

General terms and conditions / terms of use

Preamble

Professionate.com – referred to as “PN“ in the following – offers jobs in the promotion, fair trade and event sector. Our service primarily focuses on everyone who wants to place or accept corresponding orders based on personal advertising.

PN mainly addresses industrial clients, conceptual advertising and event agencies and self-employed persons, as well as the above-mentioned business circles and their service providers – all called “users“ in the following. Private individuals/consumers are excluded in terms of § 13 of the German Civil Code (BGB).

With reference to § 8.3 of these terms and conditions, PN denies access of their website to those employment services, whose only activity is the placement of employees.

§ 1 Terms and conditions: scope of application

- 1) PN provides all chargeable and free services, services which are liable and not liable to registration, contents and information based on these terms and conditions. If necessary, they are specified by product-specific service descriptions.
- 2) If not otherwise agreed by product-specific service descriptions and individual arrangements, the following regulations shall apply. General terms and conditions by users or other contractual partners which are deviant shall not be valid. They shall also not be valid in case PN does not object to them explicitly.
- 3) PN reserves the right to change these terms and conditions at any given time. Changes come into effect as soon as they have been published on the website “www.professionate.com“. Altered terms and conditions are pointed out to registered users during login to their account. Users shall be bound to the altered terms and conditions in case they do not object in written form to PN’s attention within 14 days after the changes have been announced.
- 4) Furthermore, PN reserves the right to change their service portfolio at any time.

§ 2 Conclusion of contract

- 1) Registration is required for services with limited access provided by PN. The required data for activation must be stated accurately by the user. After the respective form has been sent, the user shall go through the registration routine for the particular user group in order to verify, e.g. by clicking on a link for activation in an e-mail or by sending a registration form.
- 2) PN reserves the right to refuse or partially refuse acceptance of a customer request to use PN’s services or a concrete order without stating reasons. PN also has the right to do a credit check on users prior to accepting a particular request/order.
- 3) In addition to various free services, PN offers chargeable services for which further contracts between the user and PN are necessary. Contractual details are specified by the respective product-specific service descriptions.
- 4) If not otherwise arranged by special regulations, especially PN’s chargeable services can only be used when the user is 18 years old or a legal representative has agreed.

Through registration the user assures to be of age or that a legal representative has agreed.

- 5) PN is a web-based service and therefore, the user explicitly agrees that all communication between them and PN happens online via e-mail, and hence, all contracts between the user and PN are concluded online via e-mail. For this purpose the user shall provide an e-mail account at their own expense, which can be contacted any time.
- 6) PN reserves the right to publish contents (records, texts, photos, graphical material, etc.), which are uploaded or ordered for uploading by the user, without prior notice to the user and based on standard and justifiable principles. Besides that, PN can change or delete these contents -also in retrospect- as they see fit. This shall apply in particular if contents violate legal prohibitions, official bans or the moral code or if publications are unacceptable to PN for other reasons.
- 7) Furthermore, PN reserves the right to close and/or delete user accounts without notice as they see fit, even in case of a first-time violation like distribution of racist, sexist, insulting, slanderous, inciting, religiously offensive, threatening contents or other contents relevant to criminal and/or civil law. The same shall apply to violations of legal or official regulations, especially regulations on industrial property protection (competition law, trademark law, design law, patent law) and copyright, as well as violations of the moral code or these terms and conditions.
- 8) In these cases PN is also entitled to terminate all current agreements without notice and/or rescind these entirely. A ban or termination of contract do not release the user from their obligation to pay. The right for enforcement of accrued charges until that point or claims for damages by PN shall remain unaffected. In the above-mentioned cases the user shall not be entitled to reimbursement regarding already paid fees.

§ 3 Fees, payment, delay, reservation of title

- 1) Especially PN's chargeable services solely address companies or self-employed persons and explicitly not private individuals/ consumers in terms of BGB § 13, or end consumers in terms of PAngV § 1. The listed prices by PN are in USD -unless otherwise noted -plus VAT.
- 2) The registration for the "standard account" as well as its usage are free for every user of PN; there will be no running costs, e.g. in form of a monthly fee. Furthermore, additional chargeable services (e.g. agency package, premium account, etc.) with extended services can be ordered by the particular user.
- 3) In regards of chargeable services the user will be informed about the costs prior to the use of the service. The user shall pay PN compensation for using the particular services -if not otherwise agreed by individual arrangements in written form- which is set out in the price lists as well as the product-specific service descriptions available under "www.professionate.com". Prices are binding which are published on PN at the time of the incoming order.
- 4) All fees owed by the user - unless otherwise noted - are due for payment in USD plus VAT and shall be paid online, immediately after placing the order. For payment transaction PN collaborates with PayPal Plus for example. Using PayPal Plus enables payment with credit card, instant bank transfer or a PayPal account.

- 5) Unjustified chargebacks or chargebacks that happen without prior written content of PN will lead to the imposition of default interest amounting to eight (8) percent above the base rate. It is for the user to prove a lower than the claimed damage caused by delay.

§ 4 Set-off, right of retention

- 1) Against PN's claims the user can only set off counterclaims that are undisputed and recognized by declaratory judgement.
- 2) The user can only enforce a right for retention when their counterclaim arises from the same legal relationship.

§ 5 Duration/termination of contract

- 1) The terms of the contract and the terms of notice are set out in the product-specific service descriptions. In case of term contracts with a minimum term of six (6) months, the particular contract is prolonged for the initial term (e.g. a 6 months' contract is prolonged for further six (6) months; a 12 months contract for further twelve (12) months) provided that none of the contracting parties terminates the agreement in written form via e-mail 14 days before the end of the specified term.
- 2) Other than that, PN is referring to the regulations mentioned in § 2.

§ 6 Discussion forums, chats

- 1) PN provides free discussion forums and chats for their users. Only users above the age of 18 are allowed to use these services.
- 2) PN generally performs random checks of contents in discussion forums and chats. A complete supervision of all uploaded contents is not reasonable for PN. PN assumes no liability for the flawlessness of discussion forums and chats as well as contents communicated by users.
- 3) PN reserves the right to remove content from discussion forums and/or chats without prior notice to the user, in case there is reasonable suspicion that these may be illegal, offensive or hostile and/or third parties report illegality of contents to PN, offend common decency in terms of general public communication or complicate communication among users. PN can also remove content when discussion forums are too overloaded and in turn become confusing.
- 4) Other than that, PN is referring to the regulations mentioned in § 2.

§ 7 Rights and obligations of the users

- 1) Registered users shall be entitled and at the same time obliged to use PN's services according to the regulations of these terms and conditions.
- 2) While using PN, general laws must be observed. Especially, it is prohibited to use PN's web presence to upload infected or otherwise defective data on PN's web server, to send mass e-mails, to consciously register with false or

misleading personal information or false identity. Other than that, PN is referring to the regulations mentioned in § 2.

- 3) Furthermore, users of PN are not allowed to completely or partially copy contents (records, texts, photos, graphical material, etc.) published on PN and to forward them to third parties - especially competitors - against payment or for free. The use of such contents on other web services requires the explicit and written approval of PN or the respective copyright holders. This shall also be valid for the so called „Screen Scraping“ of all content published on PN. In case of unauthorized disclosure/import of contents published on PN, completely or partially, the user and PN already agree to a mandatory compensation of a reasonable license fee of 500,00 USD plus VAT for every affected content as described above. This shall be valid for announcements of job providers (industrial clients, conceptional advertising- and event agencies) as well as SetCards posted by job seekers (promoters, hostesses etc.). In such cases, the above specified compensation shall be valid for the entire damage claim.
- 4) Should the user's data or graphical material change, they shall be obliged to update their user account immediately and truthfully as well as the information and/or pictures therein.
- 5) The user declares that they will not allow third parties, either intentionally or negligently, to have access to their PN account. The user assumes full responsibility for the use of their account. Therefore, the user shall also be liable for improper use of their account and must bear all costs of unauthorized usage unless they are able to exculpate.
- 6) Therefore, the user shall take appropriate measures in order to avoid that their login details are passed onto unauthorized parties. Should the user suspect unauthorized use of their login details, they shall be solely responsible to inform PN immediately by a proper medium online, via e-mail or telefax, and initiate the change of their login details. The user must bear all costs that may arise for changing/blocking their account or potential downtimes.
- 7) Without written approval by PN, the user is not allowed to fully or partially cede PN's services, against payment or for free, to third parties, e.g. by passing on their user data. Assigning single rights or the total contract to third parties is subject to approval by PN.
- 8) The user exempts PN from all claims which may arise by illegal use of their user account. Subject to further claims of compensation by PN, the user shall be liable for costs that may arise for PN from prosecution and legal defense.
- 9) The user shall be solely responsible for the backup of their data. Although PN takes care of regular data backups, PN is not liable for potential data loss.
- 10) Contact details, e.g. e-mail addresses, phone numbers, postal addresses or similar, must be specified at the places provided for this purpose. PN prohibits specifically, but not finally, to specify their data in job descriptions, applications or posts in forums. In case of violations PN reserves the right to delete the contact details, the total post and/or the profile without prior notice.
- 11) Errors that might occur on PN's website must be recorded by the user (e.g. screenshots) and immediately reported by recording the indicated error messages. Furthermore, the user shall make all efforts to assist corrective

measures. This obligation is the basic requirement for the enforcement of any warranty claims. The user shall report obvious defects in written form within 2 weeks after detection; to comply with this term, the date of mailing is relevant. Once this period has expired, there is no right for warranty claims.

12) Additionally, PN points out that further rights and obligations of the users of PN are indicated in other contextual parts of these terms and conditions.

§ 8 Rights and obligations of PN

- 1) PN does not guarantee that their website is available and free from defects any time. This shall apply in particular when the access to PN's services is affected by errors that cannot be influenced by PN. Furthermore, PN is entitled at all times to fully or partially limit the availability of their website for maintenance.
- 2) PN points out that relevant contents (records, texts, photos, graphical material, etc.) and/or user data must be passed onto authorized third parties (e.g. law enforcement agencies) due to legal or judicial orders.
- 3) PN is entitled at all times, but not obligated, to check if contents (records, texts, photos, graphical material, etc.) uploaded or ordered for uploading by the user conform with common law, the rights of third parties and/ or these terms and conditions.
- 4) Additionally, PN points out that further rights and obligations of PN are indicated in other contextual parts of these terms and conditions.

§ 9 Disclaimer

- 1) With reference to § 8, PN is liable
 - for damages which are covered by the liability according to the Product Liability Act;
 - for damages which are based on a willful or grossly negligent breach of obligation by PN, a legal representative or an assistant of PN;
 - for damages caused by ordinary negligence on the part of PN, provided that this negligence results in the violation of essential contractual obligations ("cardinal duties"). Cardinal duties are those duties which are granted to the contractual partner according to the spirit and purpose of the contract, or whose fulfillment allows the correct implementation of the contract in the first place and whose compliance the contractual partner can constantly trust in. But in these cases PN's liability is limited to damages which are typically associated with the contract and predictable.
- 2) The above-mentioned regulation covers all contractual and legal claims which result from these terms and conditions or the usage of PN's services. Other than that, PN's liability is explicitly excluded. This shall particularly apply to data loss that is not caused by negligent behavior by PN, a legal representative or an assistant of PN.
- 3) PN provides a platform on which users can offer or search for jobs and services by way of exchange or against payment. Thus, PN's service is limited to the purpose of bringing their users together. Negotiating contracts and their conditions in the contractual relationship between the particular users is solely business of the

contracting parties. Hence, PN is not liable for contents, compliance, success and/or payment of the contracts negotiated by the parties.

- 4) PN as well as their users assume that the job announcements on this platform- if not otherwise or explicitly stated in the advertising copy -match announcements ("pitch") between companies or self-employed persons. However, should an employment contract subject to social insurance contribution be concluded, only the contracting parties shall be responsible for the contractual form and compliance with legal requirements.
- 5) Additionally, PN points out that further aspects in regards of liability are indicated in other contextual parts of these terms and conditions.

§ 11 Disclaimer for references/links

- 1) In case of direct or indirect references to other websites ("links"), which PN is not responsible for, liability only comes into effect if PN has notice of any illegal content on the website and it is technically possible and reasonable to PN to prevent the use of such contents.
- 2) Herewith, PN asserts that there were no illegal contents recognizable on linked websites at the moment of setting links. PN has no influence on the current or future design, contents or authorship of linked websites. Therefore, PN distances themselves from all contents on all linked websites which were altered after setting links. This declaration shall also apply to all links on the own website as well as entries made by third parties within PN's services.
- 3) The provider of the linked website shall be solely liable for illegal, incorrect or incomplete contents.

§ 12 Copyright, trademark law

- 1) PN aims to consider the copyrights of used contents (records, texts, photos, graphical material, etc.) in all publications and to only use contents created by PN, or royalty-free or properly licensed contents.
- 2) All trademarks stated on PN's website and if necessary protected by third parties are subject to the regulations of the particular trademark law in force and titles of the registered owner without limitation. The mere mentioning cannot lead to the conclusion that these trademarks are not protected by the rights of third parties.
- 3) The copyright for contents created by PN (records, texts, photos, graphical material, etc.) remains with PN. Copying or using such contents in other electronic or printed publications is not allowed without the explicit, written approval of PN. This shall be valid for the so called „Screen Scraping“ of all content published on PN.
- 4) Other than that, PN is referring to regulations stated in § 7.3.

§ 13 Privacy Policy

- 1) PN's privacy policy is in line with the general data protection legislation of the Privacy Act (BDSG), Teleservices Data Protection Act (TDDSG), German Teleservices Act (TMG) for the individual usage of combinable data like signs,

pictures or sounds as well as for the offer and usage of information and communication services in text, sound and picture which are directed at the general public.

- 2) The collection, processing, and use of personal user data are carried out in accordance with the strict guidelines of the German data privacy laws based on the principle of data reduction, data transparency and data security. The collected data is processed and used by PN and their trade and service partners to the extent that is legal, desired by the individual user and necessary for carrying out the deal concluded with the users of PN and the maintenance of resulting customer relations.
- 3) For the performance of PN's services liable to registration PN needs the following from the users: name/s, address/es, phone number/s, fax number/s, e-mail address/es and data for handling of payments. In order to successfully bring job providers (industrial clients, advertising and event agencies, etc.) and job seekers (promoters, hostesses, etc.) together, PN also needs data from their users that are usually collected in personnel records by job providers registered on PN. Depending on the type of service it is also necessary to fully or partially pass on data to trade and service partners of PN.
- 4) Provided the access to PN's website PN reserves the right to save multiple records on the web servers. These records are necessary to guarantee the functionality of PN's services and are only analysed internally for the improvement of PN's website. Disclosure to third parties - with exception of counting and advertising mechanisms - does not take place. Other than that, PN is referring to the heading "Disclaimer third-party providers".
- 5) Besides that, access data is saved in log files when viewing the website. These log files give information about the visitor's country, IP address, remote host, time, account status and when required the transferred data volume and website from which the user came to PN's website as well as the product information about the used browser software.
- 6) Furthermore, PN informs all visitors of this website that this website uses so-called cookies for the administration of user sessions and improvement of the visitor experience. Cookies are small text files which are buffered in the visitor's browser software for 365 days at most. The visitor can avoid storage of cookies by adjusting the corresponding settings of the particular browser software; but PN points out that in this case not all features of this website can be used to the full extent. Other than that, PN is referring to the heading "Disclaimer third-party providers".
- 7) Personal data is only collected with the user's approval (e.g. through checkbox confirmation during registration of a user account, by sending a contact form or request of individual offers by the user). Upon informal request the users of PN obtain information about saved personal data, free of charge. Users of PN can request the deletion of their data at any time in written form via e-mail or letter to the data protection officer.
- 8) In case of termination of PN's services liable to registration, user data will remain saved on PN's web servers if necessary (e.g. due payments, current prosecution), unless it conflicts with law. But under normal circumstances a request for deletion means that all user data will be deleted from PN's web servers immediately. So as a rule, "deletion" really means deletion!

§ 14 Jobletter/newsletter, e-mail communication

- 1) PN sends jobletters or newsletters to registered users on a regular basis.
- 2) Jobletters or newsletters can be cancelled any time using the account or the jobletter.
- 3) Until cancelled the user approves that our jobletters or newsletters are sent to their e-mail address by accepting these terms and conditions.
- 4) No matter the settings to the above-mentioned media, in special cases PN will send an e-mail to all affected, registered users in case it contains relevant information about usage.

§ 15 Miscellaneous

- 1) As far as legally permissible, place of performance shall be Berlin.
- 2) The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 3) If one of the mentioned provisions is invalid, the validity of the other provisions shall remain unaffected. The invalid provision shall be replaced by a provision the economic effect of which comes as close as possible to that of the invalid provision. The same shall apply to any omissions.

As last amended on 3rd March 2017 – www.professionate.com