

General Terms of Use and Licence Conditions for the XU Platform (also referred to as: "Learning Experience Platform, Online Education and Exchange Platform", "XU School") of XU Group GmbH ("XU" for short)

This English translation is for information purposes only. The original German text is the legally binding version in all respects. **Original version:** <https://xu.de/geschaeftsbedingungen/>

I. Subject matter of the contract, general provisions

- (1) The subject matter of the contract is the authorization to use and provide an XU Platform (also referred to as **"learning experience platform, online education and exchange platform", "XU School"**) made available by XU (also referred to as **"Provider", "We"**) to the Customer (also referred to as **"User"**) for the duration of the contract term.
- (2) These General Terms of Use and License Conditions apply to all contractual relationships between XU and the Customer, including trial versions of the XU Platform
- (3) These General Terms of Use and License Conditions apply analogously to subsidiaries of XU Group GmbH, such as XU Exponential Game Changers GmbH.
- (4) In the case of trial versions, XU may limit the scope of the XU Platform in terms of content.
- (5) The Customer pays by invoice and is only entitled to access or login to the XU Platform after receipt of payment.
- (6) The connection of the Customer's computer systems to the Internet is not part of the contract under any circumstances. The proper and regular backup of the data processed and disseminated via the XU Platform is also not part of the contract and therefore not owed by XU. The proper and regular backup of this data is the sole responsibility of the Customer.
- (7) A permanent internet connection with sufficient bandwidth is required to use the platform.
- (8) A quality of the XU Platform that goes beyond its functionality is not owed. XU does not guarantee a specific quality of the XU Platform. Technical data, specifications and performance data in public statements, in particular in advertising material, are not quality specifications.

II. Registration and creation of User accounts, User obligations

- (1) To use the XU Platform, you must register by name on the platform in the registration area. Only persons who have a license to use the XU Platform and those who have received a trial version may register.
- (2) The access data may not be passed on to third parties. In the event of misuse, XU is authorized to block the User account and take further legal action if necessary.
- (3) Users are expressly prohibited from using the XU Platform to
 - a) spread insults, illegal links and contents as well as other disturbances of the discussions,
 - b) use nicknames that are insulting or offensive,
 - c) use registered trademarks or names of celebrities,
 - d) share posts with extremist, racist and pornographic content as well as any content that violates applicable law,
 - e) publish press articles, photos, third party publications without the consent of the author,
 - f) use personal data for personal contact outside the XU Platform (e.g. address, telephone number, e-mail, messenger IDs).
- (4) When registering, truthful information must be provided and clear names must be used.
- (5) Customers and Users agree to be proactively contacted by XU via the media provided during registration (e.g. personal name, company name, e-mail, telephone, postal address) after registration for an introduction to the learning system, then at regular intervals to support the new functions in the learning environment and to

evaluate the learning habits, which XU carries out regularly as part of the contact, validation of contact data, for obtaining feedback, for support in the learning process on request, for problem solving and assistance and the application of our updated functionality and new functions.

III. Contract term and termination of the contract

- (1) This contract has a regular and payable term of at least one year and is automatically extended by a further year unless cancelled in writing 3 months before the contract expires or unless otherwise agreed in an individual contract.
- (2) Ordinary cancellation during the term of the contract is excluded.
- (3) The right of cancellation applies to both parties.
- (4) Both parties reserve the right to extraordinary cancellation for good cause if the legal requirements are met. Good cause for the Provider shall be deemed to exist if the Customer is more than 2 weeks in arrears with the payment of a due remuneration despite a reminder. If the Customer is responsible for the reason for termination, the Customer shall be obliged to pay the Provider the agreed remuneration less any expenses saved by the Provider up to the earliest date on which the contract would end in the event of ordinary termination.
- (5) Cancellations must be made in writing to be effective. The written form is sufficient if sent by e-mail.
- (6) Upon termination of the contractual relationship, for whatever reason, the parties are obliged to properly wind up the contractual relationship.

IV. Price adjustments

- (1) The Provider is entitled to adjust the remuneration for the contractual services in the event of changes in data center costs and personnel costs. Such a price adjustment is possible for the first time 12 months after conclusion of the contract.
- (2) The Provider shall notify the Customer of the change in writing at least 4 weeks before it takes effect. If the price increase compared to the previous price is more than 10%, the customer may terminate the respective contract with a notice period of 1 month to the end of the calendar month. In this case, the previous prices shall continue to apply until cancellation.

V. Granting of rights

- (1) XU hereby grants the Customer a revocable, non-transferable, time-limited and non-exclusive license to use the content offered under I. in accordance with the contract. This includes the reproduction of the content offered by XU on demand or in live sessions.
- (2) The Customer may not misuse this license or the material subject to the rights.
- (3) The Customer is not entitled to grant sub-licenses. He is also not authorized to provide third parties with access to the contractual content.
- (4) The Customer may not at any time use or utilize the rights outside the described purpose of use and will not take any steps which could be contrary to the content or purpose of these terms of use. The Customer shall also refrain from any action that could reasonably be expected to have a detrimental effect on the value, validity or enforceability of a licensed right or on XU's ownership such a right.
- (5) In particular, the Customer shall observe the type and duration of use granted for the respective material. The Customer shall not exceed the number of Users who are authorized to use the contractual content in accordance with this contract.
- (6) The Customer hereby acknowledges that in the relationship between the Customer and XU, XU Group GmbH is the sole owner of the rights, that these are and will always remain the sole and exclusive property of XU and that the Customer has not acquired any further rights or claims to the rights, with the exception of the license granted herein. The Customer shall not contest XU's ownership of the rights.
- (7) Upon termination of the license by cancellation or expiry, all rights to the material granted to the Customer shall automatically expire. The same applies after the expiry of the period of use granted for the respective material. The Customer must immediately cease using the rights and the material subject to the rights.

- (8) XU does not guarantee the legal validity of the rights and assumes no liability whatsoever that the rights can be used without infringing the rights of third parties.
- (9) The Customer agrees to indemnify and hold XU harmless from and against any and all claims, actions, losses, damages and expenses (including, but not limited to, court costs and attorney's fees) arising out of the Customer's actions in connection with or resulting from the use of the material.
- (10) The Customer must notify XU immediately in writing of any infringement or challenge to XU's rights to the material of which it becomes aware. XU has the exclusive right, but no obligation, to take defense action or initiate proceedings against infringers.
- (11) The rights are granted to the Customer for the respective material for a limited period until the expiry of the date described. Upon expiry of this date, all rights to the relevant material shall expire without the need for separate cancellation.
- (12) No rights or obligations arising from the license may be assigned or transferred without the written consent of XU. Any attempted assignment or transfer by the Customer shall entitle XU to terminate the license immediately.

VI. Claims for damages

- (1) Unless otherwise regulated in these provisions, claims for damages and reimbursement of expenses by the Customer (hereinafter referred to as "**claims for damages**") are excluded, irrespective of the legal grounds, in particular due to breach of obligations arising from the supply agreement and from unauthorized action. In particular, claims for damages for the loss of stored data are excluded if the damage would not have occurred with reasonable and proper data backup.
- (2) This does not apply if liability is as follows:
 - a) in accordance with the Product Liability Act,
 - b) with intent,
 - c) in the event of gross negligence on the part of owners, legal representatives or executive employees,
 - d) in case of fraudulent intent,
 - e) in the event of non-compliance with an assumed guarantee,
 - f) due to culpable injury to life, limb or health, or
 - g) due to the culpable breach of essential contractual obligations.
- (3) However, the claim for damages for the breach of essential contractual obligations is limited to the foreseeable damage typical for the contract, unless another of the aforementioned cases applies.
- (4) A change in the burden of proof to the detriment of the Customer is not associated with the above provisions.
- (5) Insofar as the Customer is entitled to claims for damages under these provisions, these shall become time-barred upon expiry of the limitation period applicable to claims for material defects. In the case of claims for damages under the Product Liability Act, the statutory limitation provisions shall apply.

VII. Liability

- (1) The Provider warrants the contractually agreed quality of the services and content. There shall be no claims for material defects in the event of only insignificant deviation of the Provider's services from the contractual quality. Claims for defects shall also not exist in the event of excessive or improper use, natural wear and tear, failure of components of the system environment. The same applies to software errors that are not reproducible or otherwise verifiable by the Customer. This also applies to damage due to special external influences that are not assumed under the contract. Claims for defects shall also not exist in the event of subsequent modification or repair by the Customer or third parties, unless this does not make it more difficult to analyze and rectify a material defect.
- (2) The limitation period for claims for material defects is one year from the start of the statutory limitation period. The statutory periods for recourse according to § 478 BGB remain unaffected. The same applies insofar as the law prescribes longer periods in accordance with § 438 Para. 1 No. 2 or § 634a Para. 1 No. 2 BGB, in the event of an intentional or grossly negligent breach of duty by the Provider, in the event of fraudulent concealment of a defect and in cases of injury to life, limb or health and for claims arising from the Product Liability Act. The

processing of a notification of material defects by the Customer by the Provider shall only lead to the suspension of the limitation period if the legal requirements for this are met. This shall not result in a recommencement of the limitation period. A subsequent fulfilment (new delivery or rectification) can only have an influence on the limitation period of the defect triggering the subsequent fulfilment.

- (3) Recourse claims for contracts for digital products in accordance with §327u BGB remain unaffected. If a Customer asserts a claim against the Provider that may trigger a right of recourse, the Customer is obliged to inform the Provider immediately and provide all relevant information.

The Customer shall enable the Provider to fulfil the claim directly, unless this is unreasonable for the Customer. The Customer and Provider shall coordinate and work together to settle justified claims as efficiently and cost-effectively as possible.

- (4) The Provider may demand compensation for its expenses insofar as
- a) it takes action on the basis of a report without a defect being present, unless the Customer could not recognize with reasonable effort that there was no defect, or
 - b) a reported fault is not reproducible or otherwise verifiable as a defect by the Customer, or
 - c) additional expenses are incurred due to improper fulfilment of the Customer's obligations.
- (5) The Provider shall only be liable for infringements of third party rights by its service if the service is used in accordance with the contract and, in particular, in the contractually agreed and otherwise in the intended environment of use without any changes. The Provider shall only be liable for infringements of third party rights within the European Union and the European Economic Area and at the place where the service is used in accordance with the contract.
- (6) If a third party asserts a claim against the Customer that a service provided by the Provider infringes its rights, the Customer shall notify the Provider immediately. The Provider and, if applicable, its upstream suppliers are authorized, but not obliged, to defend against the asserted claims at their own expense, insofar as this is permissible. The Customer is not entitled to recognize third party claims before he has given the Provider a reasonable opportunity to defend the rights of third parties by other means.
- (7) If the rights of third parties are infringed by a service of the Provider, the Provider shall, at its own discretion and at its own expense
- a) provide the Customer with the right to use the service or
 - b) design the service without infringing rights or
 - c) withdraw the service with reimbursement of the remuneration paid by the Customer (less reasonable compensation for use) if the Provider cannot achieve any other remedy with reasonable effort.

The interests of the Customer are taken into account appropriately.

- (8) Claims of the Customer due to defects of title shall become time-barred in accordance with clause (2).
- (9) The Provider is always liable to the Customer
- a) for damages caused intentionally or through gross negligence by him or his legal representatives or vicarious agents,
 - b) under the Product Liability Act and
 - c) for damages resulting from injury to life, body or health for which the Provider, its legal representatives or vicarious agents are responsible.
- (10) The Provider shall not be liable for slight negligence, unless it has breached an essential contractual obligation, the fulfilment of which is essential for the proper execution of the contract or the breach of which jeopardizes the achievement of the purpose of the contract and on the observance of which the Customer may regularly rely. This liability is limited to the foreseeable damage typical for the contract in the case of material and financial losses. This also applies to loss of profit and loss of savings. Liability for other remote consequential damage is excluded. For a single case of damage, liability is limited to the contract value, in the case of ongoing remuneration to the amount of remuneration per contract year, but not to less than € 50,000. The contracting parties may agree in writing upon conclusion of the contract to a more extensive liability, usually for a separate fee. An individually agreed liability sum shall take precedence. In addition, and with priority, the liability of the Provider for slight negligence arising from the respective contract and its execution for damages and reimbursement of expenses, regardless of the legal basis, is limited in total to the percentage of the remuneration agreed in this contract at the time of conclusion of the contract.

- (11) The Provider shall only be liable for damages under a guarantee if this has been expressly assumed in the guarantee. This liability is subject to the predetermined limitations in the event of slight negligence. If it is necessary to restore data or components (e.g. hardware, software), the Provider shall only be liable for the expenditure required for the restoration in the event of proper data backup and failure precautions by the Customer. In the event of slight negligence on the part of the Provider, this liability shall only apply if the Customer has carried out a data backup and failure prevention appropriate to the type of data and components prior to the incident. This shall not apply if this has been agreed as a service of the Provider.
- (12) In this respect, XU is not liable for content provided by external partners. XU pays great attention to the selection of external partners and encourages them to publish the latest scientific findings to the best of their knowledge and belief.
- (13) In particular, XU is not liable for content provided by external partners, Users and/or Customers in active communication exchanges (e.g. live sessions, Expert Channel).
- (14) XU expressly reserves the right to delete, replace and re-post content and accepts no liability for removed or replaced content.

VIII. Availability and fault conditions

- (1) XU offers the content for retrieval with an annual average availability of at least 97.5%. Announced maintenance cycles of the XU Platform are excluded from this annual average.
- (2) If a cause for which the Provider is not responsible, including strike or lockout, impairs compliance with the deadline ("disruption"), the due dates shall be postponed by the duration of the disruption, if necessary, including a reasonable restart phase. A contractual partner must inform the other contractual partner immediately of the cause of a disruption occurring in its area and the duration of the postponement.
- (3) If the expenditure increases due to a disruption, the provider may also demand compensation for the additional expenditure, unless the Customer is not responsible for the disruption and its cause lies outside its area of responsibility.
- (4) If the Customer can withdraw from the contract due to improper performance by the provider and/or demand compensation instead of performance or claims such, the Customer shall, at the request of the provider, declare in writing within a reasonable period of time whether he asserts these rights or continues to wish the service to be provided.
- (5) In the event of cancellation, the Customer must reimburse the provider for the value of previously existing usage options; the same applies to deterioration due to intended use. If the Provider is in default with the provision of the service, the Customer's compensation for damages and expenses due to the delay is limited to 0.5% of the price for the part of the contractual service that cannot be used due to the delay for each full week of the delay. The liability for delay is limited to a maximum of 5% of the remuneration for all contractual services affected by the delay; in the case of continuing obligations, this relates to the remuneration for the respective services affected for the full calendar year.

IX. Obligations of the Customer

- (1) The Customer must protect the access authorizations assigned to him or the Users as well as identification and authentication information from access by third parties and not pass them on to unauthorized persons.
- (2) The Customer is obliged to indemnify the Provider against all third party claims arising from legal infringements that are based on an illegal use of the subject matter of the service by the Customer or are carried out with the Customer's approval. If the Customer recognizes or must recognize that such an infringement is imminent, there is an obligation to inform the Provider immediately.
- (3) The Customer must use the options provided by the Provider to backup his data in his original area of responsibility.
- (4) For each case in which a contractual service is used without authorization in the Customer's area of responsibility, the Customer shall pay compensation in the amount of the remuneration that would have been incurred for the contractual use within the scope of the minimum contract term applicable to this service. The

Customer reserves the right to prove that the Customer is not responsible for the unauthorized use or that no damage or significantly less damage has occurred. The Provider remains entitled to claim further damages.

- (5) The Customer undertakes to ensure that the Users he has granted licenses to do so do not publish any contributions that are contrary to public decency or otherwise violate applicable German law. The Customer assumes responsibility for monitoring the activities of his Users in an appropriate manner.
- (6) In particular, it is prohibited to:
 - a) spread insults, illegal links and contents as well as other disturbances of the discussions,
 - b) use nicknames that are insulting or offensive,
 - c) use registered trademarks or names of celebrities,
 - d) share posts with extremist, racist and pornographic content as well as any content that violates applicable law,
 - e) publish press articles, photos, third party publications without the consent of the author,
 - f) use personal data for personal contact outside the XU Platform (e.g. address, telephone number, e-mail, messenger IDs).
- (7) Insofar as the Customer breaches its monitoring obligation, XU accepts no liability for breaches by Users in accordance with (5) and (6).

X. Data protection and confidentiality

- (1) Both contracting parties shall comply with the applicable data protection regulations, in particular those applicable in Germany, and shall oblige their employees deployed in connection with the contract to maintain data secrecy, unless they are already generally obliged to do so.
- (2) The Provider does not check the data and content stored for the Customer with regard to the legal permissibility of collection, processing and use; this responsibility is assumed exclusively by the Customer.
- (3) The Provider is authorized to process and use the Customer's data within the scope of what is permitted under data protection law during the validity of this contract. Details are contained in the separate data protection declaration.
- (4) The parties are obliged to keep permanently confidential, not to disclose to third parties, record or utilize in any other way all information about the other party which has become known or becomes known to them in connection with this contract and which is marked as confidential or is otherwise recognizable as business and trade secrets (hereinafter referred to as "**confidential information**"), unless the other party has expressly consented to the disclosure or use in writing or the information must be disclosed by law, court order or administrative decision.
- (5) The information is not confidential information if it:
 - a) was already known to the other party without the information being subject to a confidentiality obligation,
 - b) is generally known or become known without breach of the confidentiality obligations assumed,
 - c) is disclosed to the other party by a third party without breach of a confidentiality obligation.
- (6) The supplier may award subcontracts, but must impose a corresponding obligation on the contractor.
- (7) When using our platform, the individual learning success of participants is recorded in order to document their learning progress and ensure optimal use of the platform. This data helps both Users and their managers to organize training in a targeted and efficient manner.
- (8) By using the platform, the User expressly agrees that data on individual learning success (e.g. modules completed, results achieved, duration of use) may be stored and processed. This data is collected exclusively for the purposes stated above and in compliance with applicable data protection regulations.
- (9) The User also agrees that the Customer's management level, as a contractual partner of the platform, may gain insight into the User's results and progress. The purpose of the inspection is to promote further training within the company and to ensure that the learning objectives are achieved. The scope of the data provided is limited to the necessary minimum.

- (10) Consent to data collection and inspection can be revoked in writing at any time. However, revocation may restrict the use of certain functions of the platform or make it impossible, as data collection is necessary to provide the service.
- (11) These obligations shall survive the end of this agreement.

XI. Final provisions

- (1) All agreements containing an amendment, supplement or concretization of these contractual terms and conditions, as well as special assurances, guarantees and agreements, must be recorded in writing. Guarantees only qualify as guarantees in the legal sense if they are expressly designated as guarantees.
- (2) The contract is subject to the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The place of jurisdiction is the registered office of the supplier if the Customer is a merchant, a legal entity under public law or a special fund under public law.
- (3) Should individual provisions of this agreement be invalid, this shall not affect the validity of the remaining provisions. In this case, the parties shall cooperate in order to invalid provisions with provisions that correspond as closely as possible to the invalid provisions.
- (4) The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- (5) Ancillary and additional agreements, quality specifications regarding the delivery items, quality or durability guarantees and other agreements made before, during or after the conclusion of a delivery agreement must be made in writing to be effective.

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XU Group GmbH
Mehringdamm 33, 10961 Berlin,
listed in the commercial register of Charlottenburg Local Court, registration number: HRB 172976 B,
represented by the managing directors Dr Christopher Jahns and Nicole Gaiziunas-Jahns
www.xu.de
hallo@xu.de