

TERMS AND CONDITIONS – VERSION OF 16.01.2018

The company Xtal GmbH, based in Im Kloth 54A, 76228 Karlsruhe, Germany (hereinafter referred to as „Xtal“) provides various services for the execution of specific consensus mapping studies to registered commercial and private customers (hereinafter referred to as „Users“) via the website www.cognilink.de (hereinafter referred as „CogniLink Services“).

The following terms and conditions apply to each use of the mentioned CogniLink Services.

1. SCOPE

1.1. These terms and conditions apply to all offered CogniLink Services. They are the contractual basis for all services that Users of CogniLink Services make use of.

1.2. The User's general terms and conditions of business or purchasing will not apply, unless they have been confirmed by Xtal in writing.

2. REGISTRATION, CONDITIONS OF USE

2.1. The use of CogniLink Services requires registration as a User. The CogniLink Services are offered to commercial and private customers.

2.2. The User is obligated to provide truthful information during the registration process and keep his contact data as well as other mandatory data, including the data required for the payment processing, up to date.

2.3. If a natural person carries out a registration on behalf of a third party (for example a company, an association or any other natural or legal person) without being a legal representative of the third party, he assures to be authorized accordingly.

2.4. The CogniLink Services are online services. The communication between the Users and Xtal generally takes place by e-mail or by announcements or notices by Xtal in the User account. The User is therefore obliged to keep his e-mail address specified at the registration always ready to receive and to retrieve incoming messages regularly, at least once per working day. By configuring his e-mail account, he has to ensure that Xtal messages are not stuck in the account's SPAM filter.

2.5. There is no claim to registration. Xtal reserves the right to refuse registrations of Users without giving reasons.

3. DESCRIPTION OF SERVICE, CHANGE OF SERVICE

3.1. Xtal provides software for the administration, execution and evaluation of online studies as web services (software-as-a-service) via web pages for the User. The CogniLink Services can only be used online via the interfaces provided by Xtal. A right to download the software or to install the software on the User's systems is prohibited.

3.2. The functionality of the individual CogniLink Services can be found in the current product description on the website www.cognilink.de. The use of CogniLink Services is limited to the number of studies and co-users booked by the User. Xtal may offer supplementary packages for the use of further studies or co-users. The terms of the booked CogniLink Service apply for supplementary packages.

3.3. The quality and resilience of evaluations depends essentially on the quality of the data collected by the study and the design of the specific study. The User is solely responsible for both, as he selects the participants and administers the concrete study. Xtal does not carry out any inspection or evaluation of the data to be evaluated.

3.4. The CogniLink Services consist of complex hardware and software components, whose individual components constantly interrelate with each other and which are at the same time subject to constant adaptation through further developments, changed legal requirements or safety updates. Xtal will diligently make all adjustments to the hardware and software components within the scope of the existing technical and operational possibilities, but can not assure uninterrupted availability of the CogniLink Services.

3.5. Xtal's CogniLink Services are partly based on third-party software (such as scripting languages, database languages, database systems, etc.) or are partially dependent on such software for their functionality. Xtal has no influence on any changes to the software of third parties. In individual cases, Xtal may not be able to offer individual functions of CogniLink Services if the functionality of third-party software changes or the use of certain third-party software is no longer possible for security reasons. In such cases, Xtal is entitled, subject to the interests of the User, to adjust and modify CogniLink Services to the extent required.

3.6. If Xtal offers new CogniLink Services extending the functionality of existing CogniLink Services, these terms and conditions also apply to the new or extended CogniLink Services.

4. SERVICES OF PARTNERS

Xtal may also offer third party services to the User. Such services are marked as third-party offers. The terms and conditions as well as the privacy policy of the third-party provider apply solely.

5. OBLIGATIONS OF THE USER

5.1. The User is obliged to keep his access data securely and to protect it against unauthorized third parties. If the User suspects that unauthorized third parties have knowledge of his access data, he is obliged to change the access data immediately. The User is liable for all damages which have been caused by third parties by authorized or unauthorized use of the CogniLink services within the scope of the access and use facilities provided to him.

5.2. The User undertakes not to publish any content that might arouse the public offense and violate good morals. In particular, he undertakes not to create sexually offensive, racist, radical and despicable content.

a. Xtal assumes no responsibility whatsoever for the contents of the study and the responses of the participants, nor for the manner in which the results are used by the User.

b. Xtal reserves the right to change, block or delete content that violates good morals.

5.3. The User undertakes to observe the privacy policy and other rights of the participants. In particular, the User has to ensure that

a. the participant is sufficiently informed about the purpose of the study;

b. the completion and submission of the study is at the sole discretion of the participant and is not associated with any disadvantages, particularly in in-house studies;

c. personal data of the participants are no longer stored as required, are only used for the purposes of the study and are not passed on to third parties or are exposed to their access;

d. other general and special rights for the protection of the personality of the participants are respected;

e. in the case of non-anonymous studies, the express consent of the participant is obtained, that his personal data may be stored and that the answers can be linked with the persons.

5.4. The User is liable for all consequences and disadvantages that Xtal or third parties may incur by the abusive or unlawful use of the CogniLink Services or by the User otherwise violating his obligations. This includes, in particular, the obligation to release Xtal from claims for damages or reimbursement of third parties, as well as from all costs of legal prosecution (court and legal costs). Other rights of Xtal remain unaffected, in particular the right to extraordinary termination of the contract and to compensation for further damages.

5.5. The User must immediately notify Xtal of any changes to relevant data, such as address, authorization, or other occurrences.

5.6. If there is a reasonable suspicion that the User has infringed his obligations, Xtal is entitled to block the access of the User, even temporarily, until the suspicion is invalidated. Any such blocking will be communicated immediately by Xtal to the User, stating the reasons and giving him the opportunity to comment.

5.7. The User agrees with our privacy policy and the obligations contained therein. In particular, in the case of non-anonymous studies, the User agrees to inform the participants in full about the protection and handling of their data. Furthermore, the User has to obtain explicit consent from the participants to store their personal data.

5.8. If the User transfers personal data from the study participants to Xtal (in particular through the retrieval of personal data in a study), the User is obliged to report this to Xtal and submit a contract for the order data processing according to §11 BDSG with Xtal.

6. RIGHTS OF USE

6.1. Xtal grants the User and the agreed number of co-owners a non-exclusive right to use the booked CogniLink Services, limited to the term of the contract.

6.2. In the case of the free student versions, the right to use the booked CogniLink Services is limited to the non-commercial use of the course at an official university. In particular, the use within and for the purpose of a company is excluded.

6.3. The parties, as far as commercial Users are concerned, allow themselves the right to use the logo and company name of the other party as a reference on their own website and in company presentations. Each party may at any time object to the use of its logo and / or company name for a specific case or generally with effect for the future. The objection must be in writing.

7. PUBLICATION

Xtal reserves the right to publish results of any studies carried out as part of the free student version "CogniLink Student" with the CogniLink Services, without prior notice to the User. If there are reasons against the publication of the results, the User can send an e-mail to support@cognilink.de and state his reasons. If the reasons are justified, Xtal will refrain from publishing it.

8. RIGHT OF CANCELLATION

8.1. Consumers within the meaning of §13 BGB have the right to cancel their offer without further notice within two weeks after the conclusion of the contract. The deadline is two weeks and starts with the purchase of the respective CogniLink service. In order to meet the deadlines, timely submission in writing (e-mail, letter, etc.) is sufficient, with the consumer bearing the burden of proof for the receipt of this revocation declaration.

8.2. If the consumer has already used one of the CogniLink services, for example starting a survey, the right of cancellation expires. In case of cancellation, Xtal will refund any payments already made without deductions.

9. TERMS OF PAYMENT

9.1. Xtal provides the User with an electronic invoice, which must be paid within 14 days of receipt, unless the specific offer or the individual written agreement of the parties provides otherwise.

9.2. If the User is in default of payment, Xtal is entitled to temporarily suspend access to the User's account and the services. If Xtal incurs costs (for example bank charges for

reimbursement, collection costs, etc.) due to the User's default of payment, Xtal may demand the User to reimburse the costs.

10. LIABILITY

10.1. Xtal will only be liable for damages for breach of contractual or non-contractual obligations only in cases of intent or gross negligence.

10.2. However, Xtal will only be liable for the intentional and gross negligence of non-complying fulfillment obligations if these violate a substantial contractual obligation.

10.3. Xtal will not be liable in cases of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents, as far as the violation of contractual obligations is concerned.

10.4. Contractual obligations are those which make the proper execution of the contract possible and which the contractual partner may regularly trust and rely on.

10.5. In cases of a culpable breach of contractual obligations, the liability is limited to the foreseeable damage typical for the contract.

10.6. The foregoing limitations of liability do not apply to the liability of Xtal for intentional conduct, for guaranteed characteristics, for injury to life, body or health or the Product Liability Act.

11. DATA PROTECTION

11.1. The use of the CogniLink Services is subject to the CogniLink privacy policy.

11.2. Xtal creates anonymised usage statistics for the purpose-oriented design of the service, for the detection of errors and for marketing purposes. Such usage statistics do not contain any personal data of the User. The User has the right to object to such an anonymous evaluation of his usage behavior in text form for the future. Such a contradiction is to be addressed to support@cognilink.de.

12. FINAL PROVISIONS

12.1. The contract language is German. Other versions are for information purposes only.

12.2. Xtal employees are not entitled to make verbal agreements with the User, which deviate from the general conditions of use.

12.3. Should any provision of these terms and conditions be or become invalid, the legal validity of the remaining provisions remain unaffected. In lieu of the ineffective provision, an effective provision is reached which is closest to the economic intention of the parties.

12.4. The law of the Federal Republic of Germany applies to these conditions of use under the exclusion of the UN purchase law. The place of fulfillment is Karlsruhe.

12.5. If the User is a merchant, a legal person of public law or a public special fund, Karlsruhe court of jurisdiction is responsible for all disputes arising from contractual relations between the User and Xtal.