

General Terms and Conditions of Business

1 Inclusion of these General Terms and Conditions of Business; Scope; Form

1. These General Terms and Conditions of Business (hereinafter also referred to as "GTC") shall apply to all contracts with Oberender AG (hereinafter also referred to as "Contractor"), the object of which is management consulting or business management in the health and social care sector. The services of Oberender AG are provided exclusively on the basis of these GTC. These GTC only apply if the customer (hereinafter also referred to as "Customer") is an entrepreneur (§ 14 of the German Civil Code (*BGB*)), a legal entity under public law or a special fund under public law.
2. The Customer's terms and conditions shall not apply, even if Oberender AG does not expressly object to their inclusion; they shall only apply if this has been expressly agreed in writing.
3. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.
4. Insofar as declarations or notifications must be made in writing in accordance with these GTC, text form shall also suffice (the declaration or notification can therefore be made in particular, for example, by letter, e-mail or fax).

§ 2 Placing of Orders

1. These GTC are binding with the placement of the order with Oberender AG. These GTC are included in the contractual relationship with the signing of the order confirmation and are the basis for the invoice. They are therefore integral parts of the contract and must be observed.
2. In case of doubt or in the absence of an agreement, § 612 of the German Civil Code (*BGB*) shall apply. In this context, these GTC shall serve as the basis for the taxable or customary remuneration according to daily or hourly rates.

§ 3 Benefits; Obligations to Cooperate

1. Services of Oberender AG are business-like **services** in the sense of §§ 611 ff. of the German Civil Code (*BGB*) (if applicable in connection with § 675 of the German Civil Code (*BGB*)).
2. Key performance areas are:
 1. **Consulting** within the framework of business projects, as well as the development of business concepts and expert opinions (conceptual consulting),
 2. **The provision of temporary executives and management teams,**
 3. **Health economic studies, expert opinions, and evaluations,**
 4. **Training courses, advanced training courses and workshops, as well as**
 5. **Other services (e.g., order brokering, transaction support).**
3. The subject of the order is the agreed-upon (consulting) activity designated in the respective contract, not the preparation of expert opinions or other works. The Contractor's services shall be deemed to have been rendered when the required analyses, the resulting conclusions and the recommendations have been prepared and explained to the Customer. It is irrelevant whether or when the conclusions or recommendations are implemented. The Contractor points out that analyses, conclusions and recommendations are by their nature forward-looking and may therefore differ from actual results achieved. The Contractor does not give any guarantee and is not liable for

the fact that a certain (economic or otherwise) success will be achieved due to the Contractor's contractual services.

4. Upon the Customer's request, the Contractor shall provide information on the status of the execution of the order or shall render account after the execution of the order by means of a brief documentation, which shall reflect the essential content of the process and result of the consultation services and shall be provided in a slide format as a PDF. If the Contractor is to prepare a comprehensive written report going beyond this, in particular for submission to third parties, this must be agreed upon separately.
5. Documents supplied by third parties or by the Customer as well as data, specifications and other information shall only be checked by the Contractor for plausibility. The presentation of the recommendations by the Contractor shall be made in an understandable and comprehensible manner.
6. The Contractor shall perform the services assigned to the Contractor in a proper and conscientious manner. Unless otherwise agreed upon, the Contractor may use suitable subcontractors for the execution of the order, in which case the Contractor shall always remain directly obligated to the Customer. The Contractor shall employ qualified employees with the necessary expertise and shall continuously supervise and control them during the execution of the order. For the rest, the Contractor may decide at the Contractor's own discretion which employees the Contractor uses or replaces.
7. The Contractor shall provide the contractually agreed-upon services on the Contractor's own responsibility, independently, in a managerial capacity and in accordance with the Contractor's dutiful discretion, free of any instructions from the Customer. In particular, the Contractor and the Contractor's employees are free to determine their place of work and working hours. The employees of the contracting parties are exclusively subject to the right of instruction of their respective employer. There shall be no joint or mutual management/supervision or joint or mutual deployment of employees of the Customer and Oberender AG.
8. The Customer is obliged to cooperate with the Contractor within the scope of the respective contract, in particular to provide the Contractor with the necessary and appropriate documents as well as data, details and other information in a complete and truthful manner for the provision of the Contractor's corresponding contractual services, to grant access to employees and premises if necessary or appropriate and to provide appropriate support. If the Customer fails to comply with the Customer's obligations to cooperate in whole or in part, this may result in the Contractor being unable to perform the Contractor's contractual services. The Contractor's obligations to perform which cannot be performed without the cooperation of the Customer or which can only be performed with disproportionate additional expense shall be suspended for the duration of such situation; the Customer's payment obligations pursuant to § 4 shall remain unaffected. Any additional expenses caused by this shall be paid to the Contractor in addition to the agreed-upon remuneration. Further rights and claims of the Contractor, in particular to terminate the order for good cause (cf. Section 7 (3) of these GTC), shall remain unaffected.
9. The Customer and Oberender AG shall each appoint a representative to the other contracting party who shall be the sole contact persons for the other contracting party in all matters relating to the contract and its performance.

§ 4 Invoicing of Services

The Contractor's services are to be invoiced as follows:

1. In principle, the services of the Contractor shall be invoiced on a fee basis according to previously agreed-upon hourly or daily rates or lump-sum remuneration. If invoicing is based

on hourly or daily rates, the agreed-upon number of consulting hours or days can be exceeded or undercut by up to 20 percent – unless otherwise stipulated in the individual contract – without the need to conclude a new contract, since the project expenditure cannot usually be estimated exactly ex ante.

2. In individual cases, performance-related remuneration may be agreed upon, in particular if the contractual performance of the Contractor directly and verifiably influences the success of the company or another key operating figure. Further details are to be regulated in individual contracts.
3. **Training courses, advanced training courses and workshops are generally remunerated according to rates agreed upon in advance, which generally include preparation, implementation and follow-up time. Alternatively, a fee per participant can be agreed upon.**

§ 5 Incidental Costs

Oberender AG generally charges a flat rate for incidental costs incurred, unless otherwise stipulated in the individual contract, which covers the following costs:

1. Travel and lodging expenses.
2. Postage and shipping costs.
3. Costs for internal project coordination on the part of Oberender AG (communication, office supplies, use of secretariats, invoicing, etc.)

In particular, if the costs for one of the items included hereunder exceed the usual scope (e.g., in the case of extensive database research), a special fee can be agreed upon when the contract is concluded. Oberender AG's expenses in excess of the above (e.g. for training rooms or for additional project documentation or presentations requested by the Customer) will be invoiced separately to the Customer against the submission of corresponding documentation, unless otherwise stipulated in the individual contract.

§ 6 Invoicing and Due Date

1. Payment for Oberender AG's services is due when the agreed-upon service has been rendered. This does not apply to payments on account or partial payments.
2. Oberender AG shall be entitled to monthly invoicing at the end of a calendar month for orders extending over more than one calendar month and for which services have already been rendered, unless otherwise agreed in the individual contract.
3. The remuneration is to be paid plus the statutory value-added tax applicable at the time. The invoice amount is due without deduction from the first day after receipt of the invoice or a similar request for payment.
4. In the event of default, interest shall be charged on invoice amounts due in accordance with the provisions of § 288 of the German Civil Code (*BGB*).
5. Oberender AG may agree on advance payments with the Customer.
6. Different payment arrangements may be agreed upon in individual contracts.

§ 7 Termination of the Order

1. The ordinary termination of an order placed is excluded. The placed order may only be terminated vis-à-vis Oberender AG for good cause in writing and stating the reason.
2. In the event of effective termination, the services provided to date shall be invoiced in accordance with the agreed-upon hourly or daily rates and incidental cost regulations. If no hourly or daily rates have been agreed upon (e.g. in the case of a lump-sum fee or any performance-related

remuneration), the respective customary hourly or daily rates shall be charged unless the contracting parties agree on a different arrangement.

3. In the event of default in acceptance as well as a breach of obligations or breach of duty on the part of the Customer, Oberender AG may terminate the order without notice in writing, stating the reason, and settle the order irrespective of any claim for damages as well as other rights and claims pursuant to Paragraph 2 above.

§ 8 Data Protection

1. The contracting parties shall comply with the applicable data protection provisions (esp. GDPR and FDPA). The Contractor is authorized, within the scope of the purpose of the order, to process the personal data entrusted to the Contractor or to have it processed by third parties in compliance with the data protection provisions.
2. If necessary, the contracting parties shall conclude an agreement on order-related data processing in accordance with Art. 28 of the GDPR and adapt it at any time in the event of a change in the data protection requirements, insofar as this is necessary to meet those requirements.

§ 9 Liability; Data Backup

1. The Contractor is liable under or in connection with the respective contract only in accordance with the following provisions:
 - 1.1. The Contractor does not give any guarantee and is not liable for the fact that a certain (economic) success will be achieved due to the Contractor's contractual services.
 - 1.2. The Contractor is liable without limitation within the scope of the statutory provisions for damage caused intentionally or by gross negligence.
 - 1.3. Liability for damages caused by slight negligence – irrespective of the legal grounds – is excluded unless a material contractual obligation is breached, the fulfillment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner regularly relies and may rely (so-called cardinal obligation); in this case, liability is limited to the amount of compensation for the foreseeable, typically occurring damage within the scope of the statutory provisions and the Contractor is liable at most to the amount of the remuneration paid or to be paid by the Customer to the Contractor within the scope of the respective contract.
 - 1.4. The Customer is responsible for regularly backing up the Customer's database with the care of a prudent businessman. In particular, the Customer shall make a complete data backup of all system and application data immediately before any installation and/or other intervention in the Customer's database by the Contractor or by third parties commissioned by the Contractor. The data backups must be stored in such a way that it is possible to restore the backed-up data at any time. If the Contractor is liable for the loss of the Customer's data on the merits, this liability is limited to the amount that would have been incurred to restore the data if it had been backed up properly and regularly.
 - 1.5. Any further liability of the Contractor – irrespective of the legal basis – is excluded on the merits.
 - 1.6. Liability for damages arising from injury to life, limb or health, to the extent of an assumed guarantee, under the Product Liability Act and under Art. 82 and 26 Para. 3 of the GDPR shall remain unaffected by the above limitations or exclusions of liability.
2. The above limitations or exclusions of liability shall also apply to the same extent to any personal liability of the Contractor's legal representatives, employees and other vicarious agents.
3. The contracting parties are obliged to mitigate damages.

§ 10 Protection of Intellectual Property

1. The services rendered by the Contractor within the scope of the respective contract (in particular and if applicable, work results such as analyses, conclusions and recommendations, as well as reports, organizational plans, drafts, drawings, lists, calculations, etc.) may only be used by the Customer internally and for the contractually agreed purposes of the respective contract; they may only be reproduced, edited, translated, reprinted, passed on, published or disseminated with the express written consent of the Contractor in the individual case. The use of the services rendered by the Contractor for companies affiliated with the Customer shall also require the express written consent of the Contractor or a separate agreement.
2. Insofar as the services rendered by the Contractor under the respective contract are copyrightable, the Contractor shall remain the copyright owner. In these cases, the Customer shall receive, upon full payment of the agreed remuneration, the irrevocable and non-transferable simple right of use, which is limited by the above Paragraph 1 and otherwise unrestricted in terms of time and place.

§ 11 Limitation Period

1. All claims of the Customer against the Contractor arising from or in connection with the respective contract shall become statute-barred within 12 months after the claim has arisen and the Contractor has become aware of the circumstances giving rise to the claim and the person of the debtor or should have become aware thereof without gross negligence, in any case no later than after the expiry of 2 years after the conclusion of the respective contract, unless the application of the statutory limitation rules would lead to a shorter limitation period in the individual case.
2. The above provisions on the limitation period shall not apply to claims for damages due to damage caused intentionally or by gross negligence, as well as in the cases specified in § 9 Para. 1 Item 1.5.

§ 12 Professional Ethical Principles

Oberender AG follows the professional ethics principles of the Bundesverband Deutscher Unternehmensberater (BDU) e.V. (Federal Association of German Management Consultants). This includes, in particular, the maintenance of objectivity, neutrality and factual orientation.

§ 13 Final Provisions

1. Offsetting with counterclaims or the withholding of payments due to such claims is only permissible by the Customer insofar as the counterclaims are undisputed or have been legally established.
2. The place of performance for all obligations of both contracting parties arising from the respective contract and the place of jurisdiction is the registered office of Oberender AG in Bayreuth, Germany, if both contracting parties are merchants within the meaning of the German Commercial Code (*HGB*), legal entities under public law or special funds under public law. All claims arising from the contractual relationship between Oberender AG and the Customer are governed exclusively by the laws of the Federal Republic of Germany, to the exclusion of international private law. The provisions of the UN Convention on Contracts for the International Sale of Goods does not apply.
3. Should individual provisions of these GTC be invalid, this shall not affect the other provisions.
4. These GTC are valid as of **January 01, 2023**.
5. The German language version is legally binding.