Labor & Employment Compliance Guide for International Investors (2025)

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Kaitian Luo

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跨境劳动合规
Cross-border Employment Compliance

国际投资者跨境劳动合规指南
Labor & Employment Compliance Guide for International Investors (2025)

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秘鲁
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介绍语
Introduction



随着全球化深入发展，企业在多国拓展业务时，跨境劳动合规已成为最复杂严峻的挑战之一。为帮助企业系统应对这一难题，我们携手全球数十个主要司法管辖区的顶尖劳动法律师，共同编撰了这本指南。

With the deepening of globalization, cross-border employment compliance has become one of the most complex and pressing challenges for enterprises expanding their businesses across multiple jurisdictions. To help companies systematically address this challenge, we collaborated with leading labor law experts from dozens of major jurisdictions worldwide to compile this guide.

本指南聚焦企业跨境经营中高度关注的劳动用工合规问题，全面涵盖招聘、入职、在职管理、变更与离职等全环节的核心规则与最新实践，并对工会与集体谈判、供应链与人权、ESG 中的劳工议题等新兴挑战进行前瞻分析。

This guide focuses on labor & employment compliance issues of high concern in cross-border business operations. It comprehensively covers the core rules and latest practices across the entire employment lifecycle - recruitment, onboarding, HR management, employment changes, and termination - and provides forward-looking analysis on emerging challenges such as trade unions and collective bargaining, supply chains and human rights, and labor issues within ESG, etc.

2023 年，我提出“跨境劳动合规”专业理念，并建立了国内该领域首个知识分享平台——微信公众号“跨境劳动合规 CEC”。借助本指南的编撰，CEC 已建立起覆盖全球**约 80 个司法管辖区**的国际法律合作网络，致力于促进专业交流与合作，助力中国及国际企业在达成商业目标的同时，成为备受尊重的负责任实体。

In 2023, I introduced the professional concept of “cross-border employment compliance” and established the first domestic knowledge-sharing platform in this field - the WeChat public account Cross-Border Employment Compliance Journal (CEC/CECJ). Through the compilation of this guide, CEC has built an international legal collaboration network covering **approximately 80 jurisdictions**, dedicated to promoting professional exchange and cooperation, and helping Chinese and international enterprises achieve their commercial objectives while becoming respected and responsible entities.

本指南旨在提供原则性介绍与参考，**内容更新至 2025 年 9 月。**它并非正式法律意见，不得用于营利目的，仅用于内部参考。请注意，相关内容由对应司法管辖区的作者本人负责。除特别标注外，原文均为英文，经译者翻译为中文；中英文如有不一致的，请以英文为准。我们就内容可能存在的错误或遗漏不承担任何责任。如需就具体事项寻求专业意见，欢迎联系我们或作者（注明“CEC”将利于优惠对待）。

This guide is intended to provide a general introduction and reference, **with content updated by September 2025**. It does not constitute formal legal advice and may not be

used for profit-making purposes. It is for internal reference only. Please note that the authors of the relevant jurisdictions are solely responsible for the relevant content. Unless otherwise noted, the original text is in English and translated into Chinese by the translator; if there is any inconsistency between the Chinese and English versions, the English version shall prevail. We accept no liability for any errors or omissions in the content. For specific matters, please feel free to contact us or the authors for professional advice (marking "CEC" for preferential treatment).

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For inquiries, please do not hesitate to contact us.

阅读愉快！
We wish you an enjoyable reading experience!

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I. 劳动法体系概述
Overview of the Labor Law System

1. 法律体系
Legal System

秘鲁实行大陆法系。
Peru operates under a civil law system.

2. 资源与机构
Resources and Agencies

秘鲁没有一部统一且全面的《劳动法典》。其劳动法规的一个显著特征是以分散的体系来规范不同的劳动制度。较为重要的包括：《劳动生产率与竞争力法统一合文本》（最高法令第 003-97-TR 号）；《劳动培训与促进法统一合文本》（最高法令第 003-97-TR 号）；第 31572 号《远程工作法》；《集体劳动关系法统一合文本》（最高法令第 010-2023-TR 号）；第 689 号立法法令《雇用外国劳动者法》；《工作日、工时与加班法统一合文本》（最高法令第 007-2022-TR 号）；《服务年限补偿金法统一合文本》（最高法令第 011-97-TR 号）；第 29783 号《职业安全与健康法》等。
In Peru there is no single comprehensive Labor Code; the defining feature of our labor regulation is that we have a dispersed set of norms that regulate the different labor institutions. Among the most relevant are the Sole Consolidated Text (TUO in Spanish) of the Law of Labor Productivity and Competitiveness (Supreme Decree N° 003-97-TR); TUO of the Law of Labor Training and Promotion (Supreme Decree N° 003-97-TR); Law of Telework N° 31572; TUO of the Law of Collective Labor Relations (Supreme Decree N° 010-2023-TR); Legislative Decree N° 689, Law on Hiring of Foreign Workers; TUO of the Law on Workday, Working Hours and Overtime Work (Supreme Decree. N° 007-2022-TR); TUO of the Law on Compensation for Time of Services (Supreme Decree. N° 011-97-TR); Law N° 29783 on Occupational Safety and Health; among others.

此外，秘鲁还存在对特定经济战略领域设定差异化条件的特别劳动制度，例如土木建筑、采矿、港口、农业与农产业等。
In addition, there are special labor regimes that establish differentiated conditions, such as civil construction, mining, port, agrarian and agricultural, among others related to strategic sectors of the economy.

在主管机关方面，劳动与就业促进部是劳动法规与政策事务的主要权威机关。国家劳动监察总局则在秘鲁全国范围内承担监察与行政处罚职能，确保全国劳动与社会保障规范的遵守。
As for the responsible entities, the Ministry of Labor and Employment Promotion (MTPE) is the main authority in matters of labor regulations and policies, while the National Superintendence of Labor Inspection (SUNAFIL) exercises inspection and administrative

sanction functions throughout the Peruvian territory, ensuring compliance with labor and social security provisions in the country.

II. 雇佣资格与用工分类
Employment Qualifications and Classification

1. 雇佣年龄
Employment Age

在秘鲁，最低就业年龄由《儿童与青少年法典》（第 27337 号法）规制。一般规则为：仅年满 18 周岁者方可自由订立劳动合同。但对青少年作出例外：在取得父母或监护人授权并向有权机关完成相应备案登记后，可依法从事工作。
In Peru, the minimum age of employment is regulated by the Code of Children and Adolescents (Law No. 27337). The general rule is that only those over 18 years of age may freely enter into an employment contract. However, exceptions are recognized for teenagers, provided they have the authorization of their parents or guardians and the corresponding registration before the competent authorities.

此外，就个体经营或其他类型的劳动而言，最低年龄为 14 周岁。例外情况下，自满 12 周岁起亦可获准，但须确保拟从事的工作不损害其健康或身心发展，不妨碍或限制其就学，并应当允许其参加职业定向或培训项目。
Likewise, in the case of self-employment or other types of work, the minimum age is 14 years old. By exception, authorization will be granted from the age of twelve, provided that the work to be performed does not harm their health or development, nor interfere with or limit their attendance to educational centers and allow their participation in vocational orientation or training programs.

关于退休年龄，秘鲁法律规定，依据《就业促进法》第 57 条，年满 70 周岁即自动且强制退休，除非另有约定。同时存在特别的提前退休制度：无论是国家养老金办公室还是私人养老金管理公司体系，满足特定条件时，最低可于 65 周岁开始领取退休金。
Regarding retirement age, Peruvian law establishes that at 70 years of age, retirement is automatic and mandatory unless otherwise agreed, in accordance with article 57 of the Employment Promotion Law (D. Leg. No. 728 - TUO of the LPCL). However, there is a special early retirement regime, whose minimum age to access the retirement pension is 65 years old, both in the ONP and in the AFP, which will proceed as long as certain requirements are met.

2. 外国企业用工资质
Qualifications for Foreign Employers

在秘鲁，外国公司欲在当地雇佣劳动者，需先在境内设立某种法律意义上的存在形态。这是因为依据秘鲁劳动与税务法规，任何雇主都必须履行形式性登记义务（工

资薪酬名册）、社会保险缴费以及纳税义务，而上述义务只能通过在境内登记的法人或分支机构承担。
In Peru, the hiring of local workers by a foreign company requires the constitution of some kind of legal presence in the country. This is because, according to Peruvian labor and tax regulations, every employer must comply with formal registration obligations (payroll), social security contributions and taxation that can only be assumed through a legal entity or branch registered in the national territory.

据此，如欲在当地雇佣，须在秘鲁设立分公司、子公司或关联公司，并向国家公共登记监督局登记，在国家海关与税务总署办理税务住所及统一纳税人登记号。
Thus, in order to hire locally, a branch, subsidiary or affiliate must be incorporated in Peru, registered with the National Superintendence of Public Registries (SUNARP), with tax domicile and taxpayer's identification number RUC (Registro Único de Contribuyentes) before SUNAT.

3. 雇佣类型
Classification of Employment

在秘鲁，人员用工主要有两类：（i）直接用工，即劳动者与雇主之间直接建立劳动关系；（ii）间接用工，即第三方作为名义雇主，而劳动服务系为实际用工单位（委托方/雇主）之利益提供。
In Peru, there are two forms of labor hiring of personnel: (i) direct hiring, in which an immediate relationship is established between the worker and the employer; and (ii) indirect hiring, whereby a third party assumes the quality of employer while the services are rendered in favor of the principal or user company.

直接用工可为定期（固定期限合同）或不定期（无固定期限合同）。间接用工可采两种模式：劳动派遣与服务外包。
In the case of direct hiring, this may be for a fixed term (fixed-term contract) or indefinite term (indefinite-term contract). In the case of indirect hiring , two different schemes can be adopted: labor intermediation and outsourcing of services.

一方面，在劳动派遣模式下，中介公司通常为以岗位安置为目的之人力资源机构。在该模式中，雇主对被派遣人员的工作具有指挥管理权，且此类人员仅可用于临时性、专门性或补充性活动。
On the one hand, in intermediation or secondment, the intermediary company has traditionally been constituted by employment agencies aimed at placing workers in certain jobs. In this scheme, the user company has the power to direct the activity of the seconded personnel. Furthermore, they may only be employed in temporary, specialized or complementary activities.

另一方面，服务外包是一种业务组织方式，即主企业将部分活动转移由他企承担。在此情况下，外包企业以自有员工提供服务，并对其用工与管理权保持完全自主。同时，外包企业必须具备自有的物质、资金与技术资源。

On the other hand, the outsourcing of services is a form of business organization in which the main company decides to shift certain activities to other companies. In such cases, the outsourcing company provides services through its own workers while retaining full autonomy in the exclusive use of its management power. Likewise, the outsourcing company must have its own material, financial and technical resources.

上述两类间接用工模式在学理与判例实践中均引发广泛讨论，故其适用必须严格合规。误分类可能导致用工关系“性质扭转”，从而推定存在不定期劳动合同。于行政层面，国家劳动监察总局可就重大违法行为处以罚款。于司法层面，劳动者可起诉请求确认其与用工单位之间的直接劳动关系并要求支付相应补偿金。
The use of both indirect hiring schemes is the subject of extensive doctrinal and jurisprudential debate, so their use must be applied correctly. Along these lines, an incorrect classification of the employment relationship may give rise to the distortion of the relationship and, consequently, to the presumption of the existence of an indeterminate-term employment contract. Even at the administrative level, SUNAFIL may impose fines for very serious violations. Meanwhile, at the judicial level, workers may file lawsuits requesting the recognition of the direct employment relationship and the payment of the corresponding indemnity.

4. 外国工作者
Foreign Workers

在秘鲁，外籍劳动者的雇佣受第 689 号立法法令及其经第 014-92-TR 号最高法令批准的细则约束。凡在秘鲁登记之公司（含外国公司之子公司与分支机构），可雇佣非本国籍人员，但须订立书面劳动合同，载明岗位类别、薪酬与期限（最长期限三年且可续约），并报经劳动行政机关批准（第 689 号立法法令第 5 条）。仅在取得上述批准并获得相应可工作的移民身份后，方可开始提供劳动服务。
In Peru, the hiring of foreign workers is regulated by Legislative Decree No. 689 and its regulations approved by Supreme Decree No. 014-92-TR. Companies registered in the country, including subsidiaries and branches of foreign companies, may hire non-national personnel as long as they enter into a written employment contract specifying category, remuneration and duration -with a maximum of three years, extendable- and with the approval of the Labor Administrative Authority (art. 5 D.L. 689). The rendering of services may only begin after such approval and the obtaining of the qualifying migratory status.

依据该法第 4 条，企业须遵守比例限制：外籍员工人数不得超过企业员工总数之 20%，其工资总额不得超过企业工资薪金总额之 30%。只有对具有专业专长者等情形，前述比例限制可适用例外。此外，取得许可的要件亦有例外，如永久居民、与秘鲁配偶或子女之外籍人士、与秘鲁有互惠安排国家之公民（安第斯共同体、西班牙、以及南方共同市场经济互补协定相关国家）。在此等情形下，劳动合同登记通过劳动与就业促进部的虚拟平台办理。
Article 4 of D.L. 689 establishes limits that must be complied with: foreigners must not exceed 20% of the total payroll and their remunerations must not exceed 30% of the total wages and salaries. However, there are exceptions for these limits for specialized

professionals, among others. In addition, there are exceptions for the requirements to obtain the permit such as permanent residents, foreigners with Peruvian spouse or children, and nationals of countries with reciprocity agreements (Andean Community, Spain and or MERCOSUR Economic Complementation Agreement). In these cases, the contracts are registered in the virtual platforms of the MTPE (SIVICE).

在移民管理上，劳动者须于入境前申请相应移民身份，或在以旅游、商务签证入境后变更身份。常见身份包括：居民工人（一年期，可续签）、居民家属、永久居民，以及“指定工作人员”，其允许外国公司指派人员在不进入本地工资名册的情况下来秘履职。
Regarding immigration, the worker must apply for the corresponding immigration status, either by applying for immigration status before entering the country or by changing immigration status if he/she entered as a tourist or with a business visa. Among the most common immigration statuses are resident worker (one year extendable), family of resident, permanent resident and designated worker, which allows the movement of personnel sent by foreign companies without joining the local payroll.

根据宪法第 2 条第 2 款之国籍平等原则，外籍劳动者享有与本国劳动者同等的劳动与社会保障权利义务：最低生活工资、法定奖金、服务年限补偿金、带薪年休假、公共医疗保险或健康服务提供机构，以及参加社会保障体系。
Pursuant to article 2, paragraph 2 of the Constitution, which prohibits discrimination based on nationality, foreign workers enjoy the same labor and social security rights and obligations as nationals: minimum living wage, bonuses, CTS, vacations, EsSalud or EPS and affiliation to the social security system (AFP or ONP).

如属不合规用工，可能招致国家劳动监察总局的行政罚款与移民处罚，例如撤销移民身份、将劳动者驱逐出境并禁止其再次入境。由此，相关法规在对外籍用工保持开放的同时，亦通过管制机制以确保平等待遇与对现行劳动及移民框架之遵守。
Finally, irregular hiring may result in administrative fines from SUNAFIL and immigration sanctions, such as cancellation of immigration status or even expulsion of the worker from the country and prohibition to reenter Peruvian territory. Thus, the regulations combine openness to foreign hiring with control mechanisms that seek to guarantee both equal treatment and respect for the labor and migratory framework in force.

III. 招聘与劳动合同
Recruitment and Employment Contracts

1. 背景调查
Background Examination

在秘鲁，对求职者的背景调查受法律限制，且必须尊重基本权利。一般规则是：个人数据的处理须经数据权利人同意，但《个人数据保护法》所规定的例外除外。
In Peru, background checks of job applicants are subject to legal restrictions and must respect fundamental rights. As a general rule, the processing of personal data requires the

consent of the owner, except for exceptions established by Law No. 29733 on the protection of personal data (LPDP).

同时，宪法第 2 条第 2 款禁止基于出身、种族、性别、宗教、年龄、经济状况或任何其他原因的歧视。这一原则亦受《国际劳工组织第 111 号公约》强化，该公约禁止任何影响平等就业机会的区别对待。因此，任何核查均不得演变为歧视性机制。
Likewise, the Constitution prohibits any form of discrimination based on origin, race, sex, religion, age, economic status or any other kind (art. 2, para. 2), which is reinforced by ILO Convention No. 111, which proscribes any distinction that affects equal employment opportunities. Therefore, no verification can become a discriminatory mechanism.

以具体背景为例，在犯罪记录方面，第 29607 号法规定：雇主不得在招聘竞争阶段要求提交犯罪记录证明，提交简单的宣誓声明即可。仅在申请人被录用、拟录用或经其明示授权查询“国家定罪登记册”时，方可要求该证明。
By way of example, as regards specific background, in the matter of criminal records, Law No. 29607 provides that companies may not require the certificate in employment competitions, a simple affidavit being sufficient. Such certificate may only be required if the applicant is selected or with express authorization to consult the National Registry of Convictions.

最后，无论由雇主直接实施，还是委托第三方进行核查，均负有确保知情同意与保密的义务。故任何核查过程都应受比例原则约束，仅限于与岗位相关且必要的数据，以避免不当干预，并确保平等的就业机会。
Finally, whether the verification is carried out directly by the employer or through a third party, the obligation to guarantee informed consent and confidentiality remains. Thus, any verification process must be governed by the principle of proportionality, being limited to the relevant and necessary data for the position, in order to avoid illegitimate intrusions and ensure equal opportunities in access to employment.

2. 合同类型
Contract Types

在直接用工下的固定期限合同框架内，秘鲁劳动立法承认若干契合企业临时性需求的合同形态。这些形态由《劳动生产率与竞争力法统一合文本》规制，且在任何情况下均须满足特定要件方可有效。具体如下：
Within the framework of direct fixed-term contracts, Peruvian labor legislation recognizes various modalities that respond to the temporary nature of certain business needs. These modalities are regulated in the Sole Ordered Text of the Labor Productivity and Competitiveness Law (TUO of the LPCL) and must comply, in all cases, with specific requirements to guarantee their validity. These are as follows:

	最长期限 Maximum term	依据 Regulation

临时性合同 Temporary contracts	启动或业务增长合同 Contracts for start-up or increase of activity	3 年/years	art. 57 LPCL
	市场需要合同 Contract for market needs	5 年/years	art. 58 LPCL
	企业重组合同 Contract for business restructuring	2 年/years	art. 59 LPCL
事件性合同 Contracts of an accidental nature	临时性/偶发合同 Occasional contract	每年累计 6 个月 6 months per year	art. 60 LPCL
	代替合同 Substitution contract	以代替存续期间为限 The duration of such substitution	art. 61 LPCL
	紧急情况合同 Emergency contract	以紧急状态持续期间为限 For the duration of the emergency	art. 62 LPCL
特定工作或服务合同 Contracts for specific work or service	特定工作或服务合同 Contracts for specific work or service	至工作或服务完成为止 Until completion of the work or service	art. 63 LPCL
	间歇性合同 Intermittent contracts	按业务需要不连续重复实施 Repeated in time in a discontinuous manner.	art. 64 LPCL
	季节性合同 Seasonal contracts	于年度特定时段实施 Certain times of the year	art. 67 to 71 LPCL

此外，秘鲁也承认所谓“无名合同”，即法律未明文列举之合同形态，但其用于临时性服务，或其存续期限与工作性质相适应者。

In addition to this, the so-called unnamed contracts are recognized, which allow hiring under modalities not expressly provided on the law, as long as they are for temporary services or whose duration is appropriate to the nature of the work (art. 82 LPCL).

需特别指出：秘鲁所有固定期限合同的有效性均以三项基本条件为前提——（1）必须采用书面形式；（2）必须载明有充分理由的客观原因；（3）累计期限不得逾 5 年。任一要件欠缺，均导致合同“去自然化”，推定劳动关系为不定期限，其法律后果由雇主承担。

It is important to point out that all fixed-term contracts in Peru must comply with three essential conditions for their validity: they must be executed in writing, state a duly justified objective cause and not exceed a maximum term of five years. Failure to comply with any of these requirements leads to the denaturalization of the contract, which implies that the employment relationship is presumed to have been entered into for an indefinite term, with the legal consequences that this entails for the employer.

3. 试用期
Probationary Period

在秘鲁，一般试用期为 3 个月。若工作需要培训或适应期，或系“信任员工”，试用期可延至 6 个月。对“管理人员”则可延至 12 个月，且均须书面约定。其中，“信任员工”系指与雇主或管理层保持个人且直接接触、能够接触机密信息者，或其意见直接呈递管理层并对公司决策形成有所贡献者。“管理人员”系指对其他员工或第三人代表雇主行使一般代表权者、或可代理雇主者、或与雇主共同承担管理与控制职能、其职责与责任程度足以影响经营结果者。

In Peru, the probationary period is three months for all workers. This period can be extended up to six months when the work requires a period of training or adaptation, or in the case of workers of trust; and up to twelve months for management workers, always by written agreement (Article 10 of the TUO of the LPCL). For this purpose, workers of trust are those who work in personal and direct contact with the employer or with management personnel, having access to confidential information. Likewise, those whose opinions or reports are presented directly to management personnel, contributing to the formation of corporate decisions. On the other hand, management employees are those who exercise the general representation of the employer in relation to other employees or third parties, or who replace him, or who share administration and control functions or on whose activity and degree of responsibility depends the result of the business activity.

在试用期内，雇主可无需证明正当解雇理由而终止劳动关系。已通过试用期的员工如再次回到同一公司从事同一职位，不得再次设置试用期，除非自前次关系终止已逾 3 年。一旦试用期届满，员工即取得岗位稳定性，雇主此后解雇须证明正当理由。

During the probationary period, the employer may terminate the relationship without the need to establish a fair cause for dismissal. If an employee who has already passed his probationary period returns to the same company for the same position, he may not be on probationary period again, unless more than three years have elapsed since the previous termination (Article 16 of Supreme Decree. No. 001-96-TR). Once the probationary period has elapsed, the employee acquires job stability, which obligates the employer to prove fair cause for possible dismissal.

IV. 工作标准
Working Standards

1. 薪酬
Remuneration

在秘鲁，典型的薪酬结构由基本工资（不得低于最低生活工资）及其他计薪项目组成，如家庭津贴、法定奖金（7月与12月奖金）、服务年限补偿金、带薪年休假与加班费等。
In Peru, the typical structure of remuneration consists of the basic remuneration -which cannot be less than the minimum living wage (RMV)- and other remunerative items, such as family allowance and legal bonuses (July and December bonuses, compensation for time of services, vacations and overtime).

自2025年起，RMV为S/ 1,130.00，适用于全国范围。立法允许雇主以现金、实物或混合方式支付，但须保证劳动者可自由支配，目前以现金支付为主。
The minimum vital remuneration in force as from 2025 amounts to S/ 1,130.00, according to Supreme Decree No. 006-2024-TR, and is applicable for the whole Peruvian territory. In this regard, our legislation provides that the employer may pay the remuneration in cash, in kind or in a mixed manner, provided that it is freely available. Currently, the predominant way is in cash.

在支付频率上，法律不作统一强制，可按周、半月或按月支付。就支付机制而言，秘鲁法要求通过金融体系内的机构支付，币种可为本币或外币。
Regarding the frequency of payment, the law does not impose a uniform regime, allowing it to be weekly, biweekly or monthly. Regarding payment mechanisms, Peruvian law establishes that payment must be made through companies in the financial system, either in local or foreign currency.

综上，秘鲁对薪酬形式与频率提供较大灵活性，但必须遵守法律规定的最低标准。
Thus, Peruvian regulation offers a flexible framework with respect to the form and frequency of payment of remuneration, but requires that it always complies with the legal minimums.

2. 法定福利与社会保障
Statutory Benefits and Social Security

在秘鲁，社保福利包括：雇主向公共医疗保险 EsSalud缴费（9%），可将其中最多25%分配至私人医疗机构（第26790号法）。劳动者须在国家养老金机构（13%）与私人养老金机构（约10%外加管理费与保险费）之间二选一参保，雇主为代扣代缴义务人（《私人养老金体系法 TUO》）。从事高风险活动者需加保补充工伤风险保险（SCTR）（第26790号法）。

In Peru, social security benefits include the employer's contribution to social security (EsSalud) (9%), with the possibility of allocating up to 25% to an private social security entity (EPS) (Law No. 26790), as well as the employee's obligation to join the national pension fund entity (ONP) (13%) or an private pension fund entity (AFP) (approx. 10% plus commission and insurance premium), with the employer being the withholding agent (TUO Ley del Sistema Privado de Pensiones). For high-risk activities, a Complementary Risk Work Insurance (SCTR) is also required (Law No. 26790).

就计薪福利而言，主要包含：家庭津贴（RMV 的10%，第25129号法）、7月与12月法定奖金（第27735号法）、服务年限补偿金（第650号立法法令）、每年30日年休假（第713号立法法令第10条）、加班费加成（最高法令第007-2002-TR号第9条）。此外，员工数逾20人的企业须按行业在年净利润中分配5%—10%给员工（第892号立法法令）。

In terms of remuneration, the main legal benefits are the family allowance (10% of the RMV, Law No. 25129), the July and December bonuses (Law No. 27735), the Compensation for Time of Services (CTS) (Legislative Decree. No. 650), the annual vacation of 30 days (art. 10 Legislative Decree. No. 713), and the payment of overtime with surcharge (art. 9 Supreme Decree. No. 007-2002-TR). Likewise, companies with more than 20 employees must distribute profits between 5% and 10% of the annual net income depending on the sector (Legislative Decree No. 892).

最后，法律不将交通、餐饮或住房列为强制性法定津贴。但若雇主自愿发放，上述项目不计入工资，亦不作为计算奖金、年休与服务年限补偿金的基数。

Finally, it should be noted that our legislation does not recognize as a mandatory legal allowance mobility, food or housing expenses. However, if the employer decides to grant them, they will not be computable as remuneration for the calculation of other benefits, such as bonuses, vacations and CTS.

3. 工时
Working Hours

秘鲁宪法第25条与最高法令第007-2002-TR号第1条规定：每日最多8小时或每周最多48小时。除普通工时外，法律允许在平均不超过宪法上限的前提下采用非典型/累计工时制，以及夜间工时（22:00—06:00），其薪酬不得低于RMV + 35%（同令第8条）。

In Peru, the working day is regulated by Article 25 of the Constitution and Article 1 of Supreme Decree No. 007-2002-TR, which set a maximum of 8 hours per day or 48 hours per week. In addition to the ordinary workday, the law allows atypical or cumulative workdays, as long as the average does not exceed the constitutional ceilings, and the night workday (10:00 p.m. to 6:00 a.m.), whose salary cannot be less than the RMV plus an additional 35% (article 8 of Supreme Decree No. 007-2002-TR).

工时限制属于不可放弃的权利（宪法第26条），劳动者不得有效约定超越法定上限；仅在非典型工时制下可作不同分配。

The limitation of working hours is an inalienable right (art. 26 of the Constitution), therefore the worker cannot validly agree to exceed the legal maximums. A different distribution is only applicable in the case of atypical workdays.

加班系超过法定或约定工时所生，支付标准为：前两小时加成25%，其后35%（同令第9条）。经事先协议，也可用等量补休抵充。以下人员不适用加班费：管理人员、信任岗位人员及不受即时监督者（同令第5条）。
As for overtime, it is generated when exceeding the legal or conventional workday and is paid with a surcharge of 25% for the first two hours and 35% for the following hours (art. 9 Supreme Decree. No. 007-2002-TR) and may be compensated with equivalent rest upon prior agreement. Excluded from this right are management workers, workers in positions of trust and those not subject to immediate supervision (art. 5 Supreme Decree No. 007-2002-TR).

4. 休息与休假
Rest and Leave

秘鲁立法确认每周强制休息，即每周连续 24 小时，一般为周日。也可安排在其他日，但须确保实际休息（第 713 号立法法令第 1 条）。并规定年休假：每满一年服务期享受 30 日带薪年假（同法第 10 条）。
In Peru, legislation recognizes mandatory weekly rest, equivalent to 24 continuous hours during the week, which generally coincides with Sunday, although it may be granted on another day as long as effective rest is guaranteed (art. 1 of Legislative Decree No. 713). Likewise, the annual rest, known as "vacations", is recognized, by means of which 30 paid days are granted per full year of services (art. 10 of Legislative Decree No. 713).

主要假期包括：
with respect to the established leaves we have:

- 产假：产前 49 日 + 产后 49 日；
  For maternity: 49 days of prenatal rest and 49 days of postnatal rest;
- 陪产假：10 日；
  For paternity: 10 days;
- 照护假：用于照料患有阿尔茨海默病的亲属；
  To take care of relatives or persons under Alzheimer’s care;
- 结核病治疗便利：如每日推迟 1 小时到岗（或相应减免 1 小时工作时间）；
  For the treatment of tuberculosis: right to enter one hour later to their work center or one hour later;
- 暂时性丧失劳动能力：前 20 日由雇主支付，自第 21 日起由国家承担补贴；
  For temporary incapacity for work: first 20 days at the employer’s expense and from the 21st day onwards the employee will be entitled to a subsidy at the State's expense;
- 年度肿瘤筛查假：最多 2 个工作日；
  For annual oncological exams: up to two working days;

- 性别暴力相关假以及其他法定假期。
  For gender violence, among others.

V. 职业健康与特别保护
Occupational Health and Special Protection

1. 职业健康与安全
Occupational Health and Security

秘鲁以一般法与特别法共同规范工作场所的安全与健康，核心为第29783号《职业安全与健康法》及其经最高法令第005-2012-TR号批准的细则。
In the Peruvian legal system, there are general and special rules that provide for the adoption of safety and health measures in the workplace, the main one being Law 29783, Occupational Safety and Health Law (LSST) and its Regulation approved by Supreme Decree No. 005-2012-TR.

从这个意义上讲，雇主的主要义务基本涵盖职业健康与安全的两个方面：预防与监督。因此，雇主至少应遵守的要求包括：（i）建立并落实强制性记录（如工伤事故、危险事件、职业病、体检、物理因素监测、内部检查等）；（ii）依据公司的经济活动类型建立职业健康与安全管理体系；（iii）向全体雇员提供内部职业健康与安全规章的副本，每年至少开展四次培训，并将安全建议作为劳动合同附件；（iv）在工会组织参与下编制风险地图，设立职业安全与健康委员会（适用于雇员人数不少于20人的公司）；或在未达到该人数门槛时，对人员进行培训并指定职业健康与安全监督员（适用于雇员人数少于20人的公司）等其他义务。
In that sense, the main obligations of the employer basically cover two aspects of Health and Safety: prevention and supervision. Thus, some of the minimum requirements with which it must comply are: (i) implement mandatory records (work accidents, dangerous incidents, occupational diseases, medical examinations, monitoring of physical agents, internal inspections, etc.), (ii) implement an Occupational Health and Safety Management System based on the company's economic activity, (iii) provide a copy of the internal health and safety regulations to all workers, conduct no less than four training sessions per year, and attach safety recommendations to the employment contract, (v) prepare a risk map with the participation of the union organization, establish an Occupational Safety and Health Committee (for companies with 20 or more workers) or, failing that, train and appoint a safety and health supervisor (for companies with less than 20 workers), among other obligations.

同样地，雇主必须在与工作相关的各个方面保障雇员的安全与健康。其义务包括：识别并预防职业风险；每年更新风险评估；提供充分且适当的个人防护装备；开展职业健康体检（至少每两年一次，并在适用情况下于雇佣关系终止时进行体检）；保障联合委员会的有效参与；并将致命事故、危险事件以及任何影响雇员身心完整性的事件告知劳动与就业促进部。

Likewise, the employer must guarantee the safety and health of the workers in all aspects related to the work. Among its obligations are the following: identify and prevent occupational risks, update risk assessments annually, provide adequate personal protective equipment, perform occupational medical examinations (at least every two years and upon termination if applicable), guarantee the effective participation of the joint committee and inform the Ministry of Labor and Employment Promotion (MTPE) of fatal accidents, dangerous incidents and any event that affects the physical or psychological integrity of the workers.

雇员在该领域亦负有相应义务，例如：（i）遵守安全与健康计划的规则、规章与指示；（ii）在获得授权的前提下，正确使用工作工具与材料以及个人防护装备；（iii）不得操作或使用未经授权的设备；（iv）配合并参与工伤事故的调查过程；（v）接受其被要求进行的医学检查等。
Workers also have duties in this matter, such as: (i) to comply with the rules, regulations and instructions of the safety and health programs, (ii) to properly use work instruments and materials as long as they are authorized, as well as personal protection equipment, (iii) not to operate or manipulate equipment for which they have not been authorized, (iv) to cooperate and participate in the process of investigation of work accidents, (v) to submit to the medical examinations they are required to undergo, among others.

就雇员权利而言，《职业安全与健康法》等规范承认：任何遭受工伤事故或罹患职业病的雇员，有权在其康复与复健期间获得必要的医疗保障，以促进其重新融入劳动力市场。同样，雇员可在不影响其薪酬或岗位等级/类别的情况下，被调岗至风险较低的岗位，但永久性残障的情形除外。此外，所有雇员不论其合同类型如何，均享有同等水平的职业健康与安全保护。
Regarding their rights, the LSST recognizes, among others, that every worker who suffers a work accident or occupational disease has the right to receive the necessary health benefits until his recovery and rehabilitation, seeking his reinsertion in the labor market. Likewise, they may be transferred to a less risky position without affecting their remuneration or category, except in cases of permanent disability. In addition, all workers, regardless of their type of contract, enjoy the same level of health and safety protection.

最后，当发生工伤事故或死亡事件时，主管机关为国家劳动监察总局，并与劳动与就业促进部协调处理。调查期限可能因案件复杂性而延长，但在实践中相关程序通常持续数月。关于经济补偿，其取决于风险事件类型：（i）雇员或其受益人可获得EsSalud提供的经济给付与医疗给付，并在适用情况下获得高风险工作补充保险的保障——该保险对高风险活动为强制性；（ii）此外，如认定雇主承担责任，雇主可能被责令支付损害赔偿金，金额依据所受损害确定。然而，现行立法并未就该等赔偿金的计算提供客观标准，因此在很大程度上留由劳动主管机关裁量。
Finally, when occupational accidents or deaths occur, the competent authority is SUNAFIL (Superintendencia Nacional de Fiscalización Laboral), in coordination with the MTPE. The investigation may be extended depending on the complexity of the case, although in practice the procedures usually take several months. Likewise, with respect to the economic compensation, this will depend on the type of contingency: (i) the worker or his

beneficiaries have access to the economic and health benefits of EsSalud and, if applicable, to a policy of Complementary Insurance for Risky Work (SCTR), mandatory for risky activities; (ii) additionally, if the employer is found liable, he may be ordered to pay an indemnity for damages, the amount of which is calculated according to the damage suffered. However, our legislation does not provide objective criteria for the calculation of such indemnity, for which reason it is left to the discretion of the labor authority.

2. 特别保护
Special Protection

秘鲁对被视为劳动领域弱势的群体设有多项特别保护与积极性措施，尤以残障人士与妊娠劳动者为著。
In Peru, the legislation contemplates various special protections and affirmative measures in favor of groups considered vulnerable in the labor sphere, especially in the case of persons with disabilities and pregnant workers.

一方面，《第29973号法律》对残障人士设定了强制性用工配额：在私营部门，雇员人数超过五十人的公司必须至少安排3%的残障人士就业。另一方面，就怀孕雇员而言，法律禁止任何基于性别或母职（怀孕/生育）的歧视（宪法第2条第2款）。法律确认：产假为98天（第26644号法律）；禁止因怀孕或哺乳而解雇；并要求在拥有二十名以上育龄女性的工作场所设立机构性哺乳室（第29896号法律）。
On the one hand, Law No. 29973 establishes a mandatory hiring quota for people with disabilities, which amounts to 3% in the private sector for companies with more than fifty workers. On the other hand, with respect to pregnant workers, the law prohibits any form of discrimination based on sex or maternity (article 2, paragraph 2 of the Constitution). The right to maternity leave of 98 days (Law No. 26644), protection against dismissal due to pregnancy or breastfeeding, and the implementation of institutional lactation centers in workplaces with more than twenty women of childbearing age (Law No. 29896) are recognized.

VI. 个人信息与隐私
Personal Information and Privacy

1. 一般规定
General Rules

秘鲁以第 29733 号《个人数据保护法》及其经最高法令第 003-2013-JUS 号批准的细则保护员工个人数据。
In Peru, the protection of employees' personal data is regulated by Law No. 29733, Personal Data Protection Law (LPDP) and its Regulation approved by Supreme Decree No. 003-2013-JUS.

一般而言，处理个人数据须经数据权利人同意。例外的是，在招聘甄选（如姓名）、劳动合同履行与终止等 LPDP 第 14 条列举情形下，可无需取得同意。无论是否适用例外，雇主必须告知员工数据处理方式（LPDP 第 18 条），并限定于所陈述目的使用，同时确保比例性与保密性。此外，每一雇主均须在个人数据保护国家主管机关登记其个人数据库。

As a general rule, the processing of personal data requires the consent of the owner. Exceptionally, this will not be required when the processing is necessary for the selection process (for example, names and surnames), the execution of the employment relationship, its termination, among other exceptional cases provided for in article 14 of the LPDP. In any case, the employer is obliged to inform the employee about the way in which his data will be processed (art. 18 LPDP), limiting its use to the purposes communicated and ensuring proportionality and confidentiality criteria. In addition, each employer must register its personal data bank with the National Authority for the Protection of Personal Data.

员工享有并可对雇主主张访问、订正、取消与反对等权利（LPDP 第 21—25 条），雇主负有配合与回应之义务。

Additionally, workers have certain rights that the employer must respect and facilitate: access, rectification, cancellation and opposition, provided for in articles 21 to 25 of the LPDP.

2. 跨国传输
Transnational Transfer

适用与境内处理相同的合规要求；在数据的国际传书方面，依照 LPDP 第 11 条之“适当保护水平”原则，任何跨境流动须确保目的地的保护标准与秘鲁法等同，或至少达到了国际通行标准。

The requirements are the same as for the processing of personal data of an employee in Peru, with the precision that, in matters of international transfer of data, article 11 of the LPDP enshrines the principle of adequate level of protection, by which any transborder flow must guarantee standards of protection equivalent to those provided by Peruvian law or, at least, to international standards on the matter.

VII. 反歧视与反骚扰
Anti-Discrimination and Anti-Harassment

1. 一般规定
General Rules

在秘鲁，正如前文所述，反歧视的规范基础为《宪法》第 2 条第 2 款，该条保障法律面前人人平等，并禁止基于出身、种族、性别、语言、宗教、意见、经济状况或任何其他情形的区别对待。该项宪法命令通过具体规则得到细化，例如第 27942 号《性骚扰预防与惩治法》，就职场骚扰的调查与惩处设定程序；以及第 30709 号法

及其由最高法令第 002-2018-TR 号批准的实施细则，对男女同酬予以规制。同样，诸如国际劳工组织第 111 号公约等国际文书，也扩大了对就业与职业中一切形式歧视的保护范围。

In Peru, as we have previously explained, the prohibition of discrimination is based on Article 2, paragraph 2 of the Constitution, which guarantees equality before the law and prohibits any distinction based on origin, race, sex, language, religion, opinion, economic status or any other kind. This mandate is developed through specific rules, such as Law No. 27942, Law on Prevention and Punishment of Sexual Harassment, which establishes procedures for investigation and punishment in cases of workplace harassment, and Law No. 30709 together with its regulations approved by D.S. No. 002-2018-TR, which regulate equal pay for men and women. Likewise, international conventions such as ILO Convention No. 111 extend the scope of protection against any form of discrimination in employment and occupation.

在此框架下，雇主承担多项义务，包括：在甄选与录用过程中遵守平等对待，避免任何无正当理由的用工差别，并建立不带歧视性偏见的薪酬政策。此外，依据第 30709 号法，雇主必须设计并实施客观的薪酬制度，明确报酬与福利分配标准，并采取措施以消除男女薪酬差距。关于性骚扰，第 27942 号法要求设立性骚扰处置委员会或指定专责人员，确保调查过程保密且有效，并定期为员工开展预防与惩戒培训。

Within this framework, employers have multiple obligations. These include respecting equal treatment in the selection and hiring processes, avoiding any unjustified differentiation in employment, and establishing remuneration policies free of discriminatory bias. In addition, by virtue of Law No. 30709, they are obliged to design and implement objective salary policies, establish clear criteria for the allocation of remuneration and benefits, and adopt measures aimed at eliminating the salary gap between men and women. Regarding sexual harassment, Law No. 27942 requires having a Sexual Harassment Intervention Committee or a designated person in charge, guaranteeing confidential and effective investigation processes, and providing periodic training to personnel on prevention and sanctioning of harassment.

然而，这些义务在实践中的落实对雇主提出了重大挑战。其中较为复杂的一点是识别间接歧视，即表面中立的政策对特定劳动者群体造成不成比例的影响。另一项挑战是弥合结构性薪酬差距，其根源在于历史与文化偏见，短期内难以纠正。

However, the practical implementation of these obligations poses significant challenges for employers. One of the most complex is the identification of situations of indirect discrimination, in which apparently neutral policies have a disproportionate impact on certain groups of workers. Another challenge is closing the structural wage gap, which stems from historical and cultural biases that are difficult to correct in the short term.

同样，在性骚扰治理方面，主要障碍包括受害者对举报的恐惧、组织文化的宽纵，以及当加害者处于较高层级时带来的额外困难等。最后，多元与包容政策的推行往往面临文化阻力，尤其涉及 LGTBIQ+ 劳动者、年长劳动者或残障人士时更为突出。

Similarly, in the area of sexual harassment, some of the main obstacles are the victims' fear of reporting, the existence of permissive organizational cultures and the additional

difficulties when the aggressor occupies a higher hierarchical position, among others. Finally, the implementation of diversity and inclusion policies often faces cultural resistance, especially in relation to LGTBIQ+ workers, older adults or people with disabilities.

2. 保护特征
Protective Characteristics

在秘鲁，《政治宪法》第 2 条第 2 款保障平等权，禁止基于出身、种族、性别、语言、宗教、意见、经济状况或任何其他情形的歧视。该框架并由相关法规予以补充，例如第 26772 号法（禁止在招聘要约中歧视）与第 28983 号法（《男女机会平等法》）。特别是，秘鲁立法亦将工作场所的性骚扰视为一种特定的歧视形态加以规制：第 27942 号《性骚扰预防与惩治法》要求雇主建立预防、申诉与惩处机制，确保工作环境免于骚扰及基于性别或社会性别的歧视。

In Peru, Article 2, paragraph 2 of the Political Constitution guarantees the right to equality and prohibits discrimination based on origin, race, sex, language, religion, opinion, economic condition or any other kind. This framework is complemented by regulations such as Law No. 26772, which prohibits discrimination in job offers, and Law No. 28983, on equal opportunities between women and men. In particular, Peruvian legislation has also incorporated protection against sexual harassment in the workplace as a specific form of discrimination. Law No. 27942, Law for the Prevention and Punishment of Sexual Harassment, obliges employers to implement prevention, reporting and sanction mechanisms, guaranteeing a work environment free of harassment and discrimination based on sex or gender.

VIII. 内部政策
Internal Policies

1. 适用性
Applicability

在秘鲁，通过内部政策管理劳动关系是一种普遍做法，且在某些情形下具有强制性。雇主应具备的主要内部政策包括：内部劳动规章（RIT）（员工人数在 20 人及以上的企业必须制定），以及依据《男女机会平等法》设立的同酬政策。法规还要求实施工作场所性骚扰预防与惩治政策（第 27942 号法），该政策须包含举报/申诉程序及适用于所有组织的具体规定。

In Peru, the management of labor relations through internal policies is a common practice and, in some cases, mandatory. Among the main internal policies that an employer must have are the Internal Work Regulations (RIT), which are required in companies with 20 or more employees, and the equal pay policy, as provided for in the Law on Equal Opportunities for Women and Men. The regulations also require the implementation of a policy for the prevention and punishment of sexual harassment in the workplace (Law No.

27942), which must include reporting procedures and provisions applicable in all organizations.

上述政策具有普遍性，不加区分地适用于所有类别的劳动者，包括信任岗位人员与管理人员。
These policies are of a general nature and are applicable to all categories of workers, including trust and management personnel, without distinction.

2. 有效性
Validity

在秘鲁，企业内部政策的有效性不以劳动者同意为要件，但必须在人员加入组织时向全体员工予以告知。对于《内部劳动规章》，雇主须向每位员工送达一份文本，并向劳动部申请登记，随附该规章三份副本。
In Peru, the validity of a company's internal policies does not require the approval of the workers; however, it is mandatory that they be made known to all personnel at the time of their incorporation to the organization. In the case of the Internal Labor Regulations, the employer must deliver a copy to each worker and submit a request for registration before the Ministry of Labor, attaching three copies of the same.

另一方面，法规承认雇主得以单方变更劳动条件（无论属重要或非重要），但须符合理性标准并回应经营需要。例外系工作日与工时，对此须事先履行公司内部程序。无论如何，任何变更均应尊重劳动者的人格尊严与基本权利。
On the other hand, the regulation recognizes that the employer may introduce unilateral modifications to the working conditions, both essential and non-essential, as long as these are framed within a reasonable criteria and respond to the needs of the business. The exception is the working day and working hours, for which a prior internal company procedure is required. In any case, such modifications must respect the dignity and fundamental rights of the workers.

最后，就在秘鲁境内经营的外国公司分支机构而言，拟适用的内部政策必须作出与秘鲁劳动法规相适配的本地化调整，以确保其实施在国内法体系下具有有效性并与之相容。
Finally, in the case of branches of foreign companies operating in the national territory, the internal policies intended to be applied must be adapted to Peruvian labor regulations, so that their implementation is valid and compatible with the domestic legal system.

3. 举报
Whistleblowing

在秘鲁，并无专门的劳动法规定强制为企业合规设立内部监督/举报渠道。因此，各公司可依据其廉正与公司治理政策，自愿建立内部违规举报机制。
In Peru, there is no specific labor law that regulates the mandatory implementation of internal whistleblowing channels for corporate compliance. Therefore, it is up to each

company to establish, on a voluntary basis, its own internal mechanisms for reporting irregularities, in accordance with its integrity and good corporate governance policies.

在实践中，大型企业或涉外投资企业通常会将此类渠道纳入其刑事与反腐合规计划，并与第 30424 号法（法人行政责任法）相衔接。然而，脱离上述刑事预防框架，在私营劳动领域并不存在普遍的法律强制义务，是否设立此类渠道由各雇主自行规制。
In practice, larger companies or those linked to foreign investment usually adopt these channels as part of their criminal and anti-corruption compliance programs, aligned with Law No. 30424 on administrative liability of legal persons. However, outside this framework of criminal prevention, there is no general legal obligation in the private labor field, leaving the decision to the self-regulation of each employer.

IX. 交易
Transactions

1. 雇佣关系
Employment Relationship

在秘鲁，合并、收购或股权出售等公司交易并不消灭劳动关系，因此劳动合同继续有效，新雇主承继既有义务。对于单纯的股权出售，因雇主主体未发生变化，劳动关系亦不发生变更。
In Peru, corporate operations such as mergers, acquisitions or sales of shares do not extinguish labor relations, so employment contracts remain in force and the new employer assumes the existing obligations. In the case of a simple sale of shares, there is no alteration in the labor relationship, since the employer remains the same.

至于资产或“经济单位”的转让，则通常有两种选择：（i）员工先行解除劳动关系并结清其各项法定待遇，随后与受让方另行订立新合同；或（ii）由出让方雇主、受让方雇主与员工三方签署人员转移协议，在该安排下维持劳动关系的连续性，并承认其工龄与既有工作条件。
In the case of a transfer of assets or economic unit, there are two alternatives: (i) that the employee terminates and receives the liquidation of his benefits and then enters into a new contract, or (ii) that a tripartite personnel transfer agreement is formalized between the transferor employer, the transferee employer and the employee, whereby the continuity of the relationship is maintained and the seniority and working conditions are respected.

2. 补偿
Compensation

在秘鲁，并购、收购或股份/资产转让并不当然产生员工获得特殊补偿的法律权利。在此类情形下，劳动关系继续有效，新雇主承继既有义务。仅当因公司重组而导致部分员工被解雇（例如因职能重复或裁员）时，方应支付其法定待遇；若不存在正当事由，则还应支付任意解雇赔偿金。

In Peru, mergers, acquisitions or transfers of shares or assets do not legally generate the right of employees to receive special compensation. In these cases, the labor relationship remains in force and the new employer assumes the existing obligations. Only if as a result of the corporate reorganization some employees are dismissed -for example, due to duplication of functions or reduction of personnel- the payment of their social benefits will correspond and, if there is no just cause, the indemnity for arbitrary dismissal.

就股权出售而言，因雇主的法律实体并未变更，劳动关系不受影响，亦无向员工支付补偿之义务。类似地，在资产或经济单位转让中，若员工通过三方法人员转移协议继续为新雇主工作，则不发生补偿义务；仅在终止劳动关系时，依情形产生法定福利结清与离职补偿之权利。
In the case of the sale of shares, since the legal entity of the employer is not modified, the labor relationship is not affected and there is no obligation to compensate the employees. Likewise, in a transfer of assets or of an economic unit, if the employee continues working for the new employer through a tripartite agreement, no compensation is payable; only in the event of definitive termination will the right to liquidation and severance arise, as appropriate.

但在实践中，企业在大规模重组过程中，常会自愿提供自愿退休计划或补偿方案，作为促进精简人员的额外经济激励。此类措施系雇主的任意性给付，并非法律强制义务。
In practice, however, it is common for companies, within the framework of large-scale reorganization processes, to offer voluntary retirement plans or compensation packages as an additional economic incentive to facilitate the dismissal of excess personnel. Such measures constitute acts of liberality on the part of the employer and not a legal obligation.

X. 雇佣关系终止
Termination of Employment

1. 终止理由
Termination Grounds

在秘鲁制度下，已通过法定试用期且平均每日工作超过四小时的雇员，只能基于法律规定的正当理由被解雇（《私营劳动生产力与竞争力法》第二十二条）。
In the Peruvian system, a worker who has passed the legal probationary period and, on average, works more than four hours a day, may only be dismissed for just cause as provided by law (art. 22 LPCL).

根据相关规定，存在与雇员能力相关的解雇事由（《私营劳动生产力与竞争力法》第二十三条）。其中包括：（i）事后出现的不适任，但须满足：雇主已作出合理便利；尽管有该等便利，残障仍使雇员无法完成工作；不存在可供将雇员调岗的空缺岗位；且雇员能力受损须由社会保障医疗机构、卫生部或秘鲁医学协会医疗委员会予以证明；（ii）工作表现不佳，且须以在相似条件下从事同类工作的雇员平均

水平作为参照进行评估，并以可客观衡量为前提；以及（iii）无正当理由拒绝接受职业健康体检，包括不服从为预防疾病或事故而规定的预防性或治疗性措施。
According to the regulations, there are causes linked to the worker's capacity (art. 23 of the LPCL). Among them are: (i) supervening unfitness, provided that the employer has made reasonable accommodations, the disability prevents the development of tasks despite such accommodations, there is no vacant position to which to transfer the worker and the detriment of his or her faculties is certified by EsSalud, the Ministry of Health or the Medical Board of the Peruvian Medical Association; (ii) poor performance, which must be evaluated in relation to the average of workers performing the same work under similar conditions, provided that these are objectively measurable; and (iii) unjustified refusal to submit to occupational medical examinations, which includes disobedience to prophylactic or curative measures prescribed to prevent illnesses or accidents.

另一方面，与雇员行为相关的解雇事由（《私营劳动生产力与竞争力法》第二十四条）包括：（i）实施严重不当行为，即严重程度足以正当化解雇的行为义务违反；应注意，解雇应作为最后手段；（ii）因故意犯罪被判处刑事定罪——仅在判决生效且雇主知悉后方发生效力，但若雇主在雇用前已知悉该事实，则例外；以及（iii）雇员被取消任职资格，即因司法或行政制裁而无法继续履行其受雇从事的工作。
On the other hand, the causes related to the employee's conduct (Art. 24 LPCL) include: (i) the commission of serious misconduct, violations of duties of conduct whose seriousness may justify dismissal, it should be remembered that this measure is the last resort; (ii) the existence of a criminal conviction for an intentional crime, which only takes effect when the sentence has become final and is known by the employer, unless the employer was aware of the fact before the hiring; and (iii) the disqualification of the employee, derived from a judicial or administrative sanction that makes it impossible to perform the work for which he/she was hired.

需要指出的是，《私营劳动生产力与竞争力法》第二十五条所界定的严重不当行为包括：（a）不履行工作义务并构成对劳动诚信原则的违反；就与工作有关的指令反复抗命；反复无故中止工作；以及不遵守《内部工作规章》或《安全与工业卫生规章》；（b）故意且反复降低工作绩效，或降低产量/质量；（c）已遂或未遂侵占雇主的财物或服务，或侵占其受托保管之财物或服务，以及为自己或第三人利益而不当扣留或使用之，不论价值大小；（d）使用或向第三人提供雇主的保密信息；未经授权窃取或使用公司文件；为造成损害或获取利益而向雇主提供虚假信息；以及不正当竞争；（e）反复在醉酒状态或受毒品/麻醉品影响的状态下出勤；即使不反复，但因岗位性质或工作内容而特别严重的；（f）对雇主、其代表、管理层人员或其他雇员实施暴力、严重违纪、侮辱以及口头或书面不当行为——无论发生在工作场所内外，只要该事实直接源于劳动关系；（g）故意损坏公司所有或占有的建筑物、设施、工程、机器、工具、文件、原材料及其他财物；（h）连续三日以上擅自离岗；在三十个日历日内无正当理由缺勤超过五日，或在一百八十个日历日内无正当理由缺勤超过十五日；以及反复不守时——但须以雇主已提出指控且此前已施加书面警告与停职等纪律处分为前提；（i）由雇主代表或对雇员行使职权者

实施的性骚扰，以及由雇员实施的性骚扰——无论受害者在工作场所等级结构中的位置如何。
It should be noted that serious misconduct, as defined in Art. 25 of the LPCL, are the following: (a) failure to comply with work obligations involving the breach of good labor faith, repeated resistance to orders related to work, repeated untimely stoppage of work and failure to comply with the Internal Work Regulations or the Safety and Industrial Hygiene Regulations; (b) the deliberate and repeated decrease in work performance or in the volume or quality of production; (c) the consummated or frustrated appropriation of the employer's goods or services or those in its custody, as well as the improper retention or use thereof, for its own benefit or that of third parties, regardless of their value; (d) the use or delivery to third parties of information reserved to the employer; the unauthorized theft or use of company documents; false information to the employer with the intention of causing harm or obtaining an advantage; and unfair competition; (e) repeated attendance in a state of drunkenness or under the influence of drugs or narcotic substances, and even if not repeated, when by the nature of the function or work it is exceptionally serious; (f) acts of violence, serious indiscipline, insult and verbal or written misconduct against the employer, its representatives, hierarchical personnel or other workers, whether committed inside or outside the work center when the facts derive directly from the labor relationship; (g) intentional damage to buildings, installations, works, machinery, instruments, documentation, raw materials and other goods owned or possessed by the company; (h) abandonment of work for more than three consecutive days, unjustified absences for more than five days in a period of thirty calendar days or more than fifteen days in a period of one hundred and eighty calendar days, whether or not disciplinary sanctions have been applied in each case, repeated unpunctuality, if it has been accused by the employer, provided that previous disciplinary sanctions of written warnings and suspensions have been applied; and (i) sexual harassment committed by the employer's representatives or whoever exercises authority over the employee, as well as that committed by an employee regardless of the location of the victim of the harassment in the hierarchical structure of the work center.

因此，秘鲁法要求：凡由雇主单方决定终止雇佣关系，必须以已被证明的法定理由作为充分依据，从而尊重并落实法律赋予雇员的就业稳定保障。
In this sense, Peruvian law requires that any termination of the employment relationship by unilateral decision of the employer be duly supported by a legal and proven cause, thus respecting the guarantee of employment stability recognized to the worker.

2. 终止程序
Termination Procedure

在秘鲁法律体系下，终止劳动关系的程序要求在解雇前遵守法律所定的通知与答辩期限。因此：在行为过失导致的解雇中，雇主必须书面给予劳动者不少于 6 个日历日的合理期限，以行使其申辩权（LPCL 第 31 条）。在能力因素导致的解雇中，雇主必须给予不少于 30 个日历日的合理期限，以便劳动者证明其能力或改正不足。上述期限不得省略，亦不得以支付代通知金替代，否则与法律相悖。

In the Peruvian system, the procedure for termination of the employment relationship requires that, prior to dismissal, the notice periods provided by law must be respected. Thus, in cases of dismissal for misconduct, the employer must grant in writing a reasonable period of not less than six calendar days for the employee to exercise his or her right of defense (art. 31 LPCL). In cases of dismissal based on ability, the employer must grant a reasonable term of no less than thirty calendar days for the employee to demonstrate his ability or correct the deficiency. These deadlines cannot be omitted or replaced by compensation, as this would be contrary to the law.

例外的是，于显而易见且严重的重大过失情形，雇主可即时、不经预告实施解雇。此种情形系指明显且经证实、不容辩解，且其严重性足以使劳动关系之继续不具可行性的行为。即便如此，实践与判例通常建议：仍应通过书面程序妥为举证，并允许劳动者作出回应。

Exceptionally, dismissal may be executed immediately and without notice in cases of flagrant gross misconduct, understood as evident and proven conduct that does not admit of justification and whose seriousness makes the permanence of the employment relationship unviable. Even so, in practice and in accordance with case law, it is recommended that the misconduct be duly proven through the written procedure and allowing the employee the right of response.

应予注意的是，就个别解雇而言，无须取得行政机关授权，亦无须第三方同意。同时，秘鲁法承认一独特制度：即对信任岗位与管理人员适用的“信任撤回”，须依 LPCL 第 43 条之规定妥当认定。在该等情形中，书面通知失去信任已属充分，无需援引正当理由，亦无须遵循通常的纪律程序。其有效性取决于岗位是否符合法定标准，例如（信任岗位）（i）与雇主或管理层直接且个人接触、（ii）可接触机密信息、（iii）参与或就重大决策提供意见/建议；又如（管理人员）须能证明其（i）对其他员工或第三人代表雇主行使一般代表权，或得以代理雇主，或与雇主共同承担管理与控制职能；及/或（ii）企业经营结果取决于其职务活动与责任程度。

It should be noted that in the case of individual dismissal, neither the authorization of an administrative authority nor the consent of third parties is required. Likewise, the Peruvian legal system recognizes a particular figure: the withdrawal of trust, applicable to trust and management personnel, duly qualified in accordance with Article 43 of the LPCL. In these cases, the written communication of the loss of trust is sufficient, without the need to invoke a just cause or follow the ordinary disciplinary procedure. For its validity, in the case of workers of trust, it is indispensable that the position held complies with the legal criteria, such as (i) direct contact with the employer or management personnel, (ii) access to confidential information and (iii) participation or advice in relevant decision making. Likewise, in the case of management employees, it must be proven that the employee (i) exercises the general representation of the employer before other employees or third parties, or that he/she substitutes him/her, or that he/she shares management and control functions with them; and/or that (ii) the result of the business activity depends on the activity and degree of responsibility of the employee.

3. 终止保护事由

Termination Protection

根据秘鲁法，特定劳动者群体享有终止劳动关系方面的特别保护。首先，妊娠及哺乳期女工享有强化保障：立法规定，凡因怀孕、分娩及其后果或哺乳而作出的解雇或不续签合同均属无效；该保护适用于妊娠期间任一时点以及产后九十（90）日内（LPCL 第 29 条）。
Under Peruvian law, certain groups of workers have special protection against termination of employment. In the first place, pregnant and breastfeeding workers are covered by a reinforced guarantee, since the legislation establishes the nullity of the dismissal or the non-renewal of the contract due to pregnancy, birth and its consequences or breastfeeding, provided that they occur at any time during the gestation period or within ninety (90) days after childbirth (art. 29 LPCL).

其次，工会领导人与代表享有所谓的工会特权，在未经充分证明的正当理由情况下，禁止对其解雇或对其工作条件作实质性变更。该保护适用于但不限于：工会、联合会与总联合会的理事会成员；工会分部代表；领导职位候选人；谈判委员会成员；以及参与工会登记程序的劳动者（LRCT 第 30、31 条）。
Secondly, union leaders and representatives enjoy the so-called union privilege, which prevents their dismissal or substantial modification of working conditions without a duly proven just cause. This protection extends, among others, to members of the board of directors of unions, federations and confederations; to delegates of union sections; to candidates for leadership; to members of negotiating committees and to workers involved in union registration processes (arts. 30 and 31 LRCT).

最后，亦承认基于歧视理由的解雇保护，其中包括但不限于：残障、政治隶属、宗教，或宪法与法律所禁止的任何其他情形。
Finally, protection against dismissal for discriminatory reasons is also recognized, which includes, among others, disability, political affiliation, religion or any other circumstance prohibited by the Constitution and the law.

4. 遣散费与补偿金
Severance and Compensation

在秘鲁，劳动立法区分两类任意解雇补偿，取决于合同为不定期限或固定期限。对不定期限合同，补偿金相当于每满一整年服务期支付一个半月的报酬，最高不超过十二个月的报酬；如存在不足一年的期间，则按十二分之一与三十分之一进行折算结算（LPCL 第 38 条）。
In Peru, labor legislation distinguishes between two types of compensation for arbitrary dismissal, depending on whether the contract is for an indefinite term or a fixed-term contract. In the case of indeterminate term contracts, the indemnity is equivalent to one and a half monthly remuneration for each full year of service, with a maximum limit of twelve remunerations, liquidated in twelfths and thirtieths in case of fraction of a year (article 38 LPCL).

对固定期限合同，补偿金按自解雇之日起至合同届满日之间每一剩余月份计付一个半月的报酬计算，亦以十二个月报酬为上限（LPCL 第 76 条）。
In the case of fixed-term contracts, the indemnity is calculated on the basis of one and a half remuneration for each month pending until the expiration date of the contract, also with a maximum limit of twelve remunerations (art. 76 LPCL).

在两种情形中，该等补偿具有补偿性与定额化性质，意味着其取代任何因无正当理由终止所产生的其他赔偿请求。
In both cases, the compensation has a compensatory and tariffed nature, which implies that it replaces any other indemnity claim derived from the unjustified termination.

5. 不当解除
Wrongful Termination

现行立法将解雇区分为两类：（i）无效解雇与（ii）任意解雇。其中，无效解雇以列举式方式规定，主要包括：（i）反工会行为；（ii）因劳动者对雇主提起申诉或行政程序而报复；（iii）基于法律所禁止之事由的歧视；以及（iv）怀孕、分娩及其后果或哺乳（LPCL 第 29 条）。同时，任意解雇亦受规范，系指未载明理由、未遵守解雇程序或无法在诉讼中证明正当理由的解雇。
The legislation has typified two types of dismissals that are regulated in our legal system: (i) null dismissal and (ii) arbitrary dismissal. Null dismissal is regulated in a closed list, which can be grouped in the following reasons: (i) anti-union; (ii) retaliation to the filing of a complaint or administrative proceeding against the employer; (iii) discrimination based on prohibited grounds; and (iv) pregnancy, childbirth and its consequences or breastfeeding (art. 29 LPCL). Likewise, arbitrary dismissal is also regulated, which is carried out without a cause having been expressed, the dismissal procedure is not complied with or the just cause cannot be demonstrated in court.

其后，经判例发展又确立两类解雇：（i）无正当理由解雇与（ii）欺诈性解雇。前者顾名思义，系无任何理由之解雇；后者则指带有恶意且以欺骗为手段的解雇，例如归责于显然不存在、虚假或想象的事实，或以故意瑕疵终止劳动关系。
Subsequently, two types of dismissals were developed through case law: (i) unjustified dismissal and (ii) fraudulent dismissal. In the case of unfair dismissal, it has been determined that it occurs when there is a dismissal without a cause, as its name implies. In the case of fraudulent dismissal, this occurs when the dismissal is made with a perverse intention and under the auspices of deceit, when facts that are notoriously non-existent, false or imaginary are imputed, or when the relationship is terminated with willful defects.

在上述解雇类型下，雇员可通过国内立法与判例所承认的恢复原状或补偿性保护机制获得救济。该等救济旨在确保劳动稳定原则以及禁止无正当理由解雇原则获得切实尊重。
Under these types of dismissal, workers are protected through restitutionary or compensatory protection mechanisms recognized by national legislation and jurisprudence.

These remedies seek to guarantee respect for the principle of labor stability and the prohibition of unjustified dismissal.

在上述类型之下，国家立法与判例承认以恢复性或补偿性方式保护劳动者的救济机制，旨在保障劳动稳定原则并禁止不当解雇。相应后果概述如下：
Along these lines, the consequences of unjustified dismissal vary depending on the classification given to the dismissal, thus the consequences for each type of dismissal are as follows:

无效解雇 Null and Void Dismissal	无正当理由解雇 Unjustified dismissal	欺诈性解雇 Fraudulent dismissal	任意解雇 Arbitrary dismissal
复职并支付应计待遇 Reinstatement and payment of accrued compensation	复职或赔偿金（二择一） Reinstatement or indemnity	复职或赔偿金（二择一） Reinstatement or indemnity	赔偿金 Indemnification

关于因信任撤回而实施的解雇，最高法院判例作出区分：若员工自始受聘于信任/管理岗位（“纯粹信任”员工），雇主可终止劳动关系，无需复职或赔偿；反之，若员工起初在普通岗位，其后升任信任岗位（“混合信任”员工），则其保有回到原岗位的权利；若雇主阻却其回岗，员工有权获得任意解雇赔偿金。
Regarding dismissal due to withdrawal of trust, the jurisprudence of the Supreme Court has established a distinction. If the employee was hired from the beginning in a position of trust or management ("exclusive" worker of trust), the employer may proceed to terminate his employment without the need for reinstatement or indemnification. On the other hand, if the employee started in an ordinary position and was subsequently promoted to a position of trust ("mixed" trust employee), he/she retains the right to return to his/her original position. If the employer prevents such return, he is entitled to the payment of compensation for arbitrary dismissal.

最后，就审判实践而言，经验显示法官可能倾向采纳对劳动者更为有利的标准。这是因为秘鲁劳动法所遵循的保护原则以及宪法在劳动关系中对基本权利有效保护的解释取向。
Finally, as regards judicial practice, experience shows that judges might be inclined to adopt criteria more favorable to workers, by virtue of the protective principle that inspires Peruvian labor law and the constitutional interpretation that privileges the effective protection of fundamental rights in labor relations.

6. 大规模裁员
Mass termination and Layoffs

在秘鲁，立法就劳动合同的集体终止作出特别规定，载于 LPCL 第 46 条。该等情形系基于客观原因，因此不赋予劳动者获得任何赔偿金的权利。具体包括：(i) 不

可抗力或天灾导致工作场所消失；(ii) 公司资产重组；(iii) 公司解散、清算或破产；(iv) 经济、技术、结构性或类似原因。
In Peru, the legislation contemplates specific cases of collective termination of employment contracts, regulated in Article 46 of the LPCL. These do not generate in the workers the right to receive any indemnity, since they respond to objective causes. Such cases are: (i) an act of God or force majeure that entails the disappearance of the work center; (ii) the restructuring of the company's assets; (iii) the dissolution, liquidation or bankruptcy of the company; and (iv) economic, technological, structural or similar reasons.

在前述前三种情形中，只要能够核实工作场所的消失，或符合法律（如《公司总法》与《破产制度法》）所规定的条件，通常会认可集体终止。惟在实践中，与经济或结构性原因相关的情形更为棘手，因劳动行政机关往往倾向于否决此类申请。
In the first three cases, collective extinction is usually accepted provided that the disappearance of the work center is verified or the conditions set forth in the General Companies Law and in the Insolvency System Law are complied with. However, in practice, the cause linked to economic or structural reasons presents greater difficulties, since the labor administrative authority tends to systematically reject this type of request.

应当注意，集体解雇须事先获得劳动行政机关批准，由其审查所主张的客观原因是否成立，且该措施须影响至少在册员工总数的 10%。
It should be noted that collective dismissals require the prior approval of the administrative labor authority, which evaluates the concurrence of the alleged objective reasons and, in addition, that the measure affects at least 10% of the total payroll.

最后，因不可抗力、天灾或经济、技术、结构性原因被解雇的劳动者，保有优先复岗权：若雇主在解雇后一年内决定直接或通过第三方补充相同或类似岗位人员，则该等劳动者享有优先被重新雇用之权利（LPCL 第 52 条）。
Finally, workers dismissed due to force majeure, acts of God or economic, technological or structural reasons retain the right of preference for their reinstatement in case the employer, within one year after the dismissal, decides to hire new personnel directly or through third parties to occupy the same or similar positions (art. 52 LPCL).

XI. 保密、竞业限制和禁止招揽
Confidentiality, Non-Compete, and Non-Solicitation

1. 保密
Confidentiality

在秘鲁，签订保密协议并非强制，但它是劳动合同中最常见的约定之一。保密义务虽未在本国法律体系中明文规定，但系由工作场所之诚信义务派生。
In Peru, it is not mandatory to sign confidentiality agreements, although they are one of the most common covenants in employment contracts. The duty of confidentiality is not expressly regulated in our legal system, but it is derived from the duties of good faith in the workplace.

因此，即便无明示约定，劳动者亦负有保密义务。不过，从实务看，建议就因职务性质接触敏感信息之员工，以专项协议将该义务书面化。适用对象并不限于特定群体；但保密义务应与员工的层级与专业程度相称：层级/专业性越高，保密义务越强。
Thus, even without an express agreement, the employee assumes the obligation to keep confidentiality. However, in practice it is advisable for this duty to be formalized by means of specific agreements addressed to those workers who, by the nature of their duties, handle sensitive information. There is no specific group of workers to which the application of these agreements is limited; however, the duty of confidentiality must be proportional to the hierarchy of the worker: the higher the level or specialization, the greater the duty of confidentiality.

2. 竞业限制和禁止招揽
Non-Compete and Non-Solicitation

在秘鲁，竞业限制并无明文法定，因此如同保密协议，必须通过明示协议予以设定。此类条款多见于接触保密资料或特定生产技术的专业人才，目的在防止竞争对手不当利用企业所传授之转有知识，但其适用并不局限于此类人员。
In Peru, non-competition covenants are not expressly regulated, which is why they must necessarily be formalized by express agreement, as is the case with confidentiality agreements. This type of clauses are more common in relation to specialized workers who have access to reserved information or particular production techniques, since their purpose is to prevent a competitor from obtaining undue advantages from the know-how transmitted by the company; however, it is not restricted only to them.

其适用范围应始终合理且与职位性质、战略信息接触程度相称。同样地，如发生违约，双方得约定损害赔偿。但须注意，本国法律体系禁止对劳动者处以直接的金钱性惩罚。
The scope of application must always be reasonable and proportional to the nature of the position and the level of access to strategic information. Likewise, in the event of breach, the parties may agree on compensation for damages, bearing in mind that the legal system proscribes the imposition of direct pecuniary sanctions on the employee.

综上，关于此类约定并无统一规则。在每一具体个案中，必须依据所任职能之性质与劳动者接触敏感信息之程度，对其比例性与合理性作出评估。
Consequently, there is no general rule on the application of these covenants, being indispensable that in each case their proportionality and reasonableness be evaluated, depending on the nature of the functions performed and the degree of sensitive information to which the employee had access.

XII. 员工代表与工会
Work Representation and Trade Unions

1. 员工代表
Work Representation

在秘鲁，劳动立法规定有义务在工作场所设立特定的劳动者代表机构，劳动者通过这些机构以制度化方式参与涉及其福祉的相关事务管理。首先，第 29783 号《职业安全与健康法》及其由最高法令第 005-2012-TR 号批准的细则规定：员工达到二十人及以上的企业必须设立职业安全与健康委员会；不足二十人的企业须指定一名 OSH 监督员。该委员会由雇主与劳动者代表构成，其劳动者代表通过民主程序选举产生，且管理层与信任岗位人员不参与该选举。

In Peru, labor legislation contemplates the obligation to constitute certain labor representation bodies in the workplace, through which workers participate in an institutional manner in the management of issues relevant to their welfare. First, Law No. 29783, Occupational Safety and Health Law, and its regulation approved by D.S. No. 005-2012-TR, establish that companies with twenty or more workers must form an Occupational Safety and Health Committee (OSH), while those with less than twenty workers must appoint an OSH supervisor. This committee is made up of representatives of employers and workers, who are elected through a democratic procedure in which neither management nor trust personnel participate.

其次，第 27942 号《性骚扰预防与惩治法》及其由最高法令第 014-2019-MIMP 号批准的细则要求设立性骚扰处置委员会，该委员会由雇主与劳动者代表组成，负责受理、处理并裁处与此类行为相关的内部申诉。应当指出，为简化任命程序，该委员会的劳动者代表选举可以与职业安全与健康委员会成员选举一并进行。

Secondly, Law No. 27942, Law for the Prevention and Punishment of Sexual Harassment, and its regulation approved by D.S. No. 014-2019-MIMP, provide for the creation of a Sexual Harassment Intervention Committee, made up of representatives of the employer and workers, in charge of receiving, processing and resolving internal complaints related to this type of conduct. It should be noted that the election of workers' representatives to this committee may be carried out in conjunction with the election of the members of the OSH Committee, in order to simplify the appointment procedure.

总体而言，劳动者代表的核心职能是积极参与上述委员会，并履行法规所指派的职责，涉及职业安全与健康，或性骚扰的调查与惩处等事项。立法要求其参与，以在合议机构的组成中保障平衡，确保在所作决定中充分考虑劳动者利益。

In general, the essential function of workers' representatives is to actively participate in these committees and to comply with the responsibilities assigned to them by the regulations, in matters such as occupational safety and health, or in the investigation and punishment of sexual harassment. The legislation requires their participation as a guarantee of balance in the composition of the collegiate bodies, ensuring that the interests of the workers are duly considered in the decisions adopted.

最后，应注意，除上述强制性委员会外，工会构成秘鲁劳动立法所承认的另一种集体代表形式。其存在取决于劳动者的意愿。但一经成立，即享有集体谈判权与劳动权利维护职能，从而对法律所提供的制度性参与机制形成补充。

Finally, it is important to note that, together with these mandatory committees, unions constitute another form of collective representation recognized by Peruvian labor legislation. Their existence depends on the will of the workers, but, once constituted, they have collective bargaining and labor rights defense powers, thus complementing the institutional mechanisms of participation provided by law.

2. 工会
Trade Unions

在秘鲁，立法依最高法令第 010-2003-TR 号第 5 条与最高法令第 011-92-TR 号第 4 条承认多种工会组织形式。主要包括：(i) 企业工会（同一雇主之劳动者）；(ii) 活动工会/行业工会（同一产业门类中不同企业之劳动者）；(iii) 行会工会（同一职业但隶属不同企业之劳动者）；(iv) 杂业工会（不同职业、不同雇主之劳动者）；(v) 企业集团工会（同属一个企业集团时）；(vi) 产业链工会（不同专长、不同企业，但纳入同一生产链）。此外，规范亦承认劳动者认为适当之其他任何组织形式。
In Peru, legislation recognizes various forms of union organization, as provided for in Article 5 of Supreme Decree. No. 010-2003-TR and Article 4 of Supreme Decree. No. 011-92-TR. Thus, the main forms of unions are: (i) company unions (workers of the same employer); (ii) activity unions (workers of different companies of the same branch of activity); (iii) guild unions (workers of the same profession, but of different companies); (iv) various trades unions (workers of different professions and employers); (v) group of companies (when they belong to the same conglomerate); and (vi) productive chain unions (different specialties, different companies, but integrated in the same productive chain). Inclusively, the norm admits any other organizational form that the workers deem convenient.

依此体系，宪法第 28 条将结社自由、集体谈判与罢工确认为劳动者之基本权利。在该框架下，工会享有的权能包括：自由加入或退出（最高法令第 010-2003-TR 号第 2 条）；工会特权（同令第 30 条），即在无充分证明之正当理由时，保护其领导人免遭解雇或调动；以及每年最多三十个日历日之工会假以参加强制性工会活动（同令第 32 条）。工会并享有集体谈判权（企业自经营第一年起须进入集体谈判程序）与依法行使罢工权作为合法施压手段。
Along the same lines, Article 28 of the Constitution recognizes freedom of association, collective bargaining and strike as fundamental rights of workers. Within this framework, unions enjoy powers such as freedom of affiliation or disaffiliation (art. 2 Supreme Decree No. 010-2003-TR), union privilege (art. 30 Supreme Decree. No. 010-2003-TR), which protects leaders against dismissal or transfer without cause, and the right to union leave of up to thirty calendar days per year to participate in mandatory union activities (art. 32 Supreme Decree No. 010-2003-TR). They also have the right to collective bargaining, which is mandatory for the company from the first year of activity, and to exercise the right to strike as a legitimate means of pressure.

关于具备集体谈判资格之工会的确定：多数工会——即吸纳超过全体劳动者绝对多数之工会——对全体劳动者具有代表性，包括非会员。若存在若干少数工会，则在

其合计超过“50%+1”的情形下，可共同代表全体劳动者；若未达“50%+1”，则各工会仅代表其本会会员。
Regarding the determination of the union qualified to bargain collectively, the majority union -that which affiliates the absolute majority of the workers- assumes the representation of all workers, including non-affiliated workers. If there are several minority unions, they may jointly represent all workers if together they exceed 50% plus one; if they do not reach 50% plus one, each union will only represent its affiliates.

就工会实践而言，秘鲁存在如秘鲁工人总联合会、统一工人中央、秘鲁工人联合会、秘鲁工人自治联合会等组织，以及如电力行业的 SUEECEA 等部门性组织。在采矿、建筑、能源、电信等战略性行业，集体谈判协议较为普遍，其中以《土木建筑行业集体谈判协议》较具代表性，该协议在全国层面确立最低工作条件与报酬。
With respect to union practice, in Peru there are unions such as the General Confederation of Peruvian Workers (CGTP), the Central Unitary Workers' Union (CUT), the Confederation of Peruvian Workers (CTP), the Autonomous Confederation of Peruvian Workers (CATP) and sectoral organizations such as SUEECEA in the electricity sector. In strategic sectors such as mining, construction, energy and telecommunications, collective bargaining agreements are common, with the Civil Construction Collective Bargaining Agreement, which establishes minimum working conditions and remuneration at the national level, being emblematic.

最后，为妥善处理工会关系，雇主宜采纳若干良好实践：如促进常态化社会对话；严格尊重结社自由，避免任何歧视或反工会干预（属重大违法，受 SUNAFIL 国家劳动监察总局监察），并为管理层提供集体谈判培训，在劳动冲突高发行业倡导共识导向的解决路径。通过上述方式，秘鲁工会法制旨在平衡劳动者集体权利的保障与企业劳动关系的稳定性。
Finally, for an adequate management of union relations, employers should adopt certain good practices, such as promoting permanent social dialogue, strictly respecting freedom of association and avoiding any act of discrimination or anti-union interference, which constitutes a very serious infraction subject to inspection by SUNAFIL. It is also advisable to provide training in collective bargaining and to favor consensus-based approaches in sectors with high labor conflicts. In this way, the Peruvian labor union framework seeks to balance the protection of workers' collective rights with the stability of labor relations in companies.

XIII. 争议解决
Dispute Resolution

1. 程序与执行
Procedures & Enforcement

在秘鲁，并无单一且强制适用的劳动争议解决程序。通常，劳动者可在两种路径中择一：向 SUNAFIL（国家劳动监察总局）提出投诉（可能引发对雇主的检查与行政处罚），或向司法机关提起诉讼。

In Peru there is no single mandatory procedure for the resolution of labor disputes. Generally, the worker can choose between filing a complaint before SUNAFIL, which may result in an inspection and sanctions to the employer, or filing a lawsuit before the Judiciary.

另一方面，提起劳动诉讼的期间依请求类型而异：就解雇、将岗位错误认定为信任或管理职位、或请求停止不友善行为等，劳动者有 30 日起诉期限；就社会福利给付或源自劳动关系的各项义务之请求，则适用一般 4 年诉讼时效，自相关劳动义务可执行之日起计算。

On the other hand, in Peru the time periods for filing labor lawsuits vary according to the type of claim: to challenge the dismissal or the improper classification of the position as one of trust or management, or to claim the cessation of acts of hostility, the employee has a term of 30 days to sue, while to claim the payment of social benefits or obligations derived from the labor relationship, the general statute of limitations period of 4 years applies, counted from the termination of the labor relationship obligation is enforceable.

同样，在劳动司法程序中，可申请先行（预防性）措施，并补充适用《民事诉讼法典》。例如，在无效解雇情形，可声请临时复职。因此，虽无事前强制程序，现行体系仍提供有效之劳动权利救济机制。

Likewise, it is possible to request precautionary measures within the labor judicial process, with the supplementary application of the Code of Civil Procedure. These may consist of provisional reinstatement in cases of null dismissal, for example. Thus, although there is no prior mandatory procedure, the system provides effective mechanisms for the protection of labor rights.

2. 放弃权利与执行
Waiver & Enforcement

在秘鲁，适用劳动权利不可放弃原则（宪法第 26 条）。该原则规定，劳动者不得放弃法律所承认之最低权利，例如最低工资、法定奖金、服务年限补偿金、带薪年休假、社会保险缴费等。因而，任何提前放弃此等利益之协议无效。

In Peru, the principle of non-waivability of labor rights, recognized in Article 26 of the Constitution, applies. This principle establishes that workers cannot waive the minimum rights recognized by law, such as minimum remuneration, bonuses, compensation for time of service, vacations, social security contributions, among others. Consequently, any agreement that implies the early waiver of such benefits is null and void.

然而，法律允许在发生争议或潜在请求时，当事人订立司法或非司法的和解（交易）契约（《民法典》第 1302 条）。通过此机制，劳动者与雇主就既存或可能发生之争议达成合意，并在特定请求上相互让步。此举并非违法放弃，因其不损及不可放弃权利之本质，而系就其实现或清偿方式由双方协商确定。

However, the law does allow that, in the event of a conflict or possible claim, the parties may enter into a judicial or extrajudicial transaction, regulated in article 1302 of the Civil Code. Through this mechanism, the employee and the employer agree to put an end to an actual or potential controversy, giving in reciprocally on certain claims. This does not constitute an illegal waiver, since the essence of the unwaivable rights is not affected, but rather the manner of enforcing or settling them is defined by consensus.

综上，一般规则为：最低劳动权利不可放弃；但非诉或诉讼中的和解，只要涉及可处分之权利且遵守法律所要求之合理性与合法性界限，即为劳动者与雇主有效解决潜在请求的途径。
Thus, the general rule is that the minimum labor rights cannot be waived, while the extrajudicial or judicial transaction is a valid way for the employee and the employer to settle possible claims, provided that it refers to available rights and that the agreement respects the limits of reasonableness and legality provided for in the law.

XIV. 其他
Others

1. 最新发展与趋势
Latest Development & Trends

在秘鲁，当前最受关注的发展之一是《劳动法典（草案）》的讨论，其目的在于统一并现代化劳动立法，将目前分散在多部规范中的制度加以整合。
In Peru, one of the most relevant developments is the discussion around the draft Labor Code, which seeks to unify and modernize labor legislation, unifying figures that are currently scattered in a number of different norms.

与此同时，关于心理健康、心理—社会与工效学风险以及躯体化疾病的规制兴趣不断上升，并与 ILO 职业安全与健康标准保持一致；上述要素正逐步纳入企业内部政策并成为 SUNAFIL 监督的内容。
In parallel, there is a growing interest in the regulation of mental health, psychosocial and ergonomic risks, as well as somatized diseases, in line with ILO standards on occupational safety and health. These aspects are being progressively incorporated into company policies and SUNAFIL's supervision.

另一项变革轴心是远程工作，由第 31572 号法及其细则（最高法令第 002-2023-TR 号）加以规制，引入了费用补偿与数字断联等权利，且此类事项目前正受到愈加严格的监管。同样，自第 30709 号法实施以来，性别平等与缩小薪酬差距的重要性显著提升，该法要求落实客观且可核查的薪酬政策。
Another axis of change is teleworking, regulated by Law No. 31572 and its regulation (D.S. No. 002-2023-TR), which introduces rights such as compensation of expenses and digital disconnection, aspects that are today under increasing supervision. Likewise, gender

equality and the reduction of the salary gap have gained prominence since Law No. 30709, which requires the implementation of objective and verifiable salary policies.

最后，在司法领域，宪法法院、最高法院与各上诉法院呈现出强化劳动者保护的倾向。此一走向迫使企业在劳动关系管理上采取更高程度的谨慎，并在遵守现行法规方面尤须严格，以避免法律风险。
Finally, in the judicial sphere, there is a tendency of the Constitutional Court, the Supreme Court and the Superior Courts of Justice to reinforce the protection of workers. This orientation forces companies to adopt greater precautions in the management of labor relations, being especially rigorous in complying with the regulations in force in order to avoid legal contingencies.

2. 文化与宗教考虑
Cultural and Religious Considerations

在秘鲁，国际投资者应当注意该国为多元文化且多样性社会，沿海—高原—雨林各区域的劳动实践存在差异。与天主教传统相关的宗教节日（如复活节、圣体节、圣诞节）具有高度社会重要性，通常严格遵守，建议予以尊重。尽管西班牙语为主，但在部分偏远地区通行克丘亚语或其他本土语言，可能需要调整劳动沟通。最后，劳动者重视信任、直率交流以及对其宗教信仰的尊重，因此文化敏感性是维系和谐劳动关系的关键。
In Peru, international investors should consider that it is a multicultural and diverse country, with labor practices that vary between the coast, highlands and jungle. Holidays linked to religious festivities of Catholic tradition (such as Easter, Corpus Christi or Christmas) have great social relevance and are usually strictly observed, so it is advisable to respect their observance. Likewise, although Spanish is the predominant language, in some remote regions of the country Quechua or other native languages are spoken, which may require adjustments in labor communication. Finally, workers value trust, directness and respect for their religious beliefs, so cultural sensitivity is key to maintaining harmonious labor relations.