

# General Terms and Conditions for the Use of the XING TalentManager

## Recitals

The offer to use the XING TalentManager is intended exclusively for business clients.

The Company enters this agreement with New Work SE, Am Strandkai 1, 20457 Hamburg, Germany. Additional contact information, commercial registry data, as well as the name of the authorised representative of New Work SE can be found on the "About this Site" page by visiting [www.xing.com](http://www.xing.com).

## 1. Subject matter

1. The Company can use the XING TalentManager for recruiting work on XING. The XING TalentManager provides the Company with a quick and precise means of looking for suitable candidates on XING, of managing applications and XING member profiles, and of contacting XING members for hiring purposes. Several employees at the Company can work together within the XING TalentManager and exchange information with one another. The exact extent to which the XING TalentManager can be used depends on the specific product description applicable at the time of conclusion of the contract.
2. Certain limitations apply when using the XING TalentManager (e.g. the number of daily messages that can be sent via the XING TalentManager). Please refer to the product description for further details.
3. New Work SE makes the content, data and other information provided by the Company available to third parties as long as it does not violate any legal regulations or these general terms and conditions, and as long as it is not improper, offensive to the general public or unacceptable for publication by New Work SE for other reasons. New Work SE is entitled to remove such content, data or other information without prior notice. Should this occur, the Company is not entitled to any refund.
4. New Work SE simply offers the Company a platform to connect the Company and third parties (XING members and other third parties) and for this purpose only provides technical applications that make it possible to establish general contact. New Work SE does not guarantee contact between the Company and XING members or other third parties. New Work SE does not participate in the communication between the Company and third parties in terms of content. New Work SE does not participate in any legal agreements that may be made through the XING TalentManager or XING and is therefore not a contractual partner. The Company alone is responsible for the execution and fulfilment of any agreements made with third parties. New Work SE is not responsible in the event that no contact through the XING TalentManager or XING is established between the Company and the third party in connection with such an agreement. New Work SE is also not liable for any breaches of duty from the agreements made between the Company and third parties.
5. New Work SE accepts no responsibility for content, data or other information provided by XING members, or for content on linked external websites. In particular, New Work SE does not warrant that any such content is true, that it fulfils any particular purpose or that it could be used for any specific purpose.

## 2. Authorisation of recruiters

1. Only the Company's authorised recruiters are permitted to use and access the XING TalentManager. The Company's XING TalentManager administrator, appointed by the Company and made known to New Work SE, is responsible for authorising recruiters. The Company is required to book a corresponding number of recruiter seats as licences. Recruiters must be authorised by the Company and registered as XING members. The Company must be listed as the recruiter's current employer in their XING profile.
2. If a recruiter cancels their XING membership, or if XING bans them from using the site (especially as a result of the recruiter violating the general terms and conditions of his XING membership), this recruiter will no longer be permitted to use the Company's XING TalentManager.
3. The Company has the right to revoke a recruiter's authorisation, or to assign another person as a replacement for the recruiter; particularly in the case addressed in Section 2.2. The replacement will receive authorisation once the Company has informed New Work SE that the replacement has been assigned to the position, and New Work SE has provided its approval. If a recruiter has been replaced by another recruiter, the Company must wait at least 30 calendar days before being able to transfer the membership to another recruiter.

## 3. Content in the XING TalentManager

1. Some of the content and information (correspondence, conversations, projects, notes, comments, etc.) is shared between current and future recruiters using the Company's XING TalentManager, be it automatically or when triggered by a recruiter. Other types of content and information will not be shared among recruiters.
2. Content that has been shared using the XING TalentManager will be saved in the TalentManager database of the Company, even if a recruiter deletes this content on XING or in the Company's XING TalentManager or revokes their sharing of this content. The administrator appointed by the Company can view, edit, share and delete all of the information and content entered by a recruiter in the Company's XING TalentManager with other current and future recruiters using the Company's XING TalentManager.
3. The administrator appointed by the Company can view, edit and share all of the information and content entered by a recruiter in the Company's XING TalentManager with other current and future recruiters using the Company's XING TalentManager, even if said information and content was not explicitly shared by the recruiter. This applies in particular to all conversations and correspondence started or replied to in the Company's XING TalentManager – including the entirety of sent and received messages which are part of aforementioned conversations and correspondence. This also applies when the recruiter loses their access to the Company's XING TalentManager (e.g. because the Company withdraws it or because they end their employment) or deletes their TalentManager account.
4. Information not shared by the recruiter, not shared automatically, or which cannot be shared is not available to other recruiters in the respective XING TalentManager. Conversations that were not started, responded to, or shared in the respective XING TalentManager are not saved in said XING TalentManager and are therefore unavailable to the administrator or other recruiters. Such conversations are only available to the inboxes of recruiters involved in the respective conversation. Where required, recruiters can share conversations retrospectively.

## 4. Availability

The Company acknowledges that it is not technically possible to make the XING TalentManager available 100% of the time. However, New Work SE endeavours to keep the XING TalentManager available without interruption, to the best of its ability. In particular, maintenance, security and capacity requirements, or events beyond the control of New Work SE (such as interruptions in public communication networks, loss of power, etc.) could lead to brief interruptions or to the temporary unavailability of the XING TalentManager. Any claims against New Work SE arising from adverse effects and/or interruptions, irrespective of the legal basis, are excluded to the extent permissible by law.

## 5. Changes to services

New Work SE reserves the right to make changes to the services related to the XING TalentManager and its general design, or to offer alternative services, as long as this is not unreasonable for the Company.

## 6. Use of the XING TalentManager, data protection

1. The Company is obliged to observe all applicable laws and all rights of third parties. When adding their own or other content to the XING TalentManager and XING, the Company must ensure that it does not violate currently applicable law or the rights of third parties, or in any other way compromise the reputation of XING or New Work SE.
2. The Company is obliged to comply with currently applicable data protection laws. The Company is prohibited from collecting, processing, using or forwarding personal data about XING members to third parties without permission in the form of valid approval from the XING member concerned, or if prohibited by German or European data protection laws.
3. The Company must observe third-party rights, particularly when sharing content and information. Correspondence that is clearly private may not for example be shared with other people without the express consent of the sender.
4. The Company is also specifically prohibited from engaging in the following:
  - Unreasonably harassing XING members and other people,
  - Using or promoting any commercial practices considered unfair competition, including progressive customer acquisition practices (such as chain distribution systems, multi-level selling or pyramid sales) or
  - Carrying out, advertising or promoting structural distribution measures (such as multi-level marketing or multi-level network marketing), even if these actions do not specifically constitute a breach of any applicable laws.
5. The Company is responsible for any faults on the part of their recruiters to the same extent that they are responsible for any faults of their own. In particular, the Company must ensure that the recruiters comply with the general terms and conditions for using XING and the general terms and conditions for using the XING TalentManager, and observe all applicable laws and rights of third parties when using the XING TalentManager. This applies in particular to job applicants and candidates managed in the XING TalentManager. Above all, the

Company must ensure that correspondence that is clearly private is not shared with other people without the express consent of the people involved.

6. New Work SE may impose the following sanctions in the event that obligations from this agreement, legal regulations or third party rights are violated, or if New Work SE has any other legitimate interest:
  - Temporarily or permanently deactivate the Company's XING TalentManager
  - Terminate the agreement for using the Company's XING TalentManagerNew Work SE reserves the right to impose the sanctions listed under Section 6.6, in particular in the event that the means of payment provided by the Company is invalid, or the Company does not fulfil a payment obligation on time and/or sufficiently.
7. Complaints from XING members could lead to the temporary deactivation of the Company's XING TalentManager.

## **7. Other rights and obligations of the Company**

1. The Company is obliged to keep access data confidential from unauthorised third parties. In particular, the Company will store user names and passwords in such a way that it is not possible for unauthorised third parties to gain access to them. The Company is obliged to inform New Work SE without delay should it become aware that a password is known to third parties. The Company must ensure that its recruiters do not disclose their login details to third parties.
2. The Company must inform New Work SE without delay should there be any important changes in the status of the Company which could be relevant to the contractual relationship.
3. The Company may only transfer contractual rights to third parties with prior written consent from New Work SE.

## **8. Contract period**

1. This agreement is initially effective for the minimum period of use selected by the Company. Thereafter, if it is not terminated by the deadline by the Company or by New Work SE, the agreement will be renewed for the same length of time. If the Company selects a product without a minimum period of use, the agreement will run for an unlimited period of time. In the event of contract renewal, the price will be based on the list price applicable at the time of renewal, less any bulk discount linked to the number of licences to be renewed.
2. The Company can purchase additional XING TalentManager licences during an ongoing contract period. The terms of additionally booked licences are calculated pro rata to the original contract. The additional licence fees are based on the price tier for the total number of acquired licences, applicable at the time of purchase. Additional licence purchases require a separate contract.
3. If the original contract is renewed, the renewal automatically applies to the total number of acquired licences and is based on the contract term booked in the original contract. The fee for renewals is the list price applicable at the time of renewal, less any bulk discount linked to the number of licences to be renewed.
4. Either party may terminate the agreement without stating a reason by serving notice up to three months before the end of the minimum period of use or the end of a renewal period. Agreements for products without a minimum period of use can be terminated by either party by serving notice of three months. In this instance, the contractual relationship ends on the end date of the final contract period.
5. The right of either party to terminate the agreement for cause remains unaffected.
6. Terminations must be submitted in writing (e-mail, fax or letter sent by registered post).
7. Following timely cancellation of a XING TalentManager contract, the XING TalentManager with all of the content and information saved there may only continue to be used if a new XING TalentManager utilisation contract is concluded and commences immediately after the previous contract term comes to an end.
8. Non-use of booked XING TalentManager licences during the contract period does not entitle the Company to claim a reimbursement, price reduction or extension of term beyond the respective contract period.

## **9. Fees and billing**

1. The fee for claiming, editing and use of the XING TalentManager is based on the offer that was selected.
2. Fees for the entire subscription period are immediately payable in advance at the time the invoice is issued. The payment can be made with any of the various means of payment offered.
3. New Work SE reserves the right to change the fee, to be effective as of the following period of renewal. New Work SE shall notify the Company of any fee change in the invoice sent to the Company with regard to the period of renewal. In the event of a price increase, the Company is entitled to submit to New Work SE within 4 weeks of the date of invoice a written declaration of withdrawal from the agreement with retroactive effect from the date of the renewal.

## **10. Indemnity**

1. The Company shall indemnify and exempt XING from all actions, including damage claims, asserted by third

parties or state authorities against XING which are related to the Company's infringement of rights, the Company's violation of obligations imposed on the Company by these general terms and conditions, or the Company's violation of pertinent data protection regulations.

2. Furthermore, the Company assumes all reasonable costs (including legal defence costs) that XING may incur in the event that a third party initiates or takes legal action (in or out of court) against XING as a result of the Company's violation of rights, the Company's violation of the obligations imposed by these general terms and conditions, or the Company's violation of pertinent data protection regulations.
3. All other rights, including damage claims by XING, are hereby unaffected.
4. The aforementioned obligations of the Company shall not apply to the extent the Company is not responsible for the infringement.

## **11. Liability**

1. In the event of intent or gross negligence, the Parties shall be held liable for all damages in connection with rendering the contractual services.
2. In the event of slight negligence, the Parties shall be held liable without limitation for injury to life, body or health.
3. Otherwise the Parties shall only be liable if there is a breach of a cardinal obligation under this agreement. The concept of cardinal obligation refers abstractly to such obligations, which, when fulfilled, make it possible for the contract to be properly carried out. The other party to the agreement can rely on the fact that these on the fact that these obligations are complied with. In such cases, liability is limited to typical and foreseeable damages.
4. If the Parties' liability is excluded or limited based on the aforementioned provisions, this shall also apply to the Parties' vicarious agents.
5. Neither party is liable to the other party for non-compliance with contractual obligations if the non-compliance is due to circumstances beyond the party's control. This applies in particular to cases of force majeure.

## **12. Reimbursement of advance payments**

The Company cannot make a claim for reimbursement of advance payments in the following cases:

- If New Work SE terminates the agreement with cause,
- If New Work SE imposes one or more of the sanctions in accordance with Section 6.6,
- If the Company terminates the agreement, the Company's claim for reimbursement of advance payments is not excluded if the cause for termination arises from New Work SE's area of responsibility.

## **13. Other provisions**

1. New Work SE may employ subcontractors. In the event that subcontractors are employed, New Work SE remains responsible for fulfilling the obligations taken on by New Work SE. New Work SE is entitled to transfer rights and obligations in full or in part to third parties.
2. New Work SE reserves the right to amend these general terms and conditions at any time, without giving reasons, unless an amendment is unreasonable to the Company. XING shall give the Company due notice of any amendments of these general terms and conditions. If the Company does not object to the applicability of the revised general terms and conditions within six (6) weeks after receipt of said notice, the amended general terms and conditions shall be deemed to be accepted by the Company. New Work SE shall inform the Company of its right to object and of the relevance of the objection deadline in said notice.
3. The exclusive place of jurisdiction and place of performance is Hamburg.
4. German law is applicable, excluding international private law and provisions of the United Nations Convention on Contracts for the International Sale of Goods.
5. If any provision of this agreement is or becomes invalid and/or unenforceable, the remaining provisions shall continue to be valid and enforceable to the fullest extent permitted by law.