



# WhenToWork, Inc. Institutional Terms of Service

## 1. ACCEPTANCE OF TERMS

Welcome to WhenToWork.com. WhenToWork, Inc. ("W2W"), provides its online service and mobile apps ("Service") to you ("User"), subject to the following Terms of Service ("TOS"). Please read these Terms of Service carefully before using our Service.

Your access to and use of the Service is conditioned upon your acceptance of and compliance with these TOS. By accessing or using the Service you agree to be bound by these TOS. If you disagree with any part of the TOS then you do not have permission to access the Service.

These TOS apply to all individuals accessing the Service through your W2W account and you are responsible for ensuring all individuals accessing your account are aware of and comply with all TOS stated terms and conditions.

## 2. DESCRIPTION OF SERVICE

W2W currently provides Users in the United States, Canada and other Non-European Union ("EU") Countries with paid subscription access to online resources, including various online scheduling abilities, (the "Service"). Fees are based on the number of employees added into the W2W account and the duration paid, as more specifically described online at: <http://WhenToWork.com/pricing.htm>. Unless explicitly stated otherwise, any changes that augment or enhance the current Service, including the release of new W2W features shall be subject to this TOS. You understand and agree that use of the Service is at your sole risk and is provided "AS-IS" and "AS-AVAILABLE" and that W2W assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications, data entry or personalization settings.

Our Service allows you to post, link, store, share and otherwise make available certain information, text, graphics, or other material ("Content"). You are responsible for the Content that you post on or through the Service, including its legality, reliability, and appropriateness.

By posting Content on or through the Service, You represent and warrant that: (i) the Content is yours (you own it) and/or you have the right to use it and the right to grant us the rights and license as provided in these Terms, and (ii) that the posting of your Content on or through the Service does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person or entity. We reserve the right to terminate the account if any User is found to be infringing on a copyright.

You retain any and all of your rights to any Content you submit, post or display on or through the Service and you are responsible for protecting those rights. We take no responsibility and assume no liability for Content you or any third-party posts on or through the Service. However, by posting Content using the Service you grant us the right and license to use, modify, perform, display, reproduce, and distribute such Content on and through the Service. W2W has the right but not the obligation to monitor and edit all Content provided by users.

### 3. YOUR REGISTRATION OBLIGATIONS

In consideration of your use of the Service, you agree:

(a) When you create a paid subscription with us, you guarantee that you are above the age of 18, and that the information you provide us is accurate, complete, and current at all times. Inaccurate, incomplete, or obsolete information may result in the immediate termination of your account on the Service.

(b) When contacting W2W customer service you will be honest about your identity, name and company title and any information about your request.

((c) While the person who initially creates the W2W account is the “Main Manager” (the one person who can add and edit other managers) W2W has the authority to change the Main Manager on the account at our discretion at any time. W2W adheres to strict Main Manager change guidelines to protect your account, and the data contained therein, from unauthorized access and modification.

(d) When a W2W account is created to schedule employees of an organization, that organization is considered the owner of the account. Anyone who makes a payment is considered an agent for the owner and all rights to the account belong to the organization.

## 4. W2W PRIVACY POLICY

Registration Data and certain other information about Users 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 a username 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 or actions that occur under your account and/or login. You agree to immediately notify W2W 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. W2W 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 W2W, are entirely responsible for all Content that you upload, post, email, transmit or otherwise make available via the Service. W2W 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 W2W 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 scripts or any other code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or 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;
- j. enter personal data for any EU resident.

You acknowledge and agree that W2W 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 W2W, 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.

You agree to not use any automated system, extension or software that causes your browser to automatically reload our web pages without special prior permission from W2W.

## 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 imported or exported from the United States or the country in which you

reside. You further agree that you will not enter any personal information for an EU resident into the Services.

## 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 W2W 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 storage space that will be allotted on W2W'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 W2W 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 W2W 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

W2W reserves the sole 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 W2W shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

By continuing to access or use our Service after any TOS revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, you are no longer authorized to use the Service.

## 11. TERMINATION

W2W may terminate or suspend your account and bar access to the Service immediately, without prior notice or liability, under our sole discretion, for any reason whatsoever and without limitation, including but not limited to a breach of the TOS.

If you wish to terminate your account, you may simply discontinue using the Service.

All provisions of the TOS which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

You agree that W2W 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 websites or resources. Because W2W has no control over such sites and resources, you acknowledge and agree that W2W 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 W2W 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. W2W'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 and its original content (excluding Content provided by Users), features and functionality contain proprietary information and will remain the exclusive property of W2W and its licensors. The Service is protected by copyright, trademark, and other laws of both the United States and foreign countries. W2W 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 W2W 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. W2W 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. W2W 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 W2W 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 W2W AND ITS DIRECTORS, OFFICERS, EMPLOYEES, PARTNERS, AGENTS, SUPPLIERS OR AFFILIATES 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 W2W 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, USE 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 15 AND 16 MAY NOT APPLY TO YOU.

## 17. NOTICE

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

## 18. TRADEMARK INFORMATION

WhenToWork.com, W2W.com, and any accompanying logos are registered trademarks of WhenToWork, Inc. You agree not to display or use in any manner, the WhenToWork, Inc. marks or trade dress 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.