

General Terms and Conditions mitPlan Organisationsentwicklung

1. General

These General Terms and Conditions (GTC) govern the conclusion, content and processing of a service agreement (hereinafter referred to as Agreement) between mitPlan GmbH, Kühweidstrasse 9, CH-8630 Rüti (hereinafter referred to as mitPlan) and the Client.

Any divergent or additional conditions shall only apply if arranged in writing and signed by both (or all) contracting parties. Any written arrangements at variance to the GTC take precedence over the latter.

These GTC shall also remain valid for any future advisory and service agreements. The GTC applicable can be accessed on the mitPlan website. The Client shall be informed of any changes to the existing GTC by an email sent to the email address they have specified. Such changes are considered to be approved if no written objection is made by the Client within 10 working days of the dispatch of the email.

2. Entering into force of the Agreement

When the Client provides mitPlan with an assignment, the Agreement takes effect upon confirmation of the assignment by mitPlan or upon direct execution of the assignment by mitPlan.

3. Type and scope of services

As a rule, mitPlan provides (advisory) services in which the Client receives advice and support.

The scope of mitPlan's services is specified in the offer and/or mitPlan's confirmation of the assignment. If mitPlan's service offers or any other arrangements contain, in writing, additional provisions or provisions that replace existing GTC provisions, the individually arranged provisions shall apply.

In connection with the performance of its services, mitPlan is entitled to provide a mandate to assistants and/or subcontractors. mitPlan is obliged to ensure that the involvement of assistants/subcontractors fulfils all the associated statutory requirements.

mitPlan is entitled to process and use data received in connection with the performance of its services. mitPlan undertakes to adopt the measures necessary to ensure compliance with the relevant statutory data protection regulations. The data required to perform the services may also be transmitted to mandated third parties.

Any provisions of the Client that are at variance to the aforesaid shall only be binding if they have been confirmed in writing by mitPlan.

4. Deadlines

Any deadlines or schedules arranged for the provision of services shall apply under reservation of events due to force majeure (cf. section 10 below) and must be specified in writing.

Such deadlines shall be extended appropriately:

- if mitPlan does not receive information on time from the Client that it needs for the performance of its services, or if the Client makes subsequent changes to this information;
- if the Client is behind schedule with their own work in the context of the Agreement;
- if the Client is behind schedule with the fulfilment of their contractual obligations, in particular if payments are not made.

5. Confidentiality

Both contracting parties undertake to maintain confidentiality regarding all facts, concepts, procedures, documents, data and information (hereinafter summarily referred to as Confidential Information) which they became aware of or received during the preparation and execution of the Agreement, which are related to the counterparty's sphere of business, and regarding which one of the parties has a specific interest in keeping it/them confidential. The parties shall treat such Confidential Information with the same diligence and discretion as they treat Confidential Information of their own.

The parties undertake to ensure that such Confidential Information is used neither inappropriately nor in an unauthorised manner, nor made accessible to third parties for any unauthorised use, by themselves, by assistants or by any mandated third party.

6. Right to work products

The Client has the right to use, for business purposes, all the services provided for them by mitPlan, and to use the resulting work products for their own business purposes in line with the purpose of the products themselves. However, the Client is not entitled to pass on the work products delivered by mitPlan or any further development of this product by the Client in any commercial manner. All documentation transmitted by mitPlan, in paper or in electronic form, remains the intellectual property of mitPlan. Any use of this beyond the fulfilment of the contractually arranged purpose is strictly prohibited. Transmission to third parties, publication, reproduction, or other use is not permitted without the explicit approval of mitPlan.

All rights to any invention, all copyright, trademark rights and other protected rights to products, procedures, methods, ideas, know-how, concepts, documentation, etc. that were used, developed, improved or employed in any other manner by mitPlan in the execution of its services to the Client remain at the exclusive disposal of mitPlan and may be used by mitPlan for its own purposes or for other clients as mitPlan sees fit.

If an Agreement is not concluded, all documents received must be sent back to mitPlan, and any electronically transmitted data must be destroyed.

7. Obligations of the Client

The Client undertakes to provide mitPlan with all the necessary documents and information on time and in full. The Client alone bears the responsibility for the content of the data and information provided.

The Client is prohibited from making use of authorisations beyond the scope for which they were granted.

8. Remuneration

All prices are arranged in CHF, excl. VAT and any other tax applicable.

The Client is obliged to remit the billed amount within the period specified in the bill. Should due payments not be made on time, mitPlan is entitled to refuse the performance of the advisory and/or other services arranged.

Provided nothing has been arranged to the contrary, services are to be remunerated on the basis of the time spent on the arranged work. The daily/hourly rates of mitPlan shall apply.

No offsetting is permitted.

9. Liability

mitPlan shall be liable for direct loss or damage if caused by mitPlan, its assistants or third parties mandated by mitPlan either deliberately or due to gross negligence. The liability shall be limited to the amount of remuneration for the services in question.

Any further liability of mitPlan, its assistants or third parties mandated by mitPlan for loss of damages of any kind is excluded insofar as this is in accordance with statutory regulations. In particular, mitPlan assumes no liability for any non-realised cost savings, loss of assignments, foregone profits and any other direct or indirect consequential loss or damage.

Any claims against mitPlan for damages must be lodged in writing without delay.

10. Force majeure

If the timely fulfilment of the Agreement by mitPlan, its suppliers or any third party involved is rendered impossible by force majeure such as natural disasters, earthquakes, volcano eruptions, avalanches, storms, war, civil war, civil unrest, revolutions and uprisings, terrorism, sabotage, strikes or nuclear power plant damage, mitPlan shall be released from the obligation of performing the arranged duties for the period of the force majeure event in question as well as an appropriate period thereafter. If the event lasts for more than 30 days, mitPlan is entitled to withdraw from the Agreement. mitPlan is then obliged to refund to the Client any remuneration already paid for services not performed. No further claims may be made by the Client in cases of force majeure.

11. Final provisions

Both parties are entitled to withdraw from the Agreement at any time. The withdrawing party is obliged to remunerate the counterparty for any services rendered and/or costs incurred. Withdrawing at an inopportune time is not permissible. Any costs caused to the counterparty by the withdrawal shall be charged.

Any changes or additions to the GTC must be made in writing. This also applies to any abrogation of the necessity of the written form for arrangements. There shall be no subsidiary oral agreements.

Should any of the provisions of these GTC be null and void or ineffective, this has no effect on the remaining provisions or on the GTC as a whole. The parties shall close any regulatory gaps ensuing from the above by mutual consent. The resulting substitute provisions are to be in accordance with the business purpose, the achieved balance of interests and the spirit of the Agreement.

The collaboration with mitPlan is based on Swiss material law (Swiss Code of Obligations, excluding the Vienna UN Sales Convention and international private law).

The exclusive place of jurisdiction is the domicile of mitPlan.

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