

# General Terms and Conditions of Use of Prescreen

## Recitals

The offer to provide the Prescreen e-recruiting system and any accompanying services (hereinafter Prescreen.io) is intended exclusively for business clients.

The contract is concluded with New Work SE, Am Strandkai 1, 20457 Hamburg, Germany. Additional contact information, commercial registry data, as well as the name of the authorised representatives of New Work SE can be found on the 'About this site' page by visiting [www.xing.com](http://www.xing.com).

## 1. Scope, services, amendments

1. The following General Terms and Conditions of Use and Business (hereinafter 'GTC') shall apply within the framework of the contractual relationship between corporate clients (hereinafter 'Client') and New Work SE, each also individually referred to as 'Party' or 'Contracting Party' and both together as 'Parties'.
2. New Work SE offers the e-recruiting system Prescreen under the domains \*.prescreenapp.io and \*.jobbase.io, in which the Client can place job advertisements and receive and manage applications. The subject of the contract is the use of this software and any accompanying services. Prescreen is run on New Work SE's cloud system.
3. Prescreen is used to support the Client in searching for personnel. Through Prescreen.io the Client can publish and manage job postings, receive and manage applications from candidates, and communicate with applicants via messages.
4. The exact scope of Prescreen usage options and services is set out in contractual agreements, these GTC, and the product's respective description.
5. New Work SE shall grant the Client the non-exclusive, non-sublicensable and non-transferable rights, limited in time to the term of the contractual relationship with New Work SE, which are necessary for the Client to be able to access the current version of Prescreen via the internet and to use its functions as intended, in accordance with the scope agreed within the framework of the contractual relationship.
6. The use of and access to the Client's account is exclusively carried out by specially authorised employees of the Client (hereinafter 'Users'). New Work SE offers Users a Prescreen to bring the Client together with applicants and provides only those technical facilities for this purpose that enable general contact to be established. New Work SE is not responsible for ensuring that contact is made between Users and applicants. New Work SE is not involved in the content of the Client's communication with third parties. If contracts are concluded via the Client's account, New Work SE is not involved and therefore does not become a party to the contract. The Client is solely responsible for the execution and fulfilment of contracts concluded with third parties and is solely liable for breaches of obligation.
7. New Work SE reserves the right to make changes to the services related to Prescreen, their accompanying services and/or their general design, or to offer alternative services, as long as this is not unreasonable for the Client.
8. There is no entitlement to provide additional features or services beyond the described scope. New Work SE is entitled to amend or withdraw, without notice, any features or services made available or provided beyond the booked scope.
9. General terms and conditions that deviate from or supplement these GTC or quotations or framework agreements or supplementary agreements concluded with the Client shall not form part of the contract without the express written consent of New Work SE. Unconditional performance of services or maintaining silence in view of the Client's deviating terms and conditions does not constitute acknowledgement on the part of New Work SE, even when informed thereof in advance.
10. New Work SE reserves the right to amend these GTC during the term of the contractual relationship between the Client and New Work SE with effect from that point forward. New Work SE shall notify the Client of any changes to the GTC and shall make specific reference to the new regulations and the date on which they come into force. In the event of an amendment to the GTC, the Client has the right to terminate the contractual relationship with New Work SE within four (4) weeks of receipt of notification of the amendment, by written declaration to New Work SE with retroactive effect from the date of the amendment. This amendment mechanism shall not apply to amendments to the Parties' main contractual obligations. The validity of the GTC

- in their previous form shall remain unaffected by the exercise of this right of objection.
11. Should certain services be rendered by third parties, with New Work SE merely acting as an intermediary in the rendering of services, the Client shall conclude a separate agreement with said third party. In such instances, New Work SE is not a contracting party and is not responsible for rendering services. As a result, the Client is not entitled to submit liability or warranty claims against New Work SE, and must lodge them with the third party instead.
  12. When using additional free third-party channels to deliver customer job postings (organic reach), New Work SE reserves the right to make changes to the features and/or services and/or their general design and/or to offer alternative services and delivery channels. The terms of use of the free channels apply; these terms of use are available in the respective places of delivery and must be observed by the Client. The Client acknowledges that New Work SE has no influence over the type of delivery, reach and/or design of job ads delivered via the additional free third-party channels.

## 2. Use of Prescreen

1. To use Prescreen, the Client must register on \*.prescreen.io and open a company account (hereinafter 'Account'). An Account may only be opened by an authorised representative or authorised employee of the Client. The required data must be provided truthfully and must be updated immediately in the event of changes to ensure problem-free use.
2. Users are authorised by entering their details on an input screen on Prescreen. The Client shall designate one or more Users as administrator(s) of the Account (hereinafter 'Administrator(s)'), who has/have full access to all setting options and administration areas.
3. The Client has the right to revoke the authorisation of a User or to appoint another person to replace the User. Authorisation of the replacement person is carried out by entering the name of the replacement person on an input screen on Prescreen.io.
4. New Work SE accepts no responsibility for the content, data and/or information provided by the Client and applicants, or for content on linked external websites. In particular, New Work SE does not guarantee that the content is true, fulfils a specific purpose or could serve such a purpose.
5. The Client is responsible for the data and content provided by it. New Work SE cannot guarantee that the information and job advertisements are accurate or free of viruses or that they can be processed using virus technology.
6. The Client may not post, upload or make accessible any data, files or content, such as texts, images, graphics and links, which are owned or controlled by third parties and which
  - violate applicable law;
  - contain depictions of violence, pornographic, discriminatory, libellous, defamatory or other content or depictions that are illegal, immoral or endanger the reputation of New Work SE;
  - exclusively or partially represent or contain third-party company, brand or other business marks or other protected marks, unless the Client is entitled to use them, i.e. the Client is the owner of the rights to the corresponding logos, advertising photos and other content, or the owner of the rights has permitted the use of such content;
  - violate third-party property rights or copyright;
  - violate any other rights of New Work SE or of third parties;
7. Images or photos of people such as employees may only be published on Prescreen.io with the consent of those persons.
8. In general, New Work SE shall inform the Client of data, files or content, such as text, images, graphics and links, the placement or publication of which in the Client's Account violates the provisions of these GTC, statutory regulations, morality or the rights of third parties, as soon as New Work SE becomes aware of such content. In such a case, the Client undertakes to remove the data, files or content in question from the Client's Account without delay.
9. New Work SE is generally entitled to remove data, files or content, such as text, images, graphics and links, without prior notice if and insofar as there are concrete indications that their placement or publication in the Client's Account violates the provisions of these GTC, legal regulations, morality or the rights of third parties.
10. If the Client has published data, files or content via its Account on Prescreen where there are concrete indications that they constitute a breach of the provisions of these GTC, legal regulations, morality or the rights of third parties, New Work SE may temporarily deactivate the Client's Account. In general, New Work SE shall inform the Client of such Account deactivation by issuing a warning. The Client is not entitled to receive prior warning. In the event of imminent danger or particularly serious violations, the Client's Account shall normally be deactivated immediately and without prior warning.
11. If Prescreen is not used during the contractual term, there shall be no entitlement to reimbursement, a price reduction, or to an extension of the licence period beyond the agreed contractual term.
12. The Client has the option of booking additional items (e.g. additional Prescreen licences or product upgrades) during an ongoing contractual term. The terms of additionally booked items are calculated pro rata to the original contract. This requires a separate agreement between the Parties.

### **3. Visibility and storage of content in the Account**

1. Some content and information (correspondence, conversations, projects, notes, comments, etc.) are shared automatically or at the instigation of a User among all current and future Users in the Client's Account. Other information is not shared among Users.
2. Information that Users have not shared themselves or that was not automatically shared or is not divisible shall not be displayed to other Users of the Client's Account in the Client's Account. Conversations that have not been started, answered or shared in the Client's Account shall not be stored automatically in the Client's Account in a form that is visible to the Administrator or all Users of this Account, but shall only be displayed in the respective (e-mail) mailboxes of those Users who are participants in the respective conversation.
3. Much of the information and content created by a User in the Client's Account, even if not explicitly shared by the User, can be viewed, edited and shared with other current and future Users of the Client's Account by Administrators of the Client's Account appointed by the Client, as long as the Account is active.
4. If Users lose their right of access to the Client's Account (e.g. at the Client's instigation due to their leaving the Client's company or in case of violation of these GTC) or if they terminate their access, the information that they shared with other Users shall remain visible in the Client's Account for current and future Users for a period of three years, unless otherwise agreed with the Client. During this period, the contents can still be viewed by the Administrators of the respective Account (see section 2). If a replacement for a User is named by the Client or an Administrator of the Client's Account, all content of the User whose access has been terminated shall remain visible to that User.

### **4. Availability**

1. In general, Prescreen is available 24 hours per day, 7 days per week. New Work SE guarantees an average annual uptime of 99%. Planned maintenance windows as described in section 4(2) are excluded from this.
2. New Work SE has the right to use its services on weekdays in the period from 20:00 to 06:00 CET/CEST and at weekends from 00:00 to 24:00 CET/CEST (hereinafter: 'Maintenance Window') for a total of ten (10) hours per calendar month of maintenance work. Activities in the Maintenance Window shall be announced to the Client in advance with a reasonable period of notice. New Work SE is entitled to postpone or extend the Maintenance Window in exceptional cases to eliminate or prevent serious faults. During maintenance, Prescreen may not be available or may have limited availability. If maintenance must be carried out outside the Maintenance Window, this shall not affect the overall availability of 99% over the calendar year.

### **5. Use of the Account, data protection**

1. New Work SE collects and processes data in compliance with applicable data protection law, especially the General Data Protection Regulation.
2. The Client undertakes, in particular, to observe the applicable data protection regulations, especially the GDPR.
3. The Client must respect the rights of third parties, especially when sharing content and information. For example, communication that is obviously private may not be shared with others without the consent of the sender.
4. The Client is also prohibited from
  - a. bothering Applicants unreasonably (in particular by spamming them),
  - b. undertaking or promoting anti-competitive acts, including progressive canvassing (such as chain, snowball or pyramid systems)
  - c. carrying out, advertising or promoting multi-level marketing or multi-level network marketing, even if such actions do not specifically violate any laws.
5. If the Client independently (manually) adds personal data of an applicant to Prescreen, the Client is obliged to ensure that its privacy policy reflects this data processing.
6. Insofar as New Work SE processes personal data on behalf of the Client within the framework of these GTC, those data shall be collected and used by New Work SE in accordance with the terms of a commissioned data processing agreement provided by New Work SE in accordance with Article 28 GDPR, which New Work SE and the Client undertake to conclude.
7. Access rights held by Prescreen staff to access the Client's account are documented in the technical organisational data protection measures provided as an annex to the commissioned data processing agreement.
8. Should the Client violate these GTC, legal regulations or the rights of third parties in the course of its activities in its Account, New Work SE may temporarily or permanently deactivate the Client's Account as a sanction.
9. This can also be done in response to complaints from applicants if there are concrete indications that the use

- of the Account in question violates legal regulations, morality and/or the rights of third parties.
10. New Work SE is entitled to analyse anonymised activity data for the purpose of analysing use of Prescreen. The analysis and evaluation of the data is carried out without any reference to individuals or connections to the Client. New Work SE shall use the results of the evaluation only for New Work SE's own purposes and to improve the services provided.

## 6. Workshops & webinars

1. The Client must provide the trainer with an internet connection, video projector and a flip chart in events premises used to give workshops. The Client must ensure that all webinar participants have a computer/laptop with a headset or speakers and microphone.
2. Depending on the agreed workshop content and arrangements made between the Client and the trainer, all participants require a computer/laptop and access to Prescreen.
3. Prescreen webinar participants are to be sent a registration link in advance. After registering, participants will receive a confirmation e-mail containing information on how to attend. It is not possible to participate in a webinar without registering in advance. The Client and the participants must ensure that they are able to use the webinar software from a technical standpoint, and that their computer/laptop meet the corresponding system requirements.
4. The maximum number of participants and duration of a workshop or webinar are provided in quotations. Any deviations from this are subject to New Work SE's approval in written or text form (e-mail is suffice).
5. The Client and New Work SE will arrange workshop or webinar appointments together after conclusion of contract. The earliest possible date to hold a workshop or webinar is two (2) weeks after receipt of the signed order confirmation.
6. Workshops held at the Client's event premises is subject to a fixed travel expenses fee in addition to the service fee, as listed in the quotation.
7. The Client must pay 50% of the service fee stated in the quotation if it cancels an order up to 10 days before the workshop or webinar was due to be held. The Client must pay 100% of the service fee stated in the quotation if it cancels an order up within 10 days of the workshop or webinar being due to be held. The Client must submit cancellations to New Work SE in writing.
8. Neither party is liable to the other party for non-compliance with contractual obligations if the non-compliance is due to circumstances beyond the party's control. This applies in particular to cases of force majeure, accident or illness.
9. If New Work SE is unable to render a service, i.e. hold a workshop or webinar, due to force majeure, accident or illness on the part of the trainer, or for other circumstances not attributable to New Work SE, then New Work SE is entitled to offer said service on a new date to be arranged with the Client.
10. Workshop and webinar documentation and presentations are protected by copyright. Any and all reproduction, disclosure to third parties, or other commercial use by the participants or by the Client is subject to written permission from New Work SE.
11. New Work SE employees do not provide the Client with legal advice during workshops and webinars. Any and all statements of a legal nature are non-binding, and the Client is responsible for verifying any information provided.

## 7. Liability

1. New Work SE shall be liable without limitation for damage resulting from deliberate or grossly negligent actions and for damage resulting from breaches of material contractual obligations involving minor negligence. Material contractual obligations are those obligations the fulfilment of which is essential for the proper execution of the contract and on compliance with which the Client may regularly rely.
2. New Work SE shall not be liable for breaches of insignificant contractual obligations involving minor negligence, except in the case of section 6 (1).
3. However, New Work SE's liability for personal injury, under the Product Liability Act and statutory warranty liability shall remain unaffected in all cases.
4. The above limitations of liability shall also apply in the event of breaches of obligation by New Work SE's legal representatives or vicarious agents.
5. The Client shall indemnify New Work SE against all claims, including claims for reimbursement of expenses and compensation for damages, that other Users of Prescreen or other third parties, including public authorities, make against New Work SE due to an infringement of their rights by the content published by the Client on Prescreen. The Client shall bear all reasonable costs, including the reasonable costs of legal defence, incurred by New Work SE as a result of the Client's infringement of the rights of third parties. All further rights and claims for damages by New Work SE shall remain unaffected.

## **8. Contract period & renewal, termination and price updates**

1. Fees for the entire contract and/or renewal period are immediately payable at the time the invoice is issued. Payment can be made with any of the various means of payment offered.
2. The agreement on the paid use of Prescreen is concluded for the term agreed in the offer or framework agreement. The contractual relationship between New Work SE and the Client shall be extended for a period of one (1) year at the end of each contract period. The following terms apply to termination of the contract for paid use of Prescreen:
  - a. contractual relationships may be terminated by either Party by means of a declaration in written or text form (e-mail is suffice) and with a period of notice of three (3) months before the end of the respective contractual period.
  - b. the right to extraordinary termination including termination without notice for good cause shall remain unaffected. New Work SE may terminate for good cause in particular if: the use of the services by the Client violates the law and/or the rights of third parties; or the Client violates other material contractual provisions.
3. The agreement on the unpaid use of Prescreen (in particular 'Prescreen Go') is concluded for an unlimited period. The following terms apply to termination of a contract for the unpaid use of Prescreen:
  - a. contractual relationships may be terminated by either Party by means of a declaration in written or text form (e-mail is suffice) and with a period of notice of two (2) weeks; or
  - b. the right to extraordinary termination including termination without notice for good cause shall remain unaffected. New Work SE may terminate for good cause in particular if: the use of the services by the Client violates the law and/or the rights of third parties; or the Client violates other material contractual provisions.
4. In the event of termination of a contract for paid use of Prescreen, the Client's applicant master data can be exported from Prescreen in electronic and machine-readable form using the designated feature in the Prescreen system for a period of up to three (3) months after the end of the contract period. In addition, reading out the saved data via the API which Prescreen provides is only possible if the Client purchased this service as part of its agreement.
5. In the event of termination of a contract for unpaid use of Prescreen, the Client can export its applicant master data in electronic and machine-readable form using the designated feature in the Prescreen system only until the end of the contract period.
6. In the event of termination, New Work SE shall be entitled to deactivate the Client's Account and profile, the Client's Users, and the Client's Prescreen access after the agreed term of the contractual relationship has expired. As a result, New Work SE shall also delete existing applications on Prescreen and deactivate the Client's active job advertisements. In the event of termination for good cause, New Work SE is entitled to carry out deactivation immediately.
7. In the event of contract renewal, the price will be based on the list price applicable at the time of renewal. The Client is not entitled to demand an extension to any bulk discounts or any other kind of discounts granted in connection with the items to be renewed. If the original contract is renewed with the Client having purchased additional items as per section 2(12) during the ongoing contract period, the renewal automatically applies to all of the items purchased for the period of the original contract.
8. New Work SE reserves the right to change list prices and hence the fee to be effective as of the following period of renewal. Prescreen shall notify the Client of any fee change in the invoice sent to the Client with regard to the period of renewal. In the event of a price increase, the Client has the right to terminate the contractual relationship with New Work SE within four (4) weeks of the date of invoice, by written declaration to New Work SE with retroactive effect from the date of the renewal. The discontinuation of any previously granted discounts upon contract renewal does not constitute a price increase nor grounds for special termination on the part of the Client.

## **9. Final provisions**

1. If the Client, as the recipient of the New Work SE service, has its registered office outside Germany, the Client must disclose its VAT registration number immediately on conclusion of the contract. Through the reverse charge system, the Client is the debtor for the VAT (reverse charge procedure) and shall settle the VAT payments itself using the reverse charge procedure.
2. The law of the Federal Republic of Germany shall apply, with the exception of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG).
3. The place of jurisdiction for all legal disputes arising from the contractual relationship between New Work SE and the Client is Hamburg. New WOrk SE also has the right to settle any disputes in the court that has jurisdiction over the registered office of the Client.
4. Should any provision of these GTC be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. The Parties undertake to agree a new, effective provision in place of the invalid provision which comes as close as possible to the meaning and purpose of the invalid provision. The same applies to loopholes in these GTC. This document is for informational purposes only.

