



## 1. Contracting Parties

- 1.1. "EPLAN" in the sense of these Terms and Conditions is the EPLAN company named in the respective order confirmation and which establishes a contractual relationship with the Contracting Party on this basis.
- 1.2. "Contracting Party" in the sense of these Terms and Conditions is the person, the company, the merchant, the legal entity under private or public law or the special fund under public law named as a Contracting Party of EPLAN in the order confirmation or registered as a user on the Eplan cloud platform.
- 1.3. "Affiliated Companies" in the sense of these contract conditions are legally independent companies that a) hold the majority of the shares or the majority of the voting rights in another company (majority shareholding) as well as such companies that are under such a majority shareholding, or b) that can directly or indirectly exercise a controlling influence on another company (controlling relationship) as well as such companies that are under such a controlling relationship, or c) that are under joint management or are otherwise dependent on each other.

## 2. Subject matter of the contract, conclusion of the contract

- 2.1. These terms and conditions for training services (hereinafter "GTC EPLAN Training") apply for the performance of training services in
  - a) EPLAN training centers,
  - b) on-site trainings at the Contracting Party (hereinafter "face-to-face trainings),
  - c) for the performance of Online trainings through certified EPLAN trainers as well as
  - d) the use of training courses performed by means of "EPLAN e-Learnings".These GTC EPLAN Training apply exclusively. General Business Terms of the Contracting Party shall be hereby expressly excluded. General Business Terms of the Contracting Party shall not become part of the contract, even if EPLAN has not expressly contradicted them.
- 2.2. All offers made by EPLAN are subject to change and non-binding. This shall also apply if EPLAN has provided the Contracting Party with product descriptions that have currently valid prices. EPLAN reserves the copyright to all product-related documents. An order submitted by the Contracting Party represents an offer made to EPLAN to participate in the course chosen by the Contracting Party under these GTC EPLAN Training. All orders made by the Contracting Party shall be subject to subsequent acceptance by EPLAN. Ordering a course is either made via the registration form provided on the website or in at least the electronic form (e.g. e-mail). EPLAN will not accept the offer effectively until EPLAN has confirmed the participation of the Contracting Party. The acknowledgement will lead to a service contract between EPLAN and the Contracting Party. After acknowledgement EPLAN will provide online a link to the Contracting Party which show the access data or route description for the specific training location.
- 2.3. EPLAN offers trainings to the Contracting Party as face-to-face trainings in a location selected by EPLAN, in the premises of the Contracting Party or as Online training. e-Learning media may be used in all event forms.

- 2.4. If the trainings take place in the premises of the Contracting Party, it is only the Contracting Party that is responsible to create the necessary conditions for the access to the courses (e.g. in regards to the hardware used and operating system software, the connection to the Internet including the assurance of the connection speed, the current browser software and the acceptance of the cookies transmitted by the EPLAN server). The Contracting Party in this regard bears all costs in connection with the fulfillment of these technically required prerequisites. On request EPLAN will inform the Contracting Party about the respective browser to be used.
- 2.5. If the trainings take place in a location selected by EPLAN, the number of participants is limited due to the room capacities. The corresponding registrations are therefore registered by EPLAN in the sequence of entered in the system.
- 2.6. The contract concluded between EPLAN and the Contracting Party must not be transferred or assigned to a third party without prior written consent by EPLAN (which may not be denied unfairly) as long as the transferee or assignee is not a legal successor due to a merger, transfer, amalgamation, acquisition, legal reorganization, sale of assets or acquisition of substantially all of its assets to which the subject of these contractual conditions refer.

### **3. Conditions for Online trainings**

- 3.1. If Online trainings are performed, the credentials for the trainings are communicated electronically and password-protected to the Contracting Party. The credentials are only valid for one user each. The Contracting Party is obliged to keep the credentials and the passwords secret and prevent the unauthorized use of the courses by third parties. In case of misuse EPLAN is entitled to block the access. The Contracting Party is liable for any misuse according to legal regulations.
- 3.2. The Contracting Party is responsible to provide the technical setup for accessing the trainings, in particular in regard to the used hardware and operating system software, the connection to the Internet including safeguarding the connection speed, the current browser software and the acceptance of cookies transmitted by the EPLAN server. He thus bears all costs in connection with the fulfillment of these requirements. On request EPLAN will inform the Contracting Party about the respective browser to be used.
- 3.3. Online trainings in the form of e-Learnings are generally available seven days a week and 24 hours a day, with an availability of 98% calculated for the calendar year.
- 3.4. For Online trainings the Contracting Party receives a simple usage right for the participation in the respective training, limited to the duration of the training, which cannot be transferred to third parties.
- 3.5. The participation and usage right for a training course includes access to the ordered course as well as the right to retrieve (Online) learning content for own learning purpose by a data-processing device (computer) belonging to the Contracting Party or a third party.
- 3.6. The participation in EPLAN trainings is restricted to the Contracting Party. The retrieved documents must only be used for own use.
- 3.7. Any disclosure, in particular the selling, renting, leasing or hiring of trainings, their contents or documents is prohibited.

- 3.8. It is not permitted to collect, duplicate, or copy elements of computer programs belonging to the training to other data carriers or save them on retrieval system for the unauthorized access by third parties.

#### **4. Training fees**

- 4.1. The training fees will be invoiced before the start of the training and are due according to the payment period outlined in the invoice.
- 4.2. Withdrawals from trainings must be indicated to EPLAN at the latest fourteen (14) days before the start of the training. Withdrawals after this date or non-participation are calculated as cancellation fees at a flat rate of 25% of the respective training fee.
- 4.3. If the participant is prevented from attending a course, EPLAN may allow the participant to transfer to the next course offered by EPLAN - even after the aforementioned date, provided that an objectively justified reason is provided. In this case the immediate settlement of the full invoice amount is required. In case of being prevented the Contracting Party can also provide a replacement participant.

#### **5. Training units/training packages**

- 5.1. The individual training units/training packages must be taken in total within a time frame of a maximum of twelve (12) months from the date of issue of the confirmation of the participation, otherwise the entitlement to perform the outstanding training units/training packages is omitted.
- 5.2. An entitlement to refund or crediting or offset of possible payments already made does not exist after expiration of the previously mentioned twelve (12) months period.

#### **6. Services**

- 6.1. Costs for the training, training material - and for face-to-face trainings - the catering during trainings is included in the training fee. EPLAN reserves the right to further develop the software, and thus its contents, and to make other minor adjustments to the seminar program in the meantime.
- 6.2. Unless otherwise agreed, trainings within the premises of the Contracting Party do not include costs for training materials or catering.

#### **7. Cancellation of a seminar**

- 7.1. EPLAN reserves the right to cancel the seminar for the confirmed date due to brief absence of the trainer (e.g. illness), or low number of participants (fewer than 3 training participants) or force majeure. In this case EPLAN will arrange a replacement date with the Contracting Party.
- 7.2. The Contracting Party is notified short-term about a replacement date and possible preferred dates by the Contracting Party are considered accordingly. In these cases,

EPLAN cannot be obliged to pay compensation for accommodation expenses and loss of working hours.

## **8. Copyrights**

The provided training documents are protected by copyright and must only be used for personal use through the participants of the trainings. They shall neither be copied without EPLAN's permission nor used in any other way without prior written consent.

## **9. Liability**

- 9.1. The Contracting Party undertakes to comply with all applicable laws in relation to the use and utilization of the software and services provided hereunder and shall indemnify and hold EPLAN harmless against any losses, liability, damages, costs or expenses resulting from any breach of the applicable laws or these Terms and Conditions by the Contracting Party. Notwithstanding anything contained herein, EPLAN shall not be liable for any losses or damages arising out of failure on the part of the Contracting Party to ensure compliance with applicable laws and these Terms and Conditions.
- 9.2. Notwithstanding anything to the contrary contained herein, in no event shall EPLAN's aggregate liability towards the Contracting Party exceed the value of the relevant order whether on account of breaches or claims relating to the software and any related services rendered pursuant to these Terms and Conditions, in contract, tort, or otherwise.
- 9.3. In no event shall EPLAN be liable for any loss of profits/ business/ revenue, loss of use, business interruption, loss of data, loss of reputation, loss of production, cost of substitute goods or service or for any other indirect, special, incidental or consequential damages or third party damages, of any kind in connection with or arising out of the use or inability to use the software or cloud platform, whether alleged as a breach of contract or tortious conduct, including negligence, even if EPLAN has been advised of the possibility of such damages.
- 9.4. The Contracting Party agrees that the foregoing limitations, exclusions and disclaimers are a reasonable allocation of the risk between the parties and will apply to the maximum extent permitted by applicable law.

## **10. Confidentiality and data protection**

- 10.1. The contracting parties undertake strictly to keep secret and not disclose to third parties all information which they received directly and indirectly in connection with the respective contract or in relation to the execution and which are of technical, financial or otherwise business-related or confidential nature; Affiliated companies to the contracting parties shall not be regarded as third parties. Furthermore, it is prohibited to the contracting parties to use the received information for purposes other than those explicitly stated in the contract.

- 10.2. This obligation of secrecy does not pertain to information which are obvious, or which were already known to the party or which the party has obtained in legally permitted ways from other sources or has developed themselves without infringement of confidentiality obligations. The obligation of proof shall be on the party who invokes this.
- 10.3. These obligations for complete secrecy and confidentiality remain unchanged, even after termination of the respective contract.
- 10.4. EPLAN shall be entitled to collect, process, and save personal data of the Contracting Party under compliance of the conditions with the applicable data protection laws, guidelines, and other regulations.
- 10.5. If EPLAN performs any evaluations of the Contracting Party data, EPLAN will only perform to the extent permitted by data-protection laws.

## **11. Closing provisions**

- 11.1. EPLAN may at its own discretion under consideration of the justified interests of the Contracting Party assign services to subcontractors selected by it. EPLAN is responsible for the services of these subcontractors in the same way it is for its own services.
- 11.2. Changes and additions to these contractual terms and/or the respective contract must be made in writing (including telefax and e-mail) and must also be expressly marked as such. This shall also apply to any amendment to this clause. No verbal subsidiary agreements have been made.
- 11.3. These Terms and Conditions shall be governed by, and construed in accordance with, the laws of India. For the avoidance of doubt, the UN Sales Law of April 11, 1980 (Vienna CISG Convention) shall be excluded.
- 11.4. If the Contracting Party is a resident of India or a legal entity constituted in India, then (i) the Contracting Party is contracting with [EPLAN Software & Services Private Limited having its registered office at NCC Urban Windsor, 3rd Floor, New Airport Road, Opposite Jakkur Aerodome, Bangalore- 560064, Karnataka]; and (ii) the courts at Bangalore, Karnataka shall have exclusive jurisdiction for all disputes arising from and in connection with this contract. Notwithstanding anything contained above, EPLAN shall also be entitled to file a suit against the Contracting Party at the place of business of the Contracting Party.

**As of January 2022**