

Prevue APS Pro

Standard Terms of Supply

Thank you for choosing to use Prevue APS Pro. These Standard Terms of Supply constitute an agreement between you and Prevue HR Systems Inc. (referred to as “Prevue,” “we,” or “our”) that describes your rights and obligations relating to the use of the applicant tracking system that we provide to you through a Prevue APS Pro Account. You should read this entire Agreement because all the terms and conditions of use are important and together create a legal agreement that applies to you.

1. Interpretation of this Agreement

1.1 Definitions: The following definitions will apply:

- a. “Account” means the Prevue APS Pro account that Prevue or a Distributor opens for you under a sub-domain name of prevueaps.com that is approved by you, where you can develop and maintain a customized career center, post job openings on job boards of your choice, monitor and manage applications for your job openings, review Prevue Assessments results, and manage candidate data;
- b. “Account Data” means all job and candidate information that you create or gather and save in your Account;
- c. “Agreement” means this agreement made between you and Prevue;
- d. “candidate” means any job applicant who applies for jobs posted in or through your Account;
- e. “Distributor” means an authorized Prevue Distributor appointed by Prevue with authority to open and support your Prevue APS account;
- f. “License” means the unlimited use license granted to you under section 4.1 of this Agreement;
- g. “Prevue Assessments” means any one or more of the Prevue Abilities Assessments, the Prevue Occupational Interests Assessment, and the Prevue Personality Assessments;
- h. “Prevue APS” or “Prevue APS Pro” refers to the Prevue applicant tracking or processing system described in detail at prevuehr.com;
- i. “PrevueOnline/PrevueHub” means the website at www.prevueonline.com or www.prevuehub.com;
- j. “Prevue Reports” means all reports that can be generated from PrevueOnline/PrevueHub from the use of Prevue Assessments;
- k. “Prevue Screen report” refers to one of the Prevue Reports that can be generated from the use of the 48 question Prevue Short Form Personality Assessment to provide an initial report on a candidate’s personality fit for a specific position;
- l. “Services” means the supply to you of the Account, the License, unlimited Prevue Screen reports and a pay-per-use account at PrevueOnline/PrevueHub together with all other information, documents, and reports that are made available to you through your Account;

m. “Supplier” means any third party that provides any part of the Services to Prevue.

1.2 Headings: Any heading, caption, or section title contained in this Agreement is inserted only as a matter of convenience and in no way defines or explains any section or provision hereof.

2. Scope of Agreement

2.1 Services Covered by This Agreement: Your use of the Services (including the Account) is subject to the terms of this Agreement and any other agreement made between you and Prevue for use of the Services. Unless otherwise agreed in writing with Prevue, your agreement for use of the Services will always include, at a minimum, the terms set out in this Agreement. In the event of a conflict between the terms of this Agreement and the terms of any other agreement between you and Prevue, the terms of this Agreement will prevail.

2.2 Prevue Distributors & Suppliers: Where the Services are provided by or through a Distributor with whom you do business, this Agreement will apply notwithstanding the Services are provided in whole or in part by the Distributor. Where any part of the Services is provided by a Supplier, this Agreement will apply jointly to Prevue and the Supplier.

2.3 Your Acceptance of This Agreement: By using or accessing the Services, you agree to abide by this Agreement without modification by you. If you don’t agree, then do not use the Services. If you are entering into the Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to the terms of this Agreement; and in such event, “you” and “your” as used in this Agreement will refer to such entity. If you do not have such authority, or if you or such entity do not agree to the terms and conditions of this Agreement, you may not use the Services.

2.4 Amendments to This Agreement: Prevue may change the terms of this Agreement at any time on a minimum of 30 days’ notice. When changes are made, Prevue will notify you through the user interface in PrevueOnline/PrevueHub, in an email message, or through such other means as Prevue considers reasonable. If you use the Services after the date the change becomes effective, you consent to the changed terms. If you don’t agree to the changes, you must stop using the Services.

3. Supply of Account

3.1 Account Set-up: Prevue or a Distributor has established and will maintain an Account for you with a unique sub-domain name that you have approved and log-in rights for your selected personnel. On your request, Prevue will also provide you with a pay-per-use account at PrevueOnline/PrevueHub where you can administer Prevue Assessments to your candidates and obtain Prevue Reports, subject always to the standard terms of supply that are set out in PrevueOnline/PrevueHub.

3.2 Account Information: You are responsible for keeping your Account log-in information and passwords confidential, and you are responsible for all activity that occurs in your Account. You can use your Account to gain access to other Prevue products, websites, or services (such as Prevue Assessments at PrevueOnline/PrevueHub). If you do so, the terms and conditions for those products, websites, or services will also apply to your use of those products, websites, or services in addition to the terms of this Agreement.

4. Account License

4.1 **Grant of License:** By opening the Account for you, Prevue grants you a non-exclusive, non-assignable, unlimited use license (the “License”) to: (i) register as many log-ins as you require; (ii) post an unlimited number of job openings and evaluate an unlimited number of job applicants for the job openings; and (iii) requisition Prevue Screen reports for all candidates.

4.2 **License Term:** The License is an annual license (unless otherwise agreed upon in writing by Prevue) that commences on the date agreed upon by you and Prevue and continues for an initial term of one year. The License will automatically renew for successive one-year terms as provided in section 4.4 of this Agreement.

4.3 **License Fee:** The fee for the annual License is charged and collected in advance and is based on the number of persons in your employ at the date of commencement of the License and each renewal of the License as agreed upon between you and Prevue or a Distributor. The License fee on each renewal will be equal to the fee charged for the immediately preceding annual term unless the number of persons in your employ changed or unless Prevue or your Distributor has given you at least 30 days prior notice of a fee increase. If Prevue has agreed to accept payment of the annual license fee in monthly or other periodic payments, any default in payment of any periodic payment renders the entire unpaid balance of the license fee at once due and payable.

4.4 **Automatic Renewal:** Provided that automatic renewals are allowed in your country, province, or state, we’ll inform you by email before automatically renewing the License granted to you. Once we have informed you that your License will be automatically renewed, we may automatically renew the License and charge you the then current price for the renewal term. We’ll also remind you that we’ll bill your chosen payment method for the Services renewal, whether it was on file on the renewal date or provided later. You must cancel the Services before the renewal date to avoid being billed for the renewal.

4.5 **Cooling Off Period:** When you request a Service from us, you agree that we may begin to provide the Service immediately. You won’t be entitled to a cancellation or “cooling off” period, except if the law requires a cooling off period.

4.6 **License Termination:** The License and the supply of the Services will terminate on the earlier of: (i) the expiration of any annual term of the License if you have given written notice to Prevue that you do not want to renew the License as provided in section 4.4; or (ii) the date which is 10 days after Prevue has given you written notice to cure a breach of any of the provisions, terms and conditions of this Agreement, if you have not then cured such breach. Upon termination, Prevue will be entitled to close the Account.

5. Fees & Charges

5.1 **Invoices:** You will be invoiced for the annual License fee and any other Services you purchase, and you agree to pay those charges in the currency and within the time specified in the invoice. Prevue may suspend or close the Account if payment is not made on time. Suspension or closure of the Account for non-payment could result in a loss of access to and use of your Account and your Account Data.

5.2 **Sales Taxes:** The price for any Services (including the License for use of your Account) is exclusive of all applicable federal, state, provincial, or local sales or value added taxes or levies and such taxes or levies will be added to the price for the Services you purchase.

5.3 **Payment Method:** To pay the charges for any Services provided by Prevue, you'll be asked to provide a method of payment of invoices at the time you sign up for those Services. You agree to keep your billing information current at all times.

5.4 **Price Changes:** We may change the prices for any of the Services at any time and will notify you by email at least 30 days before the price change takes effect. If you don't agree to the price change, you must cancel and stop using the Services before the price change takes effect. If there is a fixed term and price for any of your current Services (such as a License) at the time notice is given of a price change, that price change will not become effective until the end of the term of your current Service offer.

5.5 **Refund Policies:** Unless otherwise provided by law in your jurisdiction, all purchases are final and non-refundable.

5.6 **Late Payments:** A late payment fee of 1.5% per month will be charged on overdue invoices. You must also pay for all reasonable costs we incur to collect any past due amounts including reasonable lawyers' fees and other legal fees and costs.

6. Provision of Services

6.1 **User Covenants:** You acknowledge and agree that:

- a. **Comply with Guidelines:** You will comply with all guidelines, manuals, directives, or other publications that are posted in your Account in regard to the use of your Account or other Services.
- b. **Use of Services:** You will use the Services only for purposes that are permitted under: (i) the terms of this Agreement; and (ii) any applicable law, regulation, or generally accepted practices or guidelines in the jurisdictions in which you conduct business.
- c. **No Interference:** You will not engage in any activity that interferes with or disrupts the Services or the servers and networks that are connected to the Services.
- d. **Research Data:** You authorize Prevue to use you Account Data, including the results of screening surveys and other information stored in your Account (herein referred to as "Research Data") to review the validity and reliability of the Services provided to you and generally for conducting research. Prevue will only use Research Data in anonymous form and will not include any information identifying the organization you are associated with or any identifiable individual as the source of the Research Data. Access to Research Data will be restricted to only those individuals directly involved in such research.

6.2 **Prevue Covenants:** Prevue acknowledges and agrees:

- a. **Confidentiality:** To maintain the confidentiality of all Account Data you develop or gather in your Account.
- b. **Privacy:** To protect the privacy of any personal information of individuals (whether your candidates or otherwise) that you create or collect in your Account in accordance with the Prevue Privacy Policy that is set out in your Account.
- c. **Indemnity:** To indemnify and hold you and your officers, directors, employees, and agents harmless from and against any and all claims, demands, cause of action, losses, proceedings, damages, expenses, and judgments arising out of any claim or allegation

that any part of the Services, including your use of the Account infringes any third party intellectual property rights. This indemnity is conditional upon you: (i) providing us prompt written notice of any claim regarding any actual or alleged infringement; (ii) cooperating with our reasonable requests for information or other assistance; (iii) granting control of the defense of any such claim or allegation to us; and (iv) not settling or making any offer to settle any such claim or make any admission of guilt or fault without first obtaining our prior written approval.

- d. Representation and Warranty: Prevue represents and warrants that it is authorized to sell and deliver the Services to you and has all the requisite capacity, power, and authority to execute, deliver, and perform all its obligations under this Agreement.
- e. Deliver Account Data: In the event that this Agreement is terminated (other than by reason of your breach), Prevue will make available to you a file of the Account Data (jobs information and applicant data) within 30 days of termination if you so request at the time of termination. This data file will be in MySQL dump format, available either via a download from a site specified by Prevue or on CD-ROM sent to you via regular post. If you require a format other than MySQL dump (i.e. XML or CSV), a data format and retrieval fee, not to exceed \$500, may be charged for this service. You agree and acknowledge that Prevue has no obligation to retain the Account Data for more than 30 days past the date of termination, and may delete such Account Data 30 days after the date of termination.

6.3 Limitation of Liability: You understand and agree that except as expressly otherwise provided in section 6.2(c) Prevue's liability is limited to termination of use of the Account by you. To the extent not prohibited by applicable law, Prevue and its Distributors, Suppliers, and agents are not liable for any direct, indirect, incidental, special, consequential, punitive, exemplary, or other type of damages, including but not limited to, damages for loss of use, revenue, profits, goodwill, data, contracts, electronically transmitted orders, or other economic advantage (even if Prevue has been advised of the possibility of such damages), however caused and regardless of the theory of liability, whether in contract (including fundamental breach), tort (including negligence) or otherwise arising out of, or related to:

- a. Your use or inability to use the Services;
- b. The cost of procurement of substitute goods and services to replace the Services;
- c. Unauthorized access to or alteration of your Account Data;
- d. Any other matter relating to the Services, including materials or content you may download, use, modify, or distribute from your Account.

You have the sole responsibility for adequate protection and backup of Account Data created in your account and will not make a claim against Prevue for lost data, re-run time, inaccurate output, work delays, or lost profits resulting from the use of the Account.

6.4 Disclaimer of Warranties: You expressly understand and agree that except as provided in section 6.2(d):

- a. The Account is provided on an "as is" and "as available" basis. Your use of the Account or other Services is at your own risk.

- b. Prevue disclaims all warranties of any kind whether express or implied, including but not limited to, the implied warranties of merchantability or fitness for a particular purpose.
- c. Prevue makes no warranties regarding the accuracy, reliability, quality, or availability of the Services.
- d. No advice or information obtained from Prevue, whether written or oral, will create any warranty not expressly stated in this Agreement.
- e. Prevue makes no warranty or representation that: (i) the Services will meet your requirements; (ii) the Services will be uninterrupted, timely, secure, or error-free; and (iii) the quality of any of the Services obtained by you through PrevueOnline/PrevueHub will meet your expectations.

6.5 Use of Your Account: You acknowledge and agree that:

- a. Your Account and unique sub-domain name are only a vehicle for the posting of available job opportunities in your organization or for your clients. Prevue does not evaluate or censor the resumes, job opportunities, or other information posted through your account and is not involved in the actual transaction, if any, between you and candidates. Consequently, Prevue has no control over the quality, safety, or legality of the job listings or resumes posted through your account, the truth or accuracy of such job listings or resumes, the ability of your organization to hire candidates, or the ability of candidates to fill job openings.
- b. You acknowledge and agree that you are solely responsible for the form, content, and accuracy of any resume, job listing, or other material that you post to or through your Account. Prevue neither warrants nor guarantees that a resume or job posting will be viewed by any specific number of users, or that a resume or job posting will be viewed by any user.
- c. Prevue assumes no responsibility or liability for any personnel selected by you or your organization. Selection of any individual or entity is based solely on your organization's investigation, verification, and determination that such hire is suitable for your organization's purposes.

6.6 Managing Content & Communications: Prevue has no obligation to monitor your Account or other Services you use, including any materials that you post in or through the Account. You acknowledge and agree however that Prevue has the right (but not the obligation) to monitor the Account and related services, and the materials you transmit or post, to alter or remove any such materials and to disclose such materials to any third party in order to protect itself, its Suppliers, its registered users, and visitors, and to comply with legal obligations or governmental requests. Prevue reserves the right to refuse to post or to remove any information or materials, in whole or in part, that it deems in its sole discretion to be unacceptable, offensive, or in violation of this Agreement. Prevue also reserves the right, in its sole discretion, to prohibit any user who violates the terms of this Agreement from using their Account and related services.

6.7 Prevue's Use of Account Data: Because Prevue and its designees host job boards and other forums that are accessible from the Account and redistribute materials that you give Prevue, Prevue requires certain rights to those materials. Therefore, by sending or transmitting

to Prevue any resources, information, ideas, notes, concepts, trademarks, service marks, or other materials (including, but not limited to, job postings) that are included in your Account Data (collectively, "Content"), or by posting such Content in the Account, you grant Prevue and its designees a worldwide, non-exclusive, sub-licensable (through multiple tiers), assignable, royalty-free, right to link to, reproduce, distribute (through multiple tiers), adapt, create derivative works of, publicly perform, publicly display, digitally perform or otherwise use such Content in any media now known or hereafter developed. You hereby grant Prevue permission to display your logo, trademarks, and company name in the Account, your career site, and any job board where you wish to post your job openings. Further, by submitting Content to Prevue, you acknowledge that you have the authority to grant such rights to Prevue. Prevue acknowledges and agrees that you retain ownership of any copyrights, trademarks, and service marks in any content you submit.

6.8 Access to Services: You acknowledge that the Services are delivered via online systems and your access to the Services is dependent on third parties. You agree that Prevue will not have any liability to you for any losses you may suffer resulting directly or indirectly from:

- a. Failures of performance on the part of Prevue's internet service provider;
- b. Failure of Prevue's equipment or the equipment of a Supplier's or other third parties;
- c. Reasons related to any upgrades or maintenance of the Prevue APS system by Prevue or a Supplier;
- d. Any security breach of the Prevue APS system unless such breach is shown to be the result of the gross negligence of Prevue or a Supplier.

7. Proprietary Rights

7.1 Ownership: You acknowledge and agree that Prevue and its Suppliers own all legal right, title, and interest in and to the Services, including any intellectual property rights that subsist in the Services (whether those rights happen to be registered or not and wherever in the world those rights may exist). You further acknowledge that you do not acquire any ownership rights by using the Account or other Services.

7.2 Use of Services: Unless Prevue has agreed otherwise in writing with you, nothing in this Agreement gives you a right to:

- a. Use any of Prevue's trade names, trademarks, service marks, logo, domain names and other distinctive brand features;
- b. Modify, reproduce, duplicate, copy, license, sell, trade or resell the Services for any purpose.
- c. Modify, reverse engineer, or create derivative works from any of the Services.
- d. Use the Services to develop or assist others to develop any products or services that would compete with the products or services offered by Prevue.

7.3 Intellectual Property Notices: You agree that you will not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) that may be affixed to or contained within the Services.

8. Miscellaneous

8.1 Entire Agreement: These Standard Terms of Supply, together with any other written agreement between you and Prevue, including any order form or proposal submitted by Prevue that you have accepted, govern the license and use of the Services that Prevue has agreed to supply to you.

8.2 Governing Law: This Agreement will be governed and interpreted according to the laws of the Province of British Columbia, Canada.

8.3 Dispute Resolutions: All disputes arising out of or in connection with this contract will be referred to and finally resolved by arbitration under the International Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre ("BCICA"). The appointing authority will be the BCICA. The case will be administered by the BCICA in accordance with its Rules. The place of arbitration will be Vancouver, British Columbia, Canada.

8.4 Other: In the event that any of the provisions of this Agreement are held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Failure of any party to insist upon strict compliance with any of the terms and conditions of this Agreement will not be deemed a waiver or relinquishment of any similar right or power at any subsequent time.