



## **WhenToWork, Inc. Institutional Terms of Service**

### **1. ACCEPTANCE OF TERMS**

Welcome to WhenToWork.com. WhenToWork, Inc. (WhenToWork.com), provides its service to you (User), subject to the following Terms of Service ("TOS").

### **2. DESCRIPTION OF SERVICE**

WhenToWork.com currently provides Users with subscription paid access to online resources, including various online scheduling abilities, (the "Service"). Fees are based on the number of employees added and the duration paid, as more specifically described online at: <http://WhenToWork.com/pricing.htm>. Unless explicitly stated otherwise, any new features that augment or enhance the current Service, including the release of new WhenToWork.com properties, shall be subject to the TOS. You understand and agree that the Service is provided "AS-IS" and that WhenToWork.com assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any User communications, data entry or personalization settings.

In order to use the Service, you must obtain access to the Internet, and pay any service fees associated with such access. In addition, you must provide all equipment necessary to make such connection to the Internet, including a computer and modem or other access device.

### **3. YOUR REGISTRATION OBLIGATIONS**

In consideration of your use of the Service, you agree to: (a) provide true, accurate, current and complete information about yourself as prompted by the Service's registration form (such information being the "Registration Data") and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or WhenToWork.com has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, WhenToWork.com has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

#### **4. WHENTOWORK.COM PRIVACY POLICY**

Registration data and certain other information about you is subject to our Privacy Policy. For more information, see our full privacy policy at <http://whentowork.com/privacy.htm>.

#### **5. USER ACCOUNT, PASSWORD AND SECURITY**

You will create an ID and password upon completing the registration process. You are responsible for maintaining the confidentiality of that login information, and are fully responsible for all activities that occur under that login. You agree to immediately notify WhenToWork.com of any unauthorized use of logins on your account or any other breach of security. It is recommended that you sign out from your account at the end of each session, especially on a shared device. WhenToWork.com cannot and will not be liable for any loss or damage arising from your failure to comply with this Section 5.

#### **6. USER CONDUCT**

You understand that all information, data, text, messages or other materials ("Content"), whether publicly posted or privately transmitted, are the sole responsibility of the person from which such Content originated. This means that you, and not WhenToWork.com, are entirely responsible for all Content that you upload, post, email, transmit or otherwise make available via the Service.

WhenToWork.com does not control the Content posted via the Service and, as such, does not guarantee the accuracy, integrity or quality of such Content. You understand that by using the Service, you may be exposed to Content that is offensive, indecent or objectionable. Under no circumstances will WhenToWork.com be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available via the Service.

#### **You agree to not use the Service to:**

- a) upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- b) impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- c) forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service;
- d) upload, post, email, transmit or otherwise make available any Content that you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);

- e) upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights ("Rights") of any party;
- f) upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation.
- g) upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- h) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
- i) intentionally or unintentionally violate any applicable local, state, national or international law,

You acknowledge and agree that WhenToWork.com may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the TOS; (c) respond to claims that any Content violates the rights of third-parties; or (d) protect the rights, property, or personal safety of WhenToWork.com, its Users and the public.

You understand that the technical processing and transmission of the Service, including your Content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

## **7. SPECIAL ADMONITIONS FOR INTERNATIONAL USE**

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

## **8. NO RESALE OF SERVICE**

You agree not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any portion of the Service, use of the Service, or access to the Service.

## **9. GENERAL PRACTICES REGARDING USE AND STORAGE**

You acknowledge that WhenToWork.com may establish general practices and limits concerning use of the Service, including without limitation the maximum number of days that messages, schedules or other uploaded Content will be retained by the Service, the maximum number of messages that may be sent from or received by an account on the Service, the maximum size of

any message that may be sent from or received by an account on the Service, the maximum disk space that will be allotted on WhenToWork.com's servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Service in a given period of time. You agree that WhenToWork.com has no responsibility or liability for the deletion or failure to store any messages and other communications or other Content maintained or transmitted by the Service. You acknowledge that WhenToWork.com reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

## **10. MODIFICATIONS TO SERVICE**

WhenToWork.com reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that WhenToWork.com shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

## **11. TERMINATION**

You agree that WhenToWork.com, in its sole discretion, may terminate your password, account (or any part thereof) or use of the Service, and remove and discard any Content within the Service, for any reason, including, without limitation, if WhenToWork.com believes that you have violated or acted inconsistently with the letter or spirit of the TOS. WhenToWork.com may also in its sole discretion and at any time discontinue providing the Service, or any part thereof, with or without notice. You agree that any termination of your access to the Service under any provision of this TOS may be effected without prior notice, and acknowledge and agree that WhenToWork.com may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Service. Further, you agree that WhenToWork.com shall not be liable to you or any third-party for any termination of your access to the Service.

## **12. LINKS**

The Service may provide links to other web sites or resources. Because WhenToWork.com has no control over such sites and resources, you acknowledge and agree that WhenToWork.com is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that WhenToWork.com shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Content, goods or services available on or through any such site or resource.

### **13. WHENTOWORK.COM'S PROPRIETARY RIGHTS**

You acknowledge and agree that the Service and any necessary software used in connection with the Service ("Software") contains proprietary information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that Content presented to you through the Service is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws.

WhenToWork.com grants Users a personal, non-transferable and non-exclusive right and license to use the Software; provided that you do not (and do not allow any third party to) copy, modify, distribute, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, lease, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by WhenToWork.com for use in accessing the Service.

### **14. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

- a) YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WHENTOWORK.COM EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
- b) WHENTOWORK.COM MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.
- c) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
- d) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM WHENTOWORK.COM OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

## **15. LIMITATION OF LIABILITY**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT WHENTOWORK.COM SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WHENTOWORK.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE.

## **16. EXCLUSIONS AND LIMITATIONS**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTIONS 14 AND 15 MAY NOT APPLY TO YOU.

## **17. NOTICE**

Notices to you may be made via either email or regular mail. The Service may also provide notices of changes to the TOS or other matters by displaying notices or links to notices to you generally on the Service.

## **18. TRADEMARK INFORMATION**

WhenToWork.com, the WhenToWork.com logo, trademarks and service marks, and other WhenToWork.com Logos and product and service names are trademarks of WhenToWork, Inc. You agree not to display or use in any manner, the WhenToWork, Inc. Marks, without WhenToWork, Inc's prior permission.

## **19. GENERAL INFORMATION**

This Terms of Services and referenced web pages constitute the entire agreement between you and WhenToWork.com and governs your use of the Service, superseding any prior agreements between you and WhenToWork.com. The failure of WhenToWork.com to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.

This TOS applies to all Users on your WhenToWork account and you are responsible for ensuring all Users on the account are aware of and comply with all stated terms and conditions.

The section titles in the TOS are for convenience only and have no legal or contractual effect.