

# I. GENERAL TERMS AND CONDITIONS

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## 1. Contractual relationship

These Terms and Conditions of Use (“TCs”) define your access and use of the applications, websites, content(s), products and services (“Services”) provided by Mesubis GmbH, a private limited liability company incorporated in Switzerland and registered in the Commercial Register under number CHE-322.716.344, with its registered office in Opfikon, Switzerland (“Mesubis GmbH”).

PLEASE READ THESE TCs CAREFULLY BEFORE ACCESSING OR USING OUR SERVICES.

By accessing and using the Services, you declare your legally binding consent to these TCs. If you do not agree to these TCs, you may not access or use the Services. These TCs expressly supersede any prior contracts or agreements concluded with you. Mesubis GmbH may terminate or deny access to all or any part of the Services at any time.

Supplemental Terms may apply to certain Services, such as guidelines for a specific event, activity or promotion; these Supplemental Terms will be communicated to you in connection with the respective Services. Supplemental Terms apply in addition to the terms of the respective Services and constitute part of them. If there is a contradiction to the present Terms, the Supplemental Terms to the respective Services shall prevail.

Mesubis GmbH may amend the TCs for the Services from time to time. Amendments will become effective upon Mesubis GmbH's announcement of the updated TCs on its website or upon Mesubis GmbH's announcement of the amended policies or supplemental terms for the respective Service. By your continued access to or use of the Services after such announcement constitutes you declare your consent to the amended terms and conditions.

Our collection and use of personal data in connection with the Services is in accordance with the Privacy Policy of Mesubis GmbH as set forth at <https://mesubis.com>.

## 2. Services

The Services include a technology platform that enables users of Mesubis GmbH's mobile applications or websites (each, an “Application”), as part of the Services, to organize, schedule and perform teaching or tutoring services provided by independent third-party service providers (“Independent Service Providers”) via the aforementioned platform or to provide such services as Independent Service Providers via the platform. YOU ACKNOWLEDGE AND AGREE THAT MESUBIS GMBH DOES NOT PROVIDE ANY TEACHING OR TUTORING SERVICES ITSELF OR ACT AS THE EMPLOYER OF THE TUTORS/TEACHERS AND THAT ALL TEACHING OR TUTORING SERVICES ARE PROVIDED BY INDEPENDENT SERVICE PROVIDERS WHO ARE NOT EMPLOYED BY MESUBIS GMBH OR ANY COMPANY AFFILIATED WITH MESUBIS GMBH.

### a) License

Under the condition that you comply with these TCs, Mesubis GmbH grants you a limited, non-exclusive, non-sublicensable, revocable and non-transferable license to: (i) accessing and using the Applications on your own device (mobile device or computer) in connection with

your use of the Services; and (ii) accessing and using all content, information and related materials made available through the Service, in each case solely for your exclusive personal and non-commercial use. All rights not expressly granted herein are reserved by Mesubis GmbH and its licensors.

#### **b) Limitations**

You are not permitted to: (i) remove any copyright, trademark or other proprietary rights references from any part of the Services; (ii) reproduce, modify, prepare derivative works from it, distribute, license, rent, sell, resell, transmit, publicly display or perform, transmit, stream, broadcast or otherwise profitably utilize any part of the Services without the express permission of Mesubis GmbH; (iii) decompile, reverse engineer, or disassemble the Services, except as permitted by law; (iv) link to, frame, or mirror any part of the Services; (v) develop or install any program or script for the purpose of scraping, indexing, surveying, or otherwise mining data, or inhibit the operation or unduly restrict or inhibit the operation or function of any aspect of the Services; or (vi) attempt to gain unauthorized access to or interfere with any aspect of the Services and related systems or networks.

#### **c) No-circumvention**

Users and Independent Service Providers who have entered into contact with each other via the Mesubis platform or otherwise via Mesubis GmbH are prohibited from exchanging corresponding services outside the platform. For each case of circumvention, the payment of a contractual penalty in the amount of CHF 1000 shall be owed. In addition, Mesubis GmbH reserves the right to refuse further use of the platform to those who are in breach of contract as well as to assert further claims for damages.

#### **d) Provision of the services**

You confirm that parts of the Services will be made available under the “Mesubis” brand and request options associated with the Teaching or Tutoring Service by Mesubis GmbH. You also agree that the Services will be made available under such brand and request options as follows: (i) by certain Mesubis GmbH Subsidiaries or Mesubis GmbH Affiliates; or (ii) independent third-party providers, including tutors/teachers of teacher networks, holders of similar teaching licenses or degrees authorizing them to teach.

#### **e) Services and Third-party contents**

The Services may be made available or accessible in connection with third party services and content (including advertising) not controlled by Mesubis GmbH. You agree that different terms of use and privacy policies may apply to your use of these third-party services and content. Mesubis GmbH does not support these third-party services and contents provided by third parties, and Mesubis GmbH is not responsible nor liable for any third-party products or services. In addition, Apple Inc, Google, Inc, Microsoft Corporation and BlackBerry Limited, or their respective international subsidiaries and affiliates, are third-party beneficiaries of this Agreement if you access the Services via applications developed for mobile devices running the Apple iOS, Android, Microsoft Windows or Blackberry operating systems. These third-party beneficiaries are not parties to this Agreement and shall not be liable for the provision or support of the Services. Your access to the Services via these devices is subject to the terms and conditions set forth in the third-party beneficiaries' Terms of Service. In addition, advertisements via the Mesubis GmbH platform, commission contracts or similar of Mesubis

GmbH with third parties are possible as long as an explicit written consent of Mesubis GmbH can be presented for this.

#### **f) Ownership**

Ownership of the rights underlying to the Services shall remain with Mesubis GmbH or Mesubis GmbH's licensors. Neither these Terms nor the use of the Services shall grant you any rights: (i) in or relating to the Services, except for the restricted license granted above; or (ii) in the use of or reference to the Mesubis GmbH company name, its logos, MESUBIS brand product and service names, or those of Mesubis GmbH's licensors.

Mesubis GmbH is also entitled to collect any user profile data such as the subjects which a user teaches, their education, teaching locations, teaching languages, etc. for the continuous optimization of the platform.

### **3. Utilization of services**

#### **a) User Accounts**

In order to use the applications of Mesubis GmbH, you will be provided with your own user/service account ("Account"), which you must manage independently. In order to create an Account, you must be at least 18 years old. Persons who are under 18 years of age must provide written consent from their parent or guardian in order for registration to be legally effective. For account registration, you must provide Mesubis GmbH with certain personal data such as your name, address, mobile phone number and age, as well as at least one valid payment method (for more information, see section 4. "Payments"). You agree to ensure that your account information is always correct, complete and up to date. If your account information is no longer correct, complete and up-to-date or if the payment method you have deposited is invalid or expired, you may not be able to continue using the Mesubis Platform. You are responsible for all activity on your account, and you agree to keep your username and password secure and confidential at all times. You may not have more than one account without the written consent of Mesubis GmbH.

#### **b) User and behavior requirements**

The Service is not available for use by persons under the age of 18 unless written consent is obtained from the respective parent/guardian. You may not allow third parties to use your account or to allow persons under the age of 18 to use any instructional or tutoring services offered by third party providers without your supervision. You may not assign or otherwise transfer your account to any other person or entity. You agree to comply with all applicable regulations when using the Services, and you may only use the Services for lawful purposes (e.g., you may not transmit prohibited or dangerous malware, malicious software, viruses or the like). In the course of using the Services/Applications you shall not cause any nuisance, annoyance, inconvenience, property damage or other harm to the third-party provider or any other involved party. In certain circumstances, you may be required to present identity card before being permitted to access or use the Services, and you agree that you may be denied access to or use of the Services if you refuse to present it. Furthermore, you are to draw attention to the fact that the use of the services provided by Mesubis GmbH, in particular the placement of teacher/tutor and student, is at your own risk. Mesubis GmbH cannot be held liable for any conduct of involved tutors/teachers or students etc. that is damaging or otherwise relevant under criminal or civil law. Should this contractual component of the Code of Conduct be violated, the party in breach of contract, in addition to any other claims for

damages, may be required to pay a contractual penalty of CHF 1,000.00 and be denied access to the use of the applications.

#### **c) Text messages**

By creating an account, you agree that text messages (SMS) may be sent to you as part of your use of the Services. You may opt-out the receiving of text messages (SMS) from Mesubis GmbH at any time by sending an email to support@mesubis.com stating that you no longer wish to receive these messages, along with the number of the mobile phone on which you receive them. You are aware that opting out of text messages (SMS) may affect your use of the Services. In accordance with the purpose of the chat set up, Mesubis GmbH also does not assume any liability regarding chat - data leaks or content shared via this chat. Users use private data in this chat at their own risk. The transmission of any messages via this chat is done using recognized encryption practices.

#### **d) Content provided by users**

Mesubis GmbH may, in its sole discretion, permit you to submit, upload, post or otherwise make available text, audio and/or image content and information from time to time through the Services to Mesubis GmbH, including comments and feedback on the Services, support requests, and submissions as a part of sweepstakes and promotions (“User Content”). All User Content provided by you remains your property. However, by providing User Content, you grant Mesubis GmbH a worldwide, perpetual, irrevocable, transferable, royalty-free license, including the right to sublicense, use, reproduce, modify, create derivative works, distribute, publicly display and perform, and otherwise exploit such User Content, through any and all formats and distribution channels now known or later developed (also in connection with the services and the company of Mesubis GmbH as well as the websites and services of third parties), without prior notice to you and without any obligation to obtain your permission or the requirement to make any payment to you or any other persons and companies.

You represent and warrant that: (i) you are either the sole and exclusive owner of all User Content or have all rights, licenses, permissions and releases which are required to license the User Content described above to Mesubis GmbH; and (ii) neither the User Content nor the transmission, uploading, publication or other making available of such User Content nor Mesubis GmbH's use of the User Content as authorized herein infringes or violates any third party's intellectual property rights or ownership rights, rights of publicity or privacy rights, or constitutes a violation of any applicable law or regulation.

You agree not to post any User Content that is abusive, defamatory, vulgar, violent, obscene, pornographic, unlawful or otherwise objectionable, as determined by Mesubis GmbH in its sole discretion, whether or not such material is protected by law. Mesubis GmbH may, in its sole discretion, review, monitor or remove User Content at any time, for any reason, and without notice to you, but is not required to do so.

#### **e) Network Access & Devices**

You are responsible for setting up the data network access required to use the Services. If you access or use the Services from a Wi-Fi enabled device, you may incur data and connection charges and fees from your mobile network provider, which you are responsible for paying. You are responsible for obtaining and updating the compatible hardware and devices required to access, update or use the Services and Applications. Mesubis GmbH does not guarantee that the services or parts thereof will function on the hardware or devices in question. In

addition, the Services may be subject to disruptions and delays caused by the use of the Internet and electronic means of communication.

#### 4. Payments

You are aware that the use of the Services may incur costs if you use services from Mesubis GmbH (“Costs”). The Costs for obtaining third party services generally consist of the fee (at the applicable hourly rate) for the service provider and an agency fee. With respect to the fee for the third-party service provider, Mesubis GmbH acts as limited debt collecting agent. The costs are inclusive of all legally applicable taxes. Costs paid by you are deemed to be finally and non-refundable unless otherwise determined by Mesubis GmbH.

##### a) Payments from student users

The payment of lessons by the student user is automatic, by credit card payment. Students must specify a credit card for lesson payments when creating their account (once only).

A lesson must be paid by the student participating in this lesson at the specified Lesson Fee (“Lesson – Fee”). This amount may vary from country to country and must be paid in the currency of the country of student’s country of residence

The payment for the lesson is to be made before the lesson takes place.

In addition, the following rules apply:

- Lessons can be scheduled a maximum of 90 days in advance & will be paid in advance at the time of scheduling. A refund of the booked amount to the student(s) concerned is possible in the following cases and otherwise excluded:
  - o Student user cancels timely his/her lesson , i.e., more than 24 hours before its start.
  - o The teacher cancels the lesson, no matter when.
  - o In case of a group lesson: another student participating in the group lesson timely cancels your participation (see above).
  - o Mesubis will stop their services, no matter when.

Concerned students will be refunded the amount paid for the planning of the lesson to the specified payment method (e.g., credit card) when creating the user account.

You are free to pay tips or bonuses to third-party providers in addition to the fee owed. Tips are on a voluntary basis. After receiving booked third-party services, you have the opportunity to evaluate the corresponding services and provide additional feedback.

##### b) Payments to teacher users

When creating their Account, teacher users must provide the details of a bank account, which are required for the payment of their respective hourly rates (also one-time). Payments to teacher users are to be made within 7 days after the service has been rendered. The payment is based on the hourly rate applicable to the respective teacher user. The hourly rate is determined on the basis of various criteria and may be adjusted over time.

In case of group lessons, the teacher is free to accept a lower hourly rate per participating student than the above mentioned “Lesson Fee”. For example, the concerned parties can agree that in the case of a group lesson X, each student has to pay only 0.8 x the specified Lesson

Fee. This must be done via the input mask provided by Mesubis GmbH for this purpose, which is used for planning the lessons.

Each teacher is prohibited from accepting cash payments or other direct payments from the student(s) participating in a lesson.

Accordingly, if after completion of a booked & paid lesson, it is determined that the student(s) need(s) an extension of the lesson, the appropriate student(s) must schedule & pay for another lesson to be held prior to continuing the lesson. It is the responsibility of the respective teacher to ensure this. Mesubis assumes no liability in cases where teachers conduct lessons with students that have not yet been booked (and therefore not yet paid for). It is therefore the teacher's responsibility to ensure that the appropriate fees have been paid by all student persons involved prior to conducting/extending each lesson. This can be ensured by the teacher checking that the student(s) concerned have confirmed their participation in the lesson in question.

Refunds are made exclusively via the platform. Teachers are not allowed to make refunds themselves and must refer the concerned student(s) to Mesubis in this case.

Mesubis GmbH may pay a monthly voluntary benefit to the highest rated teachers. Voluntary benefits do not constitute any entitlement to future benefits.

#### c) Payments in general

The user is in each case responsible for ensuring that the relevant bank details have been entered correctly. Mesubis assumes no liability in the event of failed payments caused by untrue statements. For maximum security, all payment-related data is stored externally in a separate system outside of Mesubis and is accessed via an interface. Any problems regarding leaks / losses of this data are the responsibility of the respective payment service provider; Mesubis assumes no liability in this regard.

Finally, it should be emphasized that the contract for the provision of services by teachers to the student(s) exists in each case between these respective parties. The platform has only an intermediary function; the responsibility of the platform is limited to the provision of the website, its use and related service & support.

As between you and Mesubis GmbH, Mesubis GmbH reserves the right, in its sole discretion, to adjust the cost of any third-party services purchased by you in connection with your use of the Services at any time. In addition, you acknowledge and agree that costs applicable in certain geographic areas may increase significantly during periods of high demand. Mesubis may from time to time provide certain users with promotional offers and discounts that result in different amounts being charged for the same or similar Services or goods when using the Services, and you agree that the promotional offers and discounts not received by you will not affect your use of the Services or affect the costs charged to you. You may cancel services or goods requested from a third-party provider at any time prior to the third-party provider's arrival, whereupon you may be charged a cancellation fee.

## **5. Disclaimers; limitation of liability; indemnification.**

### **a) Disclaimer**

THE SERVICES ARE PROVIDED IN THEIR ACTUAL STATE AND ACCORDING TO THE AVAILABILITY. MESUBIS GMBH DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, STATUTORY AND NOT EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. FURTHERMORE, MESUBIS GMBH MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF THE SERVICES OR ANY THIRD-PARTY SERVICES REQUESTED IN CONNECTION WITH THE USE OF THE SERVICES, OR THAT THEY WILL BE PROVIDED WITHOUT INTERRUPTION OR ERROR. MESUBIS GMBH MAKES NO WARRANTY AS TO THE QUALITY, SUITABILITY, SAFETY OR ABILITY OF ANY THIRD-PARTY SERVICE PROVIDERS. YOU AGREE TO BEAR THE ENTIRE RISK ASSOCIATED WITH THE USE OF THE SERVICES OR ANY THIRD-PARTY SERVICES REQUESTED IN CONNECTION THEREWITH, TO THE EXTENT PERMITTED BY LAW.

#### **b) Limitation of Liability**

MESUBIS GMBH SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, AGGRAVATED, PUNITIVE OR CONSEQUENTIAL CLAIMS FOR DAMAGES, INCLUDING LOST PROFITS OR LOST DATA, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE SERVICES, EVEN IF MESUBIS GMBH HAS BEEN NOTIFIED THAT SUCH DAMAGES MAY ARISE. MESUBIS GMBH SHALL NOT BE LIABLE FOR ANY CLAIMS, LIABILITIES OR LOSSES ARISING OUT OF: (i) YOUR USE OF THE SERVICES OR THE FACT THAT YOU CANNOT ACCESS OR USE THEM; AND (ii) TRANSACTIONS OR RELATIONSHIPS BETWEEN YOU AND ANY THIRD-PARTY PROVIDER, EVEN IF MESUBIS GMBH HAS BEEN NOTIFIED THAT SUCH CLAIMS MAY ARISE. MESUBIS GMBH SHALL NOT BE LIABLE FOR ANY DELAY IN PERFORMANCE OR FAILURE TO PERFORM FOR REASONS BEYOND MESUBIS GMBH'S REASONABLE CONTROL. YOU AGREE THAT THIRD PARTY PROVIDERS OF TEACHING OR TUTORING SERVICES OFFERED THROUGH CERTAIN CERTIFIED TRADEMARKS MAY OFFER JOINT OR GROUP TEACHING OR TUTORING SERVICES AND MAY NOT HOLD A DEGREE OR CERTIFICATION EXPLICITLY REQUIRED FOR TEACHING EDUCATIONAL OR TUTORING SERVICES. IN NO EVENT SHALL THE TOTAL LIABILITY OF MESUBIS GMBH TO YOU FOR ALL CLAIMS, LOSSES AND CAUSES OF ACTION IN CONNECTION WITH THE SERVICES EXCEED 50 CHF (IN WORDS: FIFTY SWISS FRANCS).

YOU MAY USE THE SERVICES OF MESUBIS GMBH TO REQUEST AND TERMINATE TEACHING, LEARNING, TUTORING SERVICES FROM THIRD PARTY PROVIDERS, BUT YOU AGREE, HOWEVER, THAT MESUBIS GMBH IS NOT RESPONSIBLE OR LIABLE FOR THE TEACHING, LEARNING, TUTORING SERVICES USED BY YOU FROM THIRD PARTY PROVIDERS BEYOND THE EXTENT SET FORTH IN THESE TERMS AND CONDITIONS.

#### **c) Indemnification**

You agree to indemnify and hold Mesubis GmbH and its officers, executive bodies, employees and contractors harmless from and against any and all claims, demands, losses, liabilities and expenses (including attorneys' fees) arising out of or in connection with: (i) your use of the Services or your receipt of Third Party Services as a result of your use of the Services; (ii) a breach or infringement of the TCs; (iii) Mesubis GmbH's use of your User

Content; or (iv) the infringement of any rights of any third party, including those of Third Party Provider.

## **6. Applicable Law**

Unless otherwise specified in these Terms and Conditions, these Terms and Conditions shall be governed exclusively by and construed in accordance with the laws of Switzerland. Rules on conflict of laws shall not apply.

## **7. Jurisdiction**

The exclusive place of jurisdiction shall be at the registered office of Mesubis GmbH.

The existence and content of the arbitration proceedings, including the documents and written pleadings submitted by the parties, the correspondence with the judicial authorities, the correspondence of the arbitrator and the correspondence, orders and judgments of the deciding judges are strictly confidential and may not be disclosed without the express written consent of the other party, except: (i) if disclosure to a third party is reasonably requested in the course of the arbitration or judicial proceeding; and (ii) the third party agrees in writing to maintain unconditionally the confidentiality agreed to herein.

## **8. Miscellanea**

### **a) Claims arising from copyright infringements**

Claims of copyright infringement will be sent to Mesubis GmbH's authorized representative. You can find the address of this person and further information on the Mesubis website at <https://mesubis.com>.

### **b) Notices**

Mesubis GmbH may deliver notice to you as follows: generally concerning the Services, personally to your email address associated with your account, or by postal mail to the address provided in your account. You may deliver notices to Mesubis GmbH by writing to Mesubis GmbH at Farman-Strasse 6, 8152 Glattpark (Opfikon), Switzerland.

### **c) General provisions**

You agree that Mesubis GmbH is entitled to assign or transfer these terms and conditions, in whole or in part, in particular to: (i) its subsidiaries or affiliates; (ii) an acquirer of its stock, business units or assets; or (iii) a legal successor in the course of a merger. No joint venture, partnership, employment or agency relationship exists between you, Mesubis GmbH and the third-party providers as a result of this Agreement or use of the Services.

If any provision of these Terms is declared unlawful, invalid or unenforceable, in whole or in part, in any jurisdiction, such provision or the affected part thereof shall be treated as void with respect to these Terms and the lawfulness, validity and enforceability of the remaining provisions of these Terms shall not be affected thereby. In such case, the parties shall replace the unlawful, invalid or unenforceable provision or the affected part thereof with a lawful, valid and enforceable provision which comes as close as possible to the meaning and purpose of the unlawful, invalid or unenforceable provision or part thereof. These Terms constitute the entire agreement entered into between the parties with respect to the subject matter hereof and

supersede all agreements or understandings previously or contemporaneously entered into with respect to the subject matter hereof. In these Terms, the term “including” or “included” means “including, but not limited to”.