

# Luther.

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## Performance-based contract management



**The coronavirus crisis is having a fundamental effect on real estate owners, operators and users of co-working spaces. The entire industry is faced with challenges that need to be met with innovative concepts for modern working environments that go “beyond” the crisis. To help face these challenges, Luther has developed a holistic and modular legal solution concept. One important element of the comprehensive services that we offer is the Luther “performance-based contract management” concept, which provides an attractive and innovative alternative to traditional types of contracts.**

In the co-working sector, performance-based contracts (“PBCs”) offer all parties involved (owners/operators/users) the opportunity to adapt, optimise and redesign business models. In order to meet the different needs of the users, different forms of co-working are generally used in practice. As PBCs are very flexible, they are particularly suitable for the co-working sector. The parties themselves can determine freely what should be part of the performance and adapt the contractual relationship accordingly to meet their needs, for example, with regard to increased health standards during the coronavirus pandemic.

### **Our recommendation:**

To ensure the optimal protection of the interests of the parties involved it is essential that the contracts are drafted in a legally compliant manner. If the parties decide to use a PBC, they should first examine the possible advantages and disadvantages that a PBC would have and, in the course of drafting the contract, clearly distinguish this PBC from the “usual” types of contract, such as rental, purchase or leasing contracts. The parties should agree the relevant performance parameters and define precisely what the performance that is to be given will consist of. Different designs are conceivable, for example,

with regard to the use and availability of rooms, administrative services or special health protection measures.

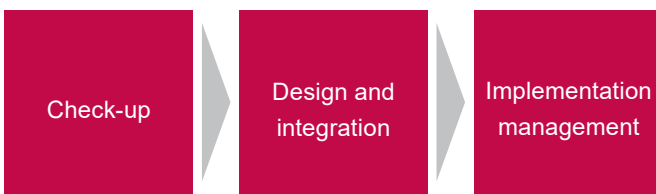
Furthermore, a legally compliant allocation of responsibility for loss of use and compliance with official requirements, such as keeping to the distance regulations, the cleaning of surfaces or limiting the number of users, should be stipulated in the contract. Possible interactions with existing contracts must also be carefully examined.

### Our services:

- **Check-up:** we can review, analyse and evaluate the current contractual and economic situation that a client has and compare this situation with the requirements of the existing business model.
- **Design and integration:** we can devise a precise and legally compliant structure for the PBCs that takes all interests into account, negotiate with all parties involved and advise on and assist with integrating the PBCs into the company.
- **Implementation management:** we can help clients use PBCs to their advantage, integrate these into existing business models or develop new business models.

In this context, Luther can not only advise on the individual contracts, but can also examine and evaluate the further implications for corresponding contracts, for example, with suppliers, service providers or landlords, in order to establish a coherent, legally compliant and advantageous contractual structure.

### Overview of the service components:



### Our expertise:

As one of Germany's leading commercial law firms Luther provides focused legal and tax advice. With approximately 420 lawyers and tax advisors, we advise on all aspects of German and international commercial law.

Luther was named law firm of the year in 2019 by the German legal publisher JUVE and also holds the title "Digital Law Firm 2020".



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