknowledge that any use of the Service contrary to this agreement, or any transfer, sub licensing, copying or disclosure of technical information or materials related to the Service, may cause irreparable injury to the Company, its affiliates, suppliers and any other party authorized by the Company to resell, distribute, or promote the Service (“Resellers”), and under such circumstances, the Company, its affiliates, suppliers and Resellers will be entitled to equitable relief, without posting bond or other security, including, but not limited to, preliminary and permanent injunctive relief.

PROPER USE

You understand that all contents are the sole responsibility of the person from which such Content originated. This means that You, and not the Company, are entirely responsible for all Content that You upload, post, transmit or otherwise make available via your Account or the Service. The Company does not control the Content posted via the Service and, as such, does not guarantee the accuracy, integrity or quality of such Content.

You understand that by using the Service, you may be exposed to Content that is offensive, indecent or objectionable. Under no circumstances will ClayHR be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content posted, transmitted or otherwise made available via the Service. You acknowledge that the Company does not pre-screen Content, but that the Company and its designees shall have the right (but not the obligation) in their sole discretion to refuse or move any Content that is available via the Service. Without limiting the foregoing, the Company and its designees shall have the right to remove any Content that violates the Agreement or is otherwise objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. In this regard, you acknowledge that you may not reasonably rely on any Content created by the Company submitted to the Company. You acknowledge and agree that the Company may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the Agreement; (c) respond to claims that any Content violates the rights of third-parties; or (d) protect the rights, property, or personal safety of the Company, its users and the public.

You understand that the technical processing and transmission of the Service, including Your Content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

Should Content be found or reported to be in violation with, but not limited to, the following terms, it will be in the Company sole discretion as to what action should be taken. You agree that you will not:

upload, post, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy (up to, but not excluding any address, email, phone number, or any other contact information without the written consent of the owner of such information), hateful, or racially, ethnically or otherwise objectionable;

1. Harm minors in any way;
2. Impersonate any person or entity, including, but not limited to, the Company official, forum leader, guide or host, or falsely state or otherwise misrepresent your affiliation with a person or entity;
3. Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service;

4. Upload, post or otherwise transmit any Content that You do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
5. Upload, post or otherwise transmit any Content that infringes any patent, trademark, trade secret, copyright, rights of privacy or publicity, or other proprietary rights of any party;
6. Upload, post, or transmit unsolicited commercial email or “spam”. This includes unethical marketing, advertising, or any other practice that is in any way connected with “spam”, including but not limited to (a) sending mass email to recipients who haven’t requested email from You or with a fake return address, (b) promoting a site with inappropriate links, titles, descriptions, or (c) promoting Your site by posting multiple submissions in public forums that are identical;
7. Upload, post or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or tele equipment;
8. Interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
9. Intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission, any rules of any national or other securities exchange, including without limitation, the New York Stock Exchange, the American Stock Exchange or the NASDAQ, and any regulations having the force of law;
10. “Stalk” or otherwise harass another;
11. Promote or provide instructional information about illegal activities, promote physical harm or injury against any group or individual, or promote any act of cruelty to animals. This may include, without limitation, providing instructions on how to assemble bombs, grenades and other weapons or incendiary devices;
12. Offer for sale or sell any item, good or service that (a) violates any applicable federal, state, or local law or regulation, (b) You do not have full power and authority under all relevant laws and regulations to offer and sell, including all necessary licenses and authorizations, or (c) the Company determines, in its sole discretion, is inappropriate for sale through the Service provided by the Company;
13. Use the Account website as a redirecting/forwarding service to another website;
14. Exceed the scope of the Service that You have signed up for; for example, accessing and using the tools that You do not have a right to use, or having humans share User logins, or deleting, adding to, or otherwise changing other people’s comments or content as an Account holder. If any user is reported to be in violation with the letter or spirit of these terms,
15. The Company retains the right to terminate such an account at any time without further warning.

GENERAL PRACTICES REGARDING USE AND STORAGE

You acknowledge that the Company may establish general practices and limits concerning use of the Service and may modify such practices and limits from time to time. The Company retains the right to create limits on use and storage at our sole discretion at any time with or without notice. You acknowledge that we reserve the right to log off users who are inactive for an extended period of time.

You agree that you will not:

1. Upload, post, email, or otherwise transmit any computer routines, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or tele equipment;
2. interfere with or disrupt our Service or networks connected to our website or through the use of our Service, or disobey any requirements, procedures, policies or regulations of networks connected to our website or through the use of our Service, or otherwise interfere with our Service in any way, including through the use of JavaScript, ActiveX or other coding;
3. take any action that imposes an unreasonable or disproportionately large load on our infrastructure; or
4. copy, reproduce, alter, modify, or publicly display any information displayed on our website (except for Your Information), or create derivative works from our website (other than from Your Information), to the extent that such action(s) would constitute copyright infringement or otherwise violate the intellectual property rights of the Company or any other third party, except with the prior written consent of the Company or the appropriate third party.

THIRD-PARTY CONTENT

The Company takes no responsibility for third-party content, nor does the Company have any obligation to monitor such third-party content. The Company reserves the right at all times to remove or refuse to distribute any content on the Service, such as content which violates the Terms of this Agreement.

The Company also reserves the right to access, read, preserve, and disclose any information as it reasonably believes is necessary to (a) satisfy any applicable law, regulation, legal process or governmental request, (b) enforce this Agreement, including investigation of potential violations hereof, (c) detect, prevent, or otherwise address fraud, security or technical issues, (d) respond to user support requests, or (e) protect the rights, property or safety of the Company, its users and the public. The Company will not be responsible or liable for the exercise or non-exercise of its rights under this Agreement.

INTERNATIONAL USE

Recognizing the global nature of the Internet, You agree to comply with all local rules regarding online conduct and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

NO RESALE OF THE SERVICE

You agree not to reproduce, duplicate, copy, sell, resell or exploit any portion of the Service, use of the Service, or access to the Service without the express permission by the Company.

YOUR REPRESENTATIONS AND WARRANTIES

1. You represent and warrant that (a) all of the information provided by you to the Company to participate in the Service is correct and current; and (b) You have all necessary right, power and authority to enter into this Agreement and to perform the acts required of you hereunder.
2. You represent and warrant that (a) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (b) you are not listed on any U.S. Government list of prohibited or restricted parties.

NO WARRANTIES OR REPRESENTATIONS BY ClayHR

You understand and agree that the Service is provided “as is” and the Company, its affiliates, suppliers and Resellers expressly disclaim all warranties of any kind, beyond the Refund, express or implied, including without limitation any warranty of merchantability, fitness for a particular purpose, non-infringement or bailment of your data on ClayHR servers. The Company, its affiliates, suppliers, and Resellers make no warranty or representation, other than the Refund, regarding the results that may be obtained from the use of the service, the security of the service, or that the service will meet any user’s requirements beyond the Refund. Use of the service is at your sole risk. You will be solely responsible for any damage to you resulting from the use of the Service. The entire risk arising out of use, security or performance of the Service remains with you. No oral or written information or advice given by the Company or its authorized representatives shall create a warranty or in any way increase the scope of the Company obligations. Without limiting the generality of the foregoing, the Company, its affiliates, suppliers and Resellers specifically disclaim any express or implied warranty of fitness for such purposes.

INDEMNITY

1. You agree to indemnify, defend and hold harmless the Company, its affiliates, officers, directors, employees, consultants, agents, suppliers and Resellers from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorney's fees as and when incurred) arising from Your use of the Service, Your use of Your Account, Your violation of this Agreement or the infringement or violation by You or any other User of Your Account, of any intellectual property or other right of any person or entity.
2. The Company agrees to indemnify, defend and hold harmless you, and your affiliates, officers, agents, and employees from and against any Liabilities incurred as a result of any third-party Claim to the extent arising from or in connection with an allegation that your use of the Software and/or Service in accordance with this Agreement infringes the intellectual property rights of a third party. Notwithstanding the foregoing, in no event shall the Company have any obligations or liability arising from: (a) use of the Software and/or Service in a modified form or in combination with materials or software not furnished by the Company, and (b) any User Content, information or Data provided by you, your end users, or other third parties.
3. A party seeking indemnification hereunder shall (a) promptly notify the other party in writing of the Claim, (b) give the indemnifying party sole control of the defense of such Claim and all negotiations for the compromise or settlement thereof (provided that if any settlement requires any action or admission by the indemnified party, then the settlement will require the indemnified party's prior consent), and (c) provide the indemnifying party with all reasonable cooperation, information and assistance in connection with such Claim; provided, however, that failure by the indemnified party to provide prompt notice of a Claim, grant such sole control, and/or provide such cooperation, information and assistance, shall not relieve the indemnifying party of its obligations under this, except to the extent that the indemnifying party is materially prejudiced by such failure. The indemnified party may be represented by its own counsel, at its own expense.

NO AGENCY

No agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship between you and ClayHR Software is intended or created by this Agreement.

LIMITATION OF LIABILITY

1. You acknowledge that the Company exercises no control over your specific human resource practices implemented using the Service or your decisions as to employment, promotion, advancement, termination, notification, or compensation of any employee or authorized user of the Service. You further agree and acknowledge

that the Company does not have a direct relationship with your employees and that you are responsible for all contact, questions, Data updates and collection, with and from your employees. In addition, you are responsible for the privacy (including adopting and posting your own privacy policies governing your treatment of your employees' Data), collection, use, retention and processing of your employees' Data, and providing any and all notices and information to your employees regarding the foregoing, in compliance with all Applicable Laws. The Company hereby disclaims all liability arising from your decisions and from harmful data or code uploaded to the Service by you and/or your employees, contractors or agents.

2. In no event will the Company or its affiliates, suppliers or Resellers be liable for any special, incidental, indirect, exemplary or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss or damage) arising out of the use of or inability to use the Service, or the provision of or failure to provide technical or other support service, whether arising in tort (including negligence) contract or any other legal theory, even if the Company, its affiliates, suppliers or Resellers have been advised of the possibility of such damages. In any case, the Company, its affiliates', suppliers' and Resellers' maximum cumulative liability and Your exclusive remedy for any claims arising out of or related to this Agreement will be limited to the amount actually paid by You for the Service (if any) in the previous three (3) months.

WAIVER AND SEVERABILITY

Failure by either party to exercise any of its rights under or to enforce any provision of, this Agreement will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision.

If any part of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall be interpreted so as to reasonably effectuate the intention of the parties and shall not affect the validity and enforceability of any remaining provisions.

STATUTE OF LIMITATIONS

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising of or related to use of ClayHR services or the Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred.

CHOICE OF LAW AND FORUM

This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia, as applied to agreements entered into and to be performed in Virginia by Virginia residents. The parties consent to the exclusive jurisdiction and venue of the courts located in and serving the County of Fairfax, in the Commonwealth of Virginia, USA.

COMMUNICATIONS

Notices that we give you (other than notice of amendment of these Terms, which is discussed in the introduction of these Terms) may be provided in any number of ways, depending on the circumstances. For example, we may email you or telephone you at the contact information you provide in your Registration Data. Or we may post a notice to Subscribers and Customers in the dashboard area of your account on the Site, or post the notice elsewhere on the Site. When we post notices on the Site, we post them in the area of the Site suitable to the notice. It is your responsibility to periodically review the Site for notices.

GENERAL PROVISIONS

1. The provisions of this Agreement that should, by their nature survive termination and/or expiration, shall and do survive such termination and/or expiration.
2. You may not assign or otherwise transfer any of your rights or obligations under this Agreement without the Company's prior written consent, which consent shall not be unreasonably withheld. This Agreement shall be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns. Any assignment in violation of the foregoing will be null and void.
3. No Legal Advice; Reliance. No part of this Agreement or service provided as part of this service is intended or shall be construed as legal advice. The Company shall not be liable for an errors or omissions in the content of this Agreement or for any actions taken in reliance thereon.
4. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person other than the parties hereto, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.
5. English Language Version. These Terms have been prepared in the English Language and such version shall be controlling in all respects and any non-English version of these ToS is solely for accommodation purposes.
6. Cumulative Nature. Any and all rights and remedies of the Company upon Your breach or other default under these Terms will be deemed cumulative and not exclusive of any other right or remedy conferred by these Terms or by law or equity

on the Company, and the exercise of any one remedy will not preclude the exercise of any other.

7. The captions and headings appearing in these Terms are for reference only and will not be considered in construing these Terms.
8. All notices or other correspondence to the Company under these ToS must be sent to the following electronic mail address for such purpose: privacy@clayhr.com. Or the following physical address:
9. If a Master Services Agreement and/or a Statement of Work is signed between the Company and the Customer, the terms of that MSA shall prevail over these terms of service.

BizMerlinHR Inc
11710 Plaza America Dr, Suite 2000
Reston VA 20190
USA