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Terms & Conditions

Last modified: 25th of April 2024
This document sets out the Terms and Conditions (**"Terms"**) on which Tellent will provide access to (a) solution(s) for human resources management, performance management and/or recruitment to Subscriber and provide related Services.

0. Definitions

The definitions in these Terms can be used anywhere in the Agreement. If a Document has a separate definition, then that definition will apply in relation to that Document. Where the word "including" is used in this Agreement, it should be interpreted as "including, but not limited to". Definitions for terms will apply to both singular and plural uses of the terms. Titles of articles and sub-articles in the Agreement do not affect the interpretation of the Agreement.

'Access Rights': Any personalized access rights for the SaaS that have been granted to the Subscriber by Tellent, to anyone by the Subscriber, to anyone by an End-User or to anyone on behalf of the Subscriber;

'Affiliate': In respect of a Party, any entity that such Party Controls, is Controlled by or is under common Control with such Party (where 'Control' means the direct or indirect ownership of at least fifty percent (50%) of the ownership or voting rights);

'Agreement': Any agreement between the Parties in relation to the provision of services to Subscriber, such as the agreement entered into when creating a Subscription;

'Article': Any article including its sub-articles;

'Business Day': Monday to Friday, except Christmas and New Year's Day;

'Company Account': Shall have the meaning set forth in the Product Specific Terms;

'Consumer Price Index': EU Consumer Price Index;

'Customer': Subscriber;

'Document': Any part of the Agreement that can be seen as a single document, such as the Terms or a service level agreement;

'Documentation': the user manuals, administration guides, product specifications and integration specifications that are placed at the Subscriber's disposal by Tellent relating to the SaaS and/or a Functionality;

'End-Users': Anyone with Access Rights;

'EU Consumer Price Index': European index of consumer prices for all items (EICP) as published by Eurostat;

'Functionality': A function or possibility of the SaaS that is described in the Agreement or the Documentation, whether further divided into sub functionalities and/or sub possibilities or not;

'Javelo SaaS': The SaaS for performance management marketed under the brand name 'Javelo';

'KiwiHR SaaS': The software-as-a-service for human resources management that is marketed under the brand name 'kiwiHR';

'Maximum Number of Employees': The maximum Number of Employees of Subscriber that the Subscription of the Subscriber for the SaaS allows for;

'Non-Renewal Notice': A notice from any Party in relation to a Subscription that it does not wish for the Subscription Term in which the notice is given to be followed up by a new Subscription Term;

'Non-Web Offers': Offers that aren't Web Offers (e.g. offers made by e-mail);

'Number of Employees of Subscriber': The number of employees of the organization that the Subscriber is using the SaaS for;

'Party': Subscriber or Tellent;

'Recruitee SaaS': The software-as-a-service for recruitment and/or talent acquisition that is marketed under the brand name 'Recruitee';

'SaaS': The Recruitee SaaS, kiwiHR SaaS, Javelo SaaS and/or other software-as-a-service that may be provided to the Subscriber under these Terms;

'Service': Any service provided by Tellent under the Agreement;

'Site': kiwihr.com (and its subdomains) and/or recruitee.com (and its subdomains) and/or javelo.io (and its subdomains);

'Subscription': A trial subscription or paid subscription for the SaaS, including the ancillary subscription-based Services;

'Subscription Changes': Downgrades, upgrades or changes of a Subscription agreed to by the Subscriber;

'Subscription Term': A period that the Subscription is committed to for, that may be preceded or followed by another such period;

'Subscriber': The person or legal entity that the Company Account is created for and entering into the Agreement or the successor/assignee of such a legal person;

'Subscriber Content': Shall have the meaning set forth in the Product Specific Terms;

'Subscriber Data': Any data stored by Tellent on behalf of the Subscriber as part of the SaaS, excluding back-ups;

'Support': The provision of assistance and advice concerning the usage of Functionality;

'**Syntec Index'**: Syntec Index as published by the Syntec Federation ('Fédération Syntec');

'Tellent:' YooniQ solutions GmbH, a private company with limited liability under the laws of Germany, with company number HRB Munich 176187;

'Tellent Content': Any content made available by Tellent through its Services and Site;

'Third Party Service Provider': Third parties used by Tellent to provide, support or facilitate the Services;

'US Consumer Price Index': Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, as reported by the Bureau of Labor Statistics of the U.S;

'Web Offers': Any offers that are made through the Site or through the SaaS, that are not designated as 'special' or 'custom' or designated with similar terms.

1. Access to the Services

1.1 Availability Tellent will make commercially reasonable efforts to ensure that the SaaS is available twenty-four hours a day, seven days a week.

1.2 Limits Tellent retains the right to create reasonable limits on use and storage with respect to the Services in order to ensure the stability, legality, availability, scalability, usability, commercial viability and responsiveness of the services provided by Tellent to the Subscriber and to other customers of Tellent. Tellent will notify the Subscriber, in a reasonably timely manner, prior to introducing such limits.

1.3 Subscriber Requirements Subscriber warrants to Tellent that if Subscriber is an individual, he or she is at least 18 years of age. Subscriber also warrants that Subscriber is legally permitted to use the Services, and takes full responsibility for the selection and use of the Services.

1.4 Local Laws Tellent makes no claim that the Services may be lawfully used or that Tellent Content may be uploaded or downloaded to and from the Services outside of the USA, Germany, France and the Netherlands. Access to Tellent Content may not be legal by certain persons or in certain countries. If Subscriber uses the Services from outside the USA, Germany, France and the Netherlands, Subscriber does so at its own risk and Subscriber is responsible for compliance with the laws and regulations of its jurisdiction(s).

1.5 Compatibility Subscriber shall be responsible for obtaining and maintaining any equipment or ancillary services needed for Subscriber and any End-Users to connect to and use the Services, including modems, hardware, software, and long distance or local telephone service. Subscriber shall be responsible for ensuring that such equipment or ancillary services are compatible with the Services.

2. General Terms

2.1 Subscriber Details The Subscriber warrants that it has provided all details necessary to legally identify the Subscriber to Tellent. Additionally the Subscriber will actively and accurately populate the SaaS with details relating to identification of the Subscriber and billing of the Subscriber and take reasonable measures to protect such details (including by maintaining the confidentiality of login credentials). There can be only one Subscriber under the Agreement.

2.2 Subscriber's Responsibility Subscriber is responsible for any and all Subscriber Content posted to Subscriber's Company Account and activity that occurs through or under Subscriber's Company Account.

2.3 Illegitimate Use Any fraudulent, abusive, improper or unauthorized use of the Services or use in violation of the Agreement may be reason for Tellent, as it deems appropriate, to suspend, terminate or cancel Subscriber's right to use the Services or to access the Site. One person or legal entity may not maintain more than one free Company Account. Subscriber may not resell or otherwise provide the Services to any third party as a private label, with the inclusion of a mark-up fee or otherwise without the express written consent of Tellent. If approved by Tellent in writing, multiple Company Accounts may fall under a single Subscription. Tellent is not liable for any loss or damage resulting from Subscriber's failure to comply with the obligations set out in this article, including the loss of control over a Company Account.

2.4 Relationship to End-Users For the sake of clarity and without prejudice to additional attribution to others, all use of Access Rights will be attributed to the Subscriber in the context of the Agreement. An End-User that is not the Subscriber does not derive any rights from these Terms.

3. Subscriber Content Storage, Retrieval and Transmission

3.1 Permitted Content The SaaS may only be used by Subscriber to transmit and store Subscriber Content. Subscriber may not upload commercial advertisements to the Services that do not fall within the definition of Subscriber Content or use the Services to send spam.

3.2 Excessive Use If the usage under a Company Account of Subscriber is excessive and endangers the availability or stability of Tellent's services for other customers of Tellent, then Tellent may suspend the respective Company Account upon written notice to the Subscriber about the excessive use and provided that such excessive use remains uncured after a reasonable cure period from the date of such notice. Tellent has a right to immediate suspension if Tellent cannot be reasonably expected to continue providing the SaaS until the expiry of a reasonable cure period (after taking into account the given circumstances of the individual situation, in particular any fault on the part of both Parties, and weighing the interests of both Parties).

4. Product & Country Specific Terms

4.1 Product Specific Terms Additional terms and conditions that are specific to individual Services provided by Tellent may be determined in the Document defined as 'Product Specific Terms' available on Tellent's website (https://kiwihr.com/terms-and-conditions). The Product Specific Terms apply as an addendum to these Terms.

4.2 Country Specific Terms Additional terms and conditions may apply depending on which contracting party is defined under Article 17, such additional terms and conditions may be determined in the Document defined as 'Country Specific Terms' available on Tellent's website (https://kiwihr.com/terms-and-conditions). The Country Specific Terms apply as an addendum to these Terms.

5. Quality of Service Support

5.1 Service Level Tellent will make commercially reasonable efforts to respond to all incoming Support requests within two Business Days.

5.2 Onboarding and Training Tellent will make commercially reasonable efforts to provide any onboarding and training Services agreed to between the Parties.

6. Warranty and Disclaimer

6.1 Subscriber Representations, Warranties and Disclaimer Subscriber represents and warrants that (a) the Subscriber has the right and capacity to enter into and be bound by the Agreement; (b) the Subscriber shall comply with all applicable laws and regulations in connection to the Subscriber Content and Subscriber's use of the Services; (c) the Subscriber is authorized to submit the Subscriber Content; (d) the Subscriber agrees to abide by these Terms in connection to the Services and the Site as provided by Tellent; (e) the Subscriber shall make sure to obtain consent from the recipients of communications sent through the Services by the Subscriber insofar as such consent is legally required and Subscriber shall ensure that such consent meets the applicable legal requirements, in particular the Subscriber shall ensure that such communications

are in compliance with the Telephone Consumer Protection Act of 1991 of the United States of America ('TCPA') insofar as the TCPA applies. Subscriber agrees to use the Services and the Site at Subscriber's own risk.

6.2 Tellent Warranties and Disclaimer TELLENT USES THIRD PARTY SERVICE PROVIDERS (SUCH AS NETWORK PROVIDER, DATA CENTERS, TELECOMMUNICATION PROVIDERS) TO MAKE THE SERVICES AND THE SITE AVAILABLE TO THE SUBSCRIBER. TELLENT WARRANTS THAT IT WILL MAKE ALL COMMERCIALLY REASONABLE EFFORTS TO PROVIDE THE SUBSCRIBER WITH THE SERVICES IN ACCORDANCE WITH INDUSTRY STANDARDS, HOWEVER TELLENT DOES NOT WARRANT THAT ANY SERVICES SHALL BE FREE OF ERRORS OR INTERRUPTIONS AT ALL TIMES, NOR DOES TELLENT WARRANT THAT ANY ERRORS OR DEFECTS WILL BE CORRECTED. EXCEPT AS EXPRESSLY SET OUT HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY LAW, TELLENT DOES NOT WARRANT THAT THE SERVICES ARE ACCURATE, COMPLETE OR FIT FOR A PARTICULAR PURPOSE AND DISCLAIMS ANY OTHER WARRANTY OR GUARANTEE, WHETHER EXPRESS, IMPLIED OR STATUTORY.

6.3 Third Party Interaction Tellent may display or provide links or other interaction, including interoperation and integration, with third party websites, third party services and third party advertising banners on the Site and through the Services ('Third Party Interaction'). In particular, the Services may also provide the Subscriber with the opportunity to connect and publish Subscriber's information and/or data through third parties such as postings to social and business networking sites. Use of any Third Party Interaction shall be at the risk of the Subscriber, and Tellent and/or third parties may require Subscriber to agree to additional terms and conditions for the use of such Third Party Interaction. Tellent may, with or without notice and at any time, disable any Third Party Interaction. Tellent cannot be held liable or responsible for Third Party Interaction including the quality, contents, terms of use and availability.

6.4 Custom Services Subscriber understands and agrees that the services provided by Tellent to its customers may share the same underlying software, hardware and infrastructure and are intended for provision to many customers in a scalable manner. The Services will not be customized and/or tailored for Subscriber, unless, and in so far as, explicitly agreed to by the Parties.

7. Limitation of Liability

Subscriber expressly understands and agrees that Tellent is not liable for damages and/or losses resulting from: (i) the use or the inability to use the Services; (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 Services; (iii) statements or conduct of any third party on the Services. TELLENT SHALL NEVER BE LIABLE FOR INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, THE RECRUITING OR NOT RECRUITING OF PARTICULAR INDIVIDUALS AND/OR LOSSES OF SUBSCRIBER AND/OR THIRD PARTIES. TELLENT'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT WILL NOT EXCEED THE FEES (CALCULATED PRO RATA) FOR THE CONTINUED PROVISION FOR SIX MONTHS OF ANY SAAS PROVIDED BY TELLENT TO SUBSCRIBER UNDER THE AGREEMENT IMMEDIATELY PRIOR TO THE FIRST OCCURRENCE GIVING RISE TO SUBSCRIBER'S CLAIM(S) AGAINST TELLENT ('LIABILITY CAP'). THE LIABILITY CAP APPLIES TO: (I) ANY DAMAGES; (II) ALL CLAIMS IN THE AGGREGATE, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS. The limitations as set out in this article will not apply in so far as liability cannot be limited under applicable laws and regulations, such as in the case of deliberate recklessness, fraud, or malintent of Tellent. The limitations specified in this article will apply even if any limited remedy specified in the Agreement is found to have failed of its essential purpose. Any limitations agreed upon under this article will also apply to the liability of Tellent's directors, officers, employees, contractors, agents and members.

8. Indemnification

8.1 Indemnification by Subscriber Subscriber agrees to indemnify and hold harmless Tellent, its contractors, and licensors, and their respective directors, officers, employees, members, shareholders and agents from and against any and all third party claims, liabilities, losses, actions, causes of action, demands, reasonable costs and expenses, including but not limited to reasonable attorneys' fees, arising out of: (i) infringement of any intellectual property rights by Subscriber Content or Subscriber Data, (ii) the non-compliance with applicable laws and regulations of any use of the Services by the Subscriber to send messages by email or through Short Message

Services (SMS) or third party instant messaging services, or (iii) the use of Third Party Interaction by Subscriber.

8.2 Indemnification by Tellent Tellent agrees to indemnify and hold harmless Subscriber and Subscriber's contractors, directors, officers, employees, members, shareholders and agents from and against any and all third party claims, liabilities, losses, actions, causes of action, demands, reasonable costs and expenses, including but not limited to reasonable attorneys' fees, arising out of infringement of any intellectual property by the Services of Tellent excluding Subscriber Content and Subscriber Data. Tellent does not indemnify nor hold harmless Subscriber in relation to intellectual property rights to Subscriber Content that was generated by or through the Services using artificial intelligence or machine learning.

8.3 Additional Terms and Conditions for Indemnification Any indemnification by Tellent or Subscriber ('Indemnifying Party') is subject to (i) the other Party's ('Indemnified Party') prompt notification of such claim, (ii) Indemnifying Party's right to take sole conduct of the claim, or, should this not be possible under applicable procedural laws, to be granted the maximum control possible under the applicable procedural laws, provided that Indemnifying Party shall align on all procedural steps with Indemnified Party upfront, shall inform Indemnified Party about any relevant communication, fact or material related to the claim and shall submit all procedural submissions for Indemnified Party's prior approval (such approval is not to be unreasonably withheld), (iii) no settlement may be entered into by the Indemnifying Party, without the express written consent of the Indemnified Party (such consent is not to be unreasonably withheld), and (iv) Indemnified Party's obligation to provide reasonable cooperation to Indemnifying Party's defense of the claim. The terms and conditions specified in this article will survive termination or expiration of the Agreement.

9. Modification of Services

Tellent reserves the right to make changes to the Services at any time in an effort to improve the Services in part or as a whole. If a change may have significant negative consequences for Subscriber's existing use of the Services as described in the Documentation of the Services, the change will be announced if possible.

10. Third Party Service Providers

SUBSCRIBER UNDERSTANDS THAT TELLENT USES THIRD PARTY SERVICE PROVIDERS TO OPERATE THE SERVICES. TELLENT DOES NOT WARRANT THAT INFORMATION OR DATA INCLUDING, BUT NOT LIMITED TO, PRICES AND RATINGS PROVIDED THROUGH THE SITE AND THE SERVICES WILL BE RELIABLE AND ACCURATE WHERE SUCH INFORMATION IS PROVIDED BY OR BY MEANS OF A THIRD PARTY SERVICE PROVIDER.

11. Payments, Renewals, Refunds and Subscription Changes

11.1 Payments A valid credit card is required for paying fees, unless explicitly agreed otherwise or other payment methods are explicitly offered by Tellent for specific fees. Tellent may automatically charge fees for Services to credit cards entered into Tellent's SaaS. Unless specified otherwise by Tellent in the Agreement, all fees for a Subscription can be fully charged and are due 30 (thirty) calendar days in advance of each Subscription Term, or insofar as at such time the fees cannot reasonably be determined yet, then the moment that the fees can be reasonably determined. Tellent may suspend Subscriptions if any fees for a Subscription are overdue. Fees for all Services other than Subscriptions are immediately charged and due when the order is completed.

11.2 Duration and Renewal Subscriptions are by default entered into for monthly or yearly Subscription Terms and renewed for the duration of the previous Subscription Term, unless explicitly specified otherwise in the Agreement. Subscriptions will be automatically renewed, unless a Party gives a Non-Renewal Notice 30 (thirty) calendar days in advance or a Business Day in advance in case of a Subscription with a monthly Subscription Term. A Non-Renewal Notice given by Subscriber will not affect renewals that have already been committed to by Subscriber. Any calculation of fees for renewals of Subscriptions will be based on fees excluding discounts.

11.3 Subscription Changes (Web Offers) Subscription Changes for Subscriptions based on Web Offers paid by credit card or SEPA direct debit will take effect immediately. In case of Subscription Changes related to Web Offers the start-date and end-date of the then-current Subscription Term will not be affected, unless the Subscription Change relates to the duration of the Subscription Term(s). If a Subscription Change relates to the duration of the Subscription

Term(s) of a Subscription based on a Web Offer paid by credit card or SEPA direct debit, then a new Subscription Term will commence immediately. Subscriber will not be refunded or credited in case of Subscription Changes. However, if fees have been paid by credit card or SEPA direct debit for Subscriptions based on Web Offers, then in case of Subscription Changes the fees corresponding (calculated pro rata) to the part of an already paid for Subscription Term that lies in the future will be credited towards fees for future provision of Subscriptions.

11.4 Taxes and Currencies All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Subscriber shall be responsible for payment of all such taxes, levies, or duties, excluding only taxes on the income of Tellent. All fees are either in Euro ('EUR'), United States dollars ('USD') or Pound sterling ('GBP').

11.5 SEPA Direct Debit If the Subscriber and Tellent agree that fees owed by Subscriber under the Agreement will be paid by SEPA direct debit, then in the case that the Subscriber or the bank of the Subscriber disputes the SEPA direct debit Tellent may charge the Subscriber for the fees that Tellent's payment provider charges to Tellent for such a dispute.

11.6 Pricing Based on Number of Employees If the Subscriber has a Subscription for the SaaS with a Maximum Number of Employees, then upon exceeding that Maximum Number of Employees and notification by Tellent, Tellent may with immediate effect change the Subscription for that SaaS as follows, based on Tellent's then-current list prices. The new fee will be that of the listed subscription with the lowest price for that SaaS for a Maximum Number of Employees that allows for the then-current Number of Employees of Subscriber, and the new Maximum Number of Employees will be the Maximum Number of Employees of that listed subscription. Subject to the fee changing again due to the Subscriber again exceeding the (new) Maximum Number of Employees, the changed fee will apply for the remaining part of the then-current Subscription Term and for the calculation of the fees of renewal Subscription Terms. Upon written request of Tellent the Subscriber must within two weeks provide Tellent with accurate information about the Number of Employees of Subscriber and evidence supporting that information, without disclosing personal data. Prior to providing such information and evidence the Subscriber may require Tellent to accept reasonable confidentiality obligations in relation to such information and evidence. Tellent's rights to claim damage for the license excess shall remain unaffected.

12. Termination and Suspension

12.1 General Termination of Services, and thereby also the Agreement in so far as it is connected to such Services, can take place in multiple ways. Subscriber can terminate the Services at any time at its convenience with immediate effect by notifying Tellent. In case of such a termination (without prejudice to other terminations such as for breach): Subscriber will not be compensated for any damages arising out of the termination nor will any fees be refunded or credited and any fees for Subscription Terms (including renewals) that have been committed to will be due immediately (if not already). Tellent, in its sole discretion, has the right to at any time and without prior notice suspend or terminate Subscriber's Services and refuse any and all current or future use of the Services in case of a breach of the Agreement. Each Party may immediately terminate the Agreement if the other Party has been granted provisional suspension of payment or is declared bankrupt.

12.2 Data Export and Deletion of Data In case of termination of Services the Subscriber may download or request Subscriber Content held by Tellent as part of the terminated Services through the API of the SaaS within 30 (thirty) calendar days after termination. Tellent may delete all Subscriber Content held by Tellent as part of terminated Services 30 (thirty) calendar days after termination.

12.3 Legal Restrictions and Sanctions Tellent may at any time, without prior notice, terminate the Services if Tellent is prohibited from providing the Services to Subscriber by a) the laws and regulations applicable to Tellent or b) any of Tellent's business partners or service providers due to governmental economic sanctions against any country or state.

13. Intellectual Property and Content

13.1 IP-rights and Licenses As between Tellent and Subscriber, Subscriber will be the owner of all intellectual property rights to Subscriber Content. No intellectual property rights will be transferred in the context of this Agreement. All licenses granted to Subscriber in the context of this Agreement are worldwide, non-exclusive and limited in line with the limitations of the Services. No license for intellectual property rights is granted by Tellent where this is not necessary for the legitimate use of the Services by Subscriber. Any licenses provided by Tellent under this Agreement will end when this Agreement or the respective Services are terminated. The

Subscriber grants Tellent a license to use Subscriber Content for the purpose of the provisioning of the Services and to improve the Services. Use of Subscriber Content by Tellent to improve the Services will only be done after Tellent has created a copy of Subscriber Content that has undergone a process of anonymizing, aggregating and/or diminishing to a point that it can no longer reasonably be considered confidential information nor personal data.

13.2 Restricted Content Subscriber agrees that it will not use the Services to process or store any content that (a) infringes, violates or otherwise interferes with any copyright or trademark of Tellent or a third party, (b) is libelous, defamatory, obscene, pornographic, abusive, indecent, threatening, harassing, hateful, offensive or otherwise violates any law or right of any third party, (c) contains a virus, trojan horse, worm, time bomb or other computer programming routine or engine that is intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information. If requested by Tellent the Subscriber warrants that it will remove any Subscriber Content that is in violation of this article or the Agreement promptly after notification of the Subscriber by Tellent. Tellent reserves the right to remove any Subscriber Content from the Services that is or reasonably appears to be in breach of this article or the Agreement.

13.3 Confidentiality Tellent will respect the confidentiality of Subscriber Content that is disclosed to Tellent exclusively through the SaaS, if the SaaS, as it was designed and intended, prevents the disclosure of such Subscriber Content to third parties. For example, confidentiality is required in principle in relation to Candidate data held in the Recruitee SaaS, but not required in relation to content published by the Subscriber on a public website as part of the Recruitee SaaS (hereinafter: 'Careers Site'). Tellent is not required to maintain the confidentiality of Subscriber Content that: (i) is or becomes generally available in the public domain through no fault of or breach of the Agreement by Tellent; (ii) Tellent can demonstrate in its records to have had rightfully in its possession prior to disclosure of the Subscriber Content to Tellent through the SaaS; (iii) Tellent rightfully obtains from a third party who has the right to transfer or disclose it, without default or breach of the Agreement; or (iv) Tellent can demonstrate in its records to have independently developed, without breach of the Agreement and/or any use of the Subscriber Content. Subscriber will use the SaaS in line with best security practices. Such practices include maintaining the confidentiality of any login or access credentials.

14. Promotions and Marketing

14.1 Tellent Branding Subscriber agrees that a "powered by Tellent", "Hiring with Recruitee" or similar graphic or similar text link can be included in the Services. Tellent will facilitate that such graphics or links can be disabled or hidden by an End-User for the Careers Site and e-mails sent by End-Users. Unless expressly prohibited by Subscriber in writing by notifying Tellent, Tellent may use Subscriber's company names, logos and trademarks to mention Subscriber's usage of the Services in press releases, interviews, promotional materials, sales sheets, presentations, websites and other self-promotional channels.

14.2 Promotions and Discounts Any promotions or discounts are valid only for Services to which the promotion or discount was originally applied; subsequent upgrades or add-on Services are not guaranteed any promotions or discounts.

15. Privacy

15.1 Privacy Policy Subscriber and End-User will regularly check Tellent's privacy policy, which governs the use of personal data on the Site and in connection with the Service. Changes regarding privacy of End-Users will be communicated to End-Users through Tellent's privacy policy.

15.2 Data Processing Addendum The Data Processing Addendum ('DPA') available on Tellent's website (https://kiwihr.com/terms-and-conditions) applies as an addendum to these Terms. The DPA will not apply to a Subscription if the Parties have duly executed another written data processing agreement/addendum that is applicable to such a Subscription.

16. Electronic Delivery Policy

16.1 Notices by Tellent Subscriber agrees that Tellent may provide Subscriber required notices as referred to in the Agreement and other information concerning the Services electronically, including by communicating to any End-User with an Administrator role on the e-mail address associated with his account or through notifications to such an End-User in the SaaS.

16.2 Delivery failures Tellent is not responsible for e-mails to Subscriber or End-User "bouncing" or being rejected and other delivery failures that cannot be attributed to Tellent.

16.3 Notices by Subscriber Notices by Subscriber will be given by postal mail, registered letter or by any additional optional means that Tellent explicitly designates for specific notices.

16.4 Definition of written Where the Agreement refers to "written" this will include handwritten, typed and/or printed characters including in digital, analog and/or physical form.

17. Contracting Party, Governing Law and Disputes

17.1 Contracting Party Tellent, as defined in Article 0 of these Terms, will be the contracting party.

17.2 If Subscriber is located in DACH If Subscriber is located in Germany, Austria or Switzerland, then this Agreement and Subscriber's use of the Services shall be governed by the laws of Germany, without regard to any conflict of laws principles. In that case any legal proceedings related to this Agreement and the Services provided by Tellent shall solely be settled by the competent court of Munich, Germany.

17.3 If Subscriber is located elsewhere If Subscriber is located anywhere other than in Germany, Austria or Switzerland, then this Agreement and Subscriber's use of the Services shall be governed by the laws of the Netherlands, without regard to any conflict of laws principles. In that case any legal proceedings related to this Agreement and the Services provided by Tellent shall solely be settled by the competent court of Amsterdam, the Netherlands.

18. Miscellaneous

18.1 Modifications of the Terms These Terms may be modified by Tellent from time to time. Any modification will be announced by publishing the new version of the Terms on Tellent's website (https://kiwihr.com/terms-and-conditions). Modifications will enter into effect at the beginning of any subsequent Subscription Terms or when Subscription Changes take place. Such modifications will only apply to a subsequent Subscription Term in so far as they are published at least 40 days before the respective Subscription Term starts. Tellent may explicitly indicate that foregoing modifications will enter into effect earlier, in such case Subscriber may terminate a Subscription immediately and receive a refund of pre-paid fees for the terminated portion of a pre-paid Subscription Term. Modifications to the Terms apply to any and all earlier versions of these Terms including Documents that were based on such versions.

18.2 Entire Agreement The entire Agreement will only consist of these Terms, offers made by Tellent in writing, documents signed by Tellent or terms, conditions & offers explicitly agreed to by an authorized representative of Tellent in writing. The Agreement supersedes any and all prior or contemporaneous understandings or agreements, written or oral, regarding the subject matter thereof. Unless agreed otherwise between the Parties, in case of separate service level agreements or data-processing agreements between the Parties relating to the Services, those agreements will be added to these Terms as addenda.

18.3 Survival For the sake of clarity, after termination the Agreement will remain in effect with regard to intellectual property, due payments, disclaimers, limitations of liability and any other subject matter that requires survival due to its nature and/or purpose.

18.4 Trials Tellent reserves the right to terminate a free trial Subscription at any point in time for any or no reason.

18.5 Acceptance of Orders and Subscription Changes Any acceptance of an order made through the Site or the SaaS can be retracted by Tellent within 2 Business Days, giving the Subscriber a right to a refund in relation to that specific order. Tellent's consent with Subscription Changes in relation to Subscriptions based on Non-Web Offers can only take place by non-automated means, including a personalized e-mail.

18.6 Waivers The failure of either Party to exercise in any respect any right provided for under the Agreement shall not be deemed a waiver of any further rights under the Agreement.

18.7 Force Majeure Tellent shall be excused from performance of its obligations under this Agreement if and to the extent such a failure to perform results from compliance with any requirement of applicable law or government order, acts of God, pandemic, epidemic, disease, fire, embargo, terrorist attack, war, insurrection or riot, national or regional emergency, denial of service or any other causes beyond the reasonable control of Tellent. Any delay resulting from any such cause shall extend performance timelines proportionally.

18.8 Severability If any provision of the Agreement is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that the Agreement shall otherwise remain in full force and effect and enforceable.

18.9 Assignments and Use by Third Parties Tellent is offering the Services solely for use or benefit of the Subscriber and its Affiliates and not for the use or benefit of any other parties. Additionally, this Agreement will bind and inure to the benefit of each Party's permitted successors and assigns. Neither Party may assign this Agreement without the advance written consent of the other Party, except that either Party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such Party's assets or voting securities. In case of an assignment of the Agreement the Subscriber will notify Tellent 30 days in advance and comply with other obligations in the Agreement.

18.10 Independent Contractors No agency, partnership, joint venture, or employment is created as a result of the Agreement.

18.11 Translations Tellent might make versions of the Agreement available in languages other than English. If Tellent does, the English version of the Agreement will govern the relationship of the Parties and the translated version is provided for convenience only and will not be interpreted to modify the English version of the Agreement.

Questions about the Agreement should be sent to info@tellent.com.

Data Processing Addendum (DPA)

Last modified: 25th of April 2024

0.   Definitions

Unless otherwise defined herein, all capitalised terms in this DPA shall have the meaning given to them in the Terms. The following terms shall have the following meanings in this DPA:

'Applicable Data Protection Law': any applicable laws and regulations of the European Union, the member states of the European Union and the United Kingdom protecting the fundamental rights and freedoms of individuals, and in particular the right to privacy with respect to the Processing of Personal Data, including, but not restricted to the GDPR and the UK GDPR, as such laws and regulations are amended, extended and re-enacted from time to time;

'CCPA': California Consumer Privacy Act 2018;

'GDPR': Regulation (EU) 2016/679 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);

'Controller', 'Data Subject', 'Personal Data', 'Process/Processing', 'Processor', and 'Supervisory Authority': shall have the same meaning as in the GDPR;

'Security Breach': a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed;

'Standard Contractual Clauses': any standard data protection clauses adopted or approved by the European Commission or another competent authority in accordance with Applicable Data Protection Law;

'Sub-processor': a Processor that has been engaged by Tellent to perform specific Processing activities on behalf of the Subscriber;

'Terms': the Tellent Terms & Conditions that the Parties have agreed to be applicable as made available in/on https://kiwihr.com/terms-and-conditions (defined on the webpage as Terms);

'Third Country': any country outside of the European Economic Area ("EEA");

'UK GDPR': the GDPR as incorporated into the law of the United Kingdom under the UK European Union (Withdrawal) Act 2018 and amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

1. General

1.1 This DPA is an addendum to the Terms and applies only in relation to any Processing of Personal Data by Tellent as a Processor on behalf of the Subscriber as Controller as described in DPA Appendix 1. This DPA modifies and supplements the Terms. This DPA may be modified by Tellent under the same terms and conditions that apply to modifications to the Terms.

1.2 The following documents form an integral part of this DPA: (i) this document and (ii) any document attached to this DPA that is labelled as a 'DPA Appendix'. Any reference to the DPA shall be deemed to include a reference to said documents.

1.3 In the event of any inconsistency arising between the provisions of this DPA and the Terms, the provisions of this DPA shall prevail, unless explicitly mentioned otherwise in this DPA.

1.4 For the sake of clarity, this DPA will apply to any Processing of Personal Data by Tellent as Processor on behalf of the Subscriber as Controller as part of the Services under the Agreement, unless Parties have explicitly made other contractual arrangements relating to said Processing of Personal Data.

2. Processing of Personal Data

2.1 Tellent shall Process Personal Data on Subscriber's behalf in accordance with the instructions of the Subscriber provided through the use of the Services and as set out in DPA Appendix 1. The details of the Processing of Personal Data are specified in DPA Appendix 1.

2.2 Subscriber shall ensure that Tellent may lawfully Process the Personal Data on Subscriber's behalf in accordance with this DPA for the performance of the Agreement. Where required under Applicable Data Protection Law, Subscriber shall ensure that the Data Subjects have given their consent for the Processing and have been informed.

2.3 Subscriber's instructions for the Processing of Personal Data shall comply with Applicable Data Protection Law. If Tellent believes that any instruction of Subscriber infringes Applicable Data Protection Law, it will inform Subscriber without delay. Tellent shall be entitled to suspend performance on such instruction until Subscriber confirms or modifies such instruction. Tellent is not required to actively investigate whether instructions from the Subscriber are compliant with the Applicable Data Protection Law.

2.4 Tellent may be legally required under applicable laws and regulations to disclose Personal Data that it Processes to third parties such as authorities. If this is the case, Subscriber will be informed by Tellent insofar as permitted by applicable laws and regulations.

3. Security & Confidentiality

3.1 Tellent will implement and maintain appropriate technical and organisational measures to protect the Personal Data against destruction, loss or unauthorized access or other forms of unauthorized or unlawful Processing of Personal Data. These measures will ensure a level of security appropriate to the risks presented by the Processing and the nature of the Personal Data to be protected having regard to the state of the art and the cost of their implementation. These measures include, but are not limited to, the measures listed in DPA Appendix 2. Subscriber understands and agrees that these measures are subject to change and development and Tellent is therefore expressly allowed to implement alternative measures.

3.2 Subscriber has the sole responsibility to ensure that End-Users use the Services in line with best security practices and in accordance with Applicable Data Protection Law. Such practices include but are not restricted to maintaining the confidentiality of any login or access credentials.

3.3 Tellent shall ensure that personnel authorised to Process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

4. Third Country Data Transfers

4.1 Tellent will not transfer Personal Data to any Third Country, unless Tellent has obtained a

general or specific prior written consent of the Subscriber.

4.2   The Subscriber agrees that in case no appropriate adequacy decision or any other appropriate data transfer mechanism applies for transfer of Personal Data to a Third Country and such transfer requires such a decision or mechanism under Applicable Data Protection Law, Tellent will enter into Standard Contractual Clauses. Subscriber hereby expressly authorizes Tellent and its Sub-processors to enter into Standard Contractual Clauses, (also) on its behalf as far as necessary, and commissions Tellent and its Sub-processors to enforce these Standard Contractual Clauses on the Subscriber's behalf where appropriate. For the sake of clarity, this article 4.2 does not provide any consent as potentially required under article 4.1 of this DPA.

4.3   Nothing in this DPA will be construed to prevail over any conflicting clause of any Standard Contractual Clauses that have been entered into by Tellent including Standard Contractual Clauses entered into on behalf of the Subscriber.

5.   Rights of Data Subjects

5.1   Subscriber will inform Data Subjects that it is the Controller and how Data Subjects may contact the Subscriber with requests. Tellent will not be that contact point. Tellent shall make an effort, to the extent legally permitted, to immediately notify Subscriber, if it receives a request from a Data Subject for access to, inspection, data portability, correction (rectification) or deletion (erasure) of Data Subject's Personal Data. Tellent shall not respond to any such requests of Data Subjects without Subscriber's prior written consent.

5.2   Tellent shall provide Subscriber with cooperation and assistance to allow Data Subjects to exercise any rights they might have under Applicable Data Protection Law, such as access, correction, deletion and/or data portability. Tellent will provide such cooperation and assistance only on Subscriber's request and only in so far as Subscriber cannot meet his obligations under Applicable Data Protection Law without Tellent's cooperation and assistance.

6.   Data Breach Notification

6.1   Tellent shall, to the extent permitted by law, notify Subscriber without undue delay of a Security Breach with regard to the Personal Data Processed on behalf of the Subscriber under this DPA.

6.2   Such notification shall include at least: (a) a description of the nature of the Security Breach, including where possible, information that assists the Subscriber in determining the categories of and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned; (b) information available to Tellent that assists the Subscriber in determining the likely consequences of the Security Breach; and (c) a description of the measures taken or proposed to be taken by Tellent to address the security breach, including, where appropriate, measures to mitigate its possible adverse effects.

6.3   Subscriber is solely responsible for complying with any Security Breach notification obligations applicable to Subscriber. The performance of Tellent's obligation to report or respond to a Security Breach under this article is not an acknowledgement by Tellent of any fault or liability with regard to the Security Breach.

7.   Sub-processors

7.1   Tellent may use Sub-processors to perform Processing of Personal Data, on behalf of Subscriber, as part of the Services provided by Tellent to Subscriber. The Subscriber hereby gives a general written authorisation to Tellent to engage any Sub-processor for the Processing of Personal Data. Tellent may only engage a Sub-processor if it has imposed, in writing, the necessary responsibilities and obligations on the Sub-processor as required by article 28 GDPR. Tellent may remove or appoint other Sub-processors in accordance with this article. Tellent will give at least six weeks prior notice of any changes to the list of Sub-processors. The Subscriber can object to a Sub-processor by using its termination rights under the Agreement. If Subscriber does not terminate the Agreement within this timeframe, Subscriber is deemed to accept the respective Sub-processor. Where the Sub-processor fails to fulfil its data protection obligations, Tellent shall remain similarly liable to Subscriber for the performance of its obligations under this DPA.

8. **Information & Audits**

8.1 If Subscriber reasonably concludes that an audit or inspection of technical and organisational measures at Tellent's premises is necessary to monitor the compliance with this DPA in an individual case, Subscriber shall have the right to carry out such an audit or inspection provided such audit or inspection will be conducted (i) during regular business hours, and (ii) without interfering with Tellent's business operations, (iii) upon prior notice of at least 30 days in advance and further consultation with Tellent, (iv) all subject to (if not covered already by the Agreement) the execution of a confidentiality undertaking, and (v) at most once a year. Subscriber will bear its own expenses and compensate Tellent for the cost with regard to any internal resources required to conduct the audit. Such audit or inspection shall be carried out by the Subscriber or an inspection authority composed of independent persons in possession of the required professional qualifications, selected by the Subscriber. Subscriber will furnish immediately after the verification or inspection to Tellent a copy of the report of such audit.

8.2 Subscriber agrees that it will cooperate, together with Tellent, with Supervisory Authorities. Tellent will reasonably allow for and contribute to audits and inspections, conducted by Supervisory Authorities. Subscriber will notify Tellent immediately of any planned audits and inspections by Supervisory Authorities.

8.3 Tellent shall provide, upon written request, any such information and assistance the Subscriber may require for compliance with the Applicable Data Protection Law including to perform data protection impact assessments. Tellent will provide such information and assistance only in so far as Subscriber cannot meet its obligations under the Applicable Data Protection Law without Tellent's information and assistance.

8.4 Tellent may require Subscriber to sign a reasonable confidentiality agreement before complying with its obligations under this article.

9. **Return of Personal Data**

9.1 Upon termination of any Service, Subscriber's right to access or use the respective Service immediately ceases, and Tellent shall have no obligation to maintain any associated Personal Data. The Parties agree that Tellent shall in such event at the choice of the Subscriber either return all Personal Data to the Subscriber or shall destroy/delete all the Personal Data, unless prohibited from doing so by any applicable laws and regulations. If Subscriber doesn't make such a choice, then Tellent may delete Personal Data 30 days after the termination of the Service. The return of Personal Data by Tellent may take place by allowing the Subscriber access to the Personal Data through Tellent's API.

9.2 Tellent will, upon request of Subscriber and after the termination of the Service, declare in writing towards Subscriber that all copies of Personal Data have been permanently destroyed or returned to Subscriber.

10. **CCPA Compliance**

10.1 Tellent understands that any personal information it receives under this DPA will be processed by Tellent in its role as a service provider as that term is defined under the CCPA.

10.2 Tellent is hereby prohibited from: (1) selling personal information it receives under this DPA; and (2) collecting, retaining, using, or disclosing such personal information for any purpose other than processing it as set out in this DPA.

DPA Appendix 1: Details of the Processing of Personal Data

1. Details of the Processing of Recruitee SaaS Personal Data

1.1 General All details of the Processing of Personal Data under this Article 1 only relate to the Recruitee SaaS and Services that are provided in relation to the Recruitee SaaS.

1.2 Nature and Purpose of the Processing Subscriber agrees to use the Recruitee SaaS and Services that are provided in relation to the Recruitee SaaS only for recruitment and/or talent acquisition purposes. Tellent shall on behalf of Subscriber Process Personal Data as part of the Recruitee SaaS and Services that are provided in relation to the Recruitee SaaS and pursuant to the Agreement.

1.3 Data Subjects The Processing of Personal Data detailed in this Article 1 will relate to the following Data Subjects:
- Subscriber's applicants, potential applicants, candidates and potential candidates (hereinafter collectively referred to as: *'Candidates'*);
- Visitors of the Subscriber's careers website provided as part of Services (hereinafter referred to as: *'Visitors'*);
- Anyone who visits Subscriber's referral site, only if the referral site is provided as part of Services, or makes a referral for a Candidate through the Services (hereinafter referred to as: *'Referrers'*).

1.4 Categories of Personal Data Tellent shall on behalf of Subscriber Process the following categories of Personal Data relating to Candidates:
- Contact details, including names
- Resumes
- E-mail communications
- Address
- Work history
- Motivation letter and other documents provided for an application
- Information regarding Candidates gathered through integrations between the Services and services of third parties on request of the Subscriber or end-users
- Notes about Candidates
- Ratings of Candidates
- and other Personal Data relating to Candidates that is processed as part of the Services. For the sake of clarity, Personal Data that relates to Candidates and simultaneously to other Data Subjects will be considered to be processed on behalf of the Subscriber (e.g. email from a user to a Candidate).

Tellent shall on behalf of Subscriber Process the following categories of Personal Data relating to Visitors:
- Traffic source
- HTTP requests and responses
- Cookies
- Date and time of usage
- and other Personal Data relating to Visitors that is processed as part of the Services.

Tellent shall on behalf of Subscriber Process the following categories of Personal Data relating to Referrers:
- Contact details, including names
- HTTP requests and responses
- Cookies
- Date and time of usage
- Social and business connections
- E-mail address and password
- Referrals, including the status and associated rewards
- E-mail communications
- and other Personal Data relating to Referrers that is processed as part of the Services. For the sake of clarity, Personal Data that relates to Referrers and simultaneously to other Data Subjects will be considered to be processed on behalf of the Subscriber (e.g. email from a user to a Referrer).

1.5 Other Tellent shall only Process the Personal Data listed in this article 1 insofar as it falls under the Services, except when Personal Data has been anonymized and is used to improve the Services.

2. Details of the Processing of KiwiHR SaaS Personal Data

2.1 General All details of the Processing of Personal Data under this Article 2 only relate to the KiwiHR SaaS and Services that are provided in relation to the KiwiHR SaaS.

2.2 Nature and Purpose of the Processing Subscriber agrees to use the KiwiHR SaaS and Services that are provided in relation to the KiwiHR SaaS only for human resources management. Tellent shall on behalf of Subscriber Process Personal Data as part of the KiwiHR SaaS and Services that are provided in relation to the KiwiHR SaaS and pursuant to the Agreement.

2.3 Data Subjects The Processing of Personal Data detailed in this Article 2 will relate to the following Data Subjects:
- Subscriber's employees and consultants (hereinafter collectively referred to as: *'Employees'*).

2.4 Categories of Personal Data Tellent shall on behalf of Subscriber Process the following categories of Personal Data relating to Employees:
- Contact details, including names, addresses and roles
- HTTP requests and responses
- Cookies
- Date and time of usage
- E-mail address and password
- Salaries, birth dates, work hours, holidays, absence, sickness, expenses and emergency contacts
- and other Personal Data relating to Employees that is processed as part of the Services. For the sake of clarity, Personal Data that relates to Employees and simultaneously to other Data Subjects will be considered to be processed on behalf of the Subscriber (e.g. the name and phone number of the emergency contact of an Employee).

3. Details of the Processing of Javelo SaaS Personal Data

3.1 General All details of the Processing of Personal Data under this Article 3 only relate to the Javelo SaaS and Services that are provided in relation to the Javelo SaaS.

3.2 Nature and Purpose of the Processing Subscriber agrees to use the Javelo SaaS and Services that are provided in relation to the Javelo SaaS only for performance management. Tellent shall on behalf of Subscriber Process Personal Data as part of the Javelo SaaS and Services that are provided in relation to the Javelo SaaS and pursuant to the Agreement.

3.3 Data Subjects The Processing of Personal Data detailed in this Article 3 will relate to the following Data Subjects:
- Subscriber's employees and consultants (hereinafter collectively referred to as: *'Employees'*).

3.4 Categories of Personal Data Tellent shall on behalf of Subscriber Process the following categories of Personal Data relating to Employees:
- Contact details, including names, addresses and roles
- HTTP requests and responses
- Cookies
- Date and time of usage
- E-mail address and password
- Performance reviews and employee feedback
- Skills and trainings
- and other Personal Data relating to Employees that is processed as part of the Services. For the sake of clarity, Personal Data that relates to Employees and simultaneously to other Data Subjects will be considered to be processed on behalf of the Subscriber (e.g. the name of the employee of a client of Subscriber that the Employee has interacted with).

4. Other

The Subscriber or End-Users may provide Tellent with additional instructions regarding the Processing of Personal Data through their use of and within the limits of the Services. For example an end-user may choose in the Recruitee SaaS to delete Personal Data relating to a Candidate. Subscriber is obliged to make sure that any instructions it gives including, but not limited to, those given on its behalf are compliant with applicable laws and regulations including, but not limited to, the GDPR. Some processing activities are performed by Tellent as an independent Controller. Those

processing activities are detailed in Tellent's privacy policy (available at https://tellent.com/privacy-policy).

DPA Appendix 2: Technical and Organisational Measures

The following is a non-exhaustive list of technical and organisational security measures taken and implemented by Tellent:

Quality Assurance: Tellent has processes in place for quality assurance of the SaaS. Such processes include automated testing and pre-deployment manual testing of features and bug fixes.
Code review: All new code for the SaaS is reviewed by at least one senior developer before it's released to a production environment. The review includes a check for the use of secure coding practices.
HTTPS: Encryption is used for all transfer of personal data by the SaaS over the web.
Storage of passwords: All passwords for the SaaS are stored using an industry standard hashing algorithm.
Penetration testing: A specialized third party penetration tester will regularly test the security of the SaaS provided under the Agreement.
Back-ups: All Personal Data in the SaaS is backed up daily or continuously in increments.
Access control: Employees only receive access rights to Personal Data in the SaaS in so far as such rights are required for their role. Access rights will be revoked when they no longer need it.
Secure data centers: The SaaS will only be hosted in data centers that have a high level of security and availability, such as ISO 27001 certified data centers.
DDOS protection: Tellent will have measures in place for the SaaS to protect its servers from Layer 4 (and below) (D)DOS attacks.
Firewall: The SaaS infrastructure will be protected by one or more firewalls.

DPA Appendix 3: Sub-processors

1. Recruitee SaaS Sub-processors

The Subscriber agrees that Tellent engages the following parties as Sub-processors ('Recruitee SaaS Sub-processors') for the Recruitee SaaS and for Services that are provided in relation to the Recruitee SaaS:

Google Cloud Platform	
Entity names:	Google Ireland Limited and its sub-processors (https://cloud.google.com/terms/subprocessors)
Data processing location:	Frankfurt and Berlin, Germany (google: europe-west3, europe-west10)
Other details:	Main infrastructure for the Recruitee SaaS is hosted at Google Cloud Platform.

Ziggeo	
Entity names:	Ziggeo, Inc. and its sub-processors
Data processing location:	Ireland (aws: eu-west-1)

Amazon Web Services	
Entity names:	Amazon Web Services EMEA SARL and its sub-processors

Data processing location:	Frankfurt, Germany (aws: eu-central-1)

Tellent	
Entity names:	Recruitee Sp. Z o.o., Recruitee B.V., Recruitee GmbH, Teamrise SAS, YooniQ solutions GmbH and YooniQ solutions Sp. Z o.o. and affiliated companies (except Recruitee Inc.)
Data processing location:	Germany, France, the Netherlands and Poland
Other details:	These are the entities other than the contracting (Tellent) entity used to provide the Services.

Textkernel	
Entity names:	Textkernel B.V. and its sub-processors
Data processing location:	Amsterdam, the Netherlands

Mailgun	
Entity names:	Mailgun Technologies, Inc. and its sub-processors
Data processing location:	Frankfurt, Germany (aws: eu-central-1)

Microsoft Azure	
Entity names:	Microsoft Corporation and its sub-processors
Data processing location:	The Netherlands (azure: West Europe)
Other details:	Only used for optional artificial intelligence and machine learning features of the SaaS.

Kombo	
Entity names:	Kombo Technologies GmbH and its sub-processors
Data processing location:	Germany and the Netherlands

Affinda	
Entity names:	Affinda Pty Ltd and its sub-processors
Data processing location:	• Frankfurt, Germany (aws: eu-central-1) • Australia and United Kingdom, but only in case Subscriber explicitly consents for data to be shared with Affinda in relation to a support request
Other details:	Only used for optional artificial intelligence and machine learning features of the SaaS, such as the fair evaluations feature.

2. KiwiHR SaaS Sub-processors

The Subscriber agrees that Tellent engages the following parties as Sub-processors ('KiwiHR SaaS Sub-processors') for the KiwiHR SaaS and for Services that are provided in relation to the KiwiHR SaaS:

Tellent	
Entity names:	Recruitee Sp. Z o.o., Recruitee B.V., Recruitee GmbH, Teamrise SAS, YooniQ solutions GmbH and YooniQ solutions Sp. Z o.o. and affiliated companies (except Recruitee Inc.)
Data processing location:	Germany, France, the Netherlands and Poland
Other details:	These are the entities other than the contracting (Tellent) entity used to provide the Services.

Google Cloud Platform	
Entity names:	Google Ireland Limited and its sub-processors (https://cloud.google.com/terms/subprocessors)
Data processing location:	European Union (google: EU multi-region)

Amazon Web Services	
Entity names:	Amazon Web Services EMEA SARL and its sub-processors
Data processing location:	Frankfurt, Germany (aws: eu-central-1)

Postmark	
Entity names:	AC PM LLC and its sub-processors
Data processing location:	Worldwide

Microsoft Azure	
Entity names:	Microsoft Corporation and its sub-processors
Data processing location:	The Netherlands (azure: West Europe)
Other details:	Only used for optional artificial intelligence and machine learning features of the SaaS.

Kombo	
Entity names:	Kombo Technologies GmbH and its sub-processors
Data processing location:	Germany and the Netherlands

3. Javelo SaaS Sub-processors

The Subscriber agrees that Tellent engages the following parties as Sub-processors ('Javelo SaaS Sub-processors') for the Javelo SaaS and for Services that are provided in relation to the Javelo SaaS:

Amazon Web Services	

Entity names:	Amazon Web Services EMEA SARL and its sub-processors
Data processing location:	European Union

Microsoft Azure	
Entity names:	Microsoft Corporation and its sub-processors
Data processing location:	The Netherlands (azure: West Europe)
Other details:	Only used for optional artificial intelligence and machine learning features of the SaaS.

Mailjet	
Entity names:	Mailjet SAS and its sub-processors
Data processing location:	Belgium and Germany

Tellent	
Entity names:	Recruitee Sp. Z o.o., Recruitee B.V., Recruitee GmbH, Teamrise SAS, YooniQ solutions GmbH and YooniQ solutions Sp. Z o.o. and affiliated companies (except Recruitee Inc.)
Data processing location:	Germany, France, the Netherlands and Poland
Other details:	These are the entities other than the contracting (Tellent) entity used to provide the Services.

Kombo	
Entity names:	Kombo Technologies GmbH and its sub-processors
Data processing location:	Germany and the Netherlands

4. Clarification

For the sake of clarity:
- This appendix does not give Tellent the right to use a Sub-processor for a Service if the Sub-processor is only listed as a Sub-processor for another Service;
- If a Sub-processor is listed in this appendix as a Sub-processor for multiple Services, then for each Service this appendix only gives Tellent the right to use such Sub-processor within the data processing location that is listed for the respective Service, and;
- Each Sub-processor listed in this appendix may engage every other Sub-processor, but only insofar as they are listed as Sub-processors for the same Service.

Service Level Addendum (for Recruitee SaaS Lead and Optimize plans and Javelo SaaS)

Last modified: 6th of October 2023

0. Definitions

'Available' / 'Availability': the time during which the SaaS or a Functionality is accessible by Subscriber for live, real-time processing and data exchange at a reasonably acceptable speed;

'Downtime': time during which the SaaS is not Available;

1. Applicability of this SLA

1.1 General This SLA is an addendum to the terms and conditions agreed to between Subscriber and Tellent, also defined in said document as 'Terms', as set out on: https://kiwihr.com/terms-and-conditions. This SLA modifies and supplements the Terms. This SLA sets out terms and conditions relating to service levels in addition to the Terms, but only in so far as Subscriber is on a Subscription for the Recruitee SaaS that is designated as a 'Lead' and/or 'Optimize' plan and/or a Subscription for the Javelo SaaS. This SLA may be modified by Tellent under the same terms and conditions that apply to modifications to the Terms.

1.2 Inconsistencies In case of any inconsistencies between this SLA and the Terms, this SLA will prevail. If the Parties have entered into a data processing agreement/addendum relating to the processing of personal data ('DPA') in relation to a Subscription, then the DPA will prevail over this SLA in relation to such a Subscription. This SLA will not apply to a Subscription if the Parties have duly executed a separate written service level agreement/addendum that is applicable to such a Subscription.

2. Availability

2.1 Availability warranty Tellent warrants a minimum Availability of 99.5% per quarter for the majority of the Functionalities of the SaaS ('Availability Warranty').

2.2 Exclusions A Functionality of the SaaS is considered to be Available in so far as Downtime results from or can be attributed to:
- The Subscriber using or opting-in for features designated by Tellent as alpha or beta;
- Factors outside of Tellent's reasonable control;
- Violation of the Terms or this SLA by the Subscriber;
- Use of Functionality by the Subscriber in a manner for which it was not designed or intended;
- Downtime that was planned by Tellent and announced in advance.

2.3 Credits If Tellent does not meet the Availability Warranty set out in this article, then Tellent will credit towards future invoices for Services provided by Tellent, on Subscriber's request, 10% of the quarterly fee for the SaaS in so far as such fee has been paid for the one quarter period that Tellent did not meet the requirements of the warranty ('Availability Warranty Credit'). A failure to meet the requirements of the Availability Warranty will not result in any other liability or Subscriber entitlement/right than the Availability Warranty Credit nor will it entitle the Subscriber to a refund.

2.4 Calculations For the purposes of this article a quarter is every consecutive 3-month period after the start of the Subscription for the SaaS. The quarterly fee for the SaaS will be calculated pro rata from the Subscription fee of the SaaS. Tellent's administration is leading for the calculation of the Availability, but Subscriber has access to review the most recent performance on https://status.recruitee.com for the Recruitee SaaS and https://javelo.statuspage.io for the Javelo SaaS. Tellent may implement or make use of a different performance monitoring tool in its sole discretion and will notify Subscriber of such a change.

3. Back-ups and recovery

Tellent will at least on a daily basis make back-ups of Subscriber Data and make commercially reasonable efforts to restore Subscriber Data, free of any additional charge, in case of data loss that is attributable to Tellent.

Product Specific Terms

Last modified: 25th of April 2024

1. General

1.1 These Product Specific Terms are an addendum to the Terms. These Product Specific Terms modify and supplement the Terms. These Product Specific Terms may be modified by Tellent under the same terms and conditions that apply to modifications to the Terms.

1.2 In the event of any inconsistency arising between the provisions of these Product Specific Terms and the other Documents of the Agreement, the provisions of those other Documents shall prevail, unless explicitly mentioned otherwise in these Product Specific Terms.

2. Recruitee SaaS

2.1 General This Article 2 will only apply insofar as the Agreement relates to the Recruitee SaaS and Services that are provided in relation to the Recruitee SaaS.

2.2 Definitions The following definitions will apply anywhere in the Agreement but only insofar as the Agreement relates to the Recruitee SaaS and Services that are provided in relation to the Recruitee SaaS:
'Administrator': An End-User with the greatest role that Subscriber can grant to a single End-User in the Recruitee SaaS and designated in the Recruitee SaaS as an administrator;
'Candidate': A candidate for a job position;
'Company Account': A section of the SaaS designated in the SaaS as a 'company account' and intended to confine the Subscriber Data held under a single Subscription, but also used for other purposes, such as grouping End-Users;
'Distribution Channels': Third-party services, job boards and/or other entities used by or in Tellent's distribution network for Job Advertisements;
'Job Advertisement': Announcements or promotions of job vacancies;
'Premium Job Advertisement': Job Advertisement charged separately from any Subscriptions;
'Subscriber Content': Resumes (or CV's), comments, notes, files and all other data associated with the process of hiring for a job position.

2.3 Job Advertisements - General Tellent may offer to distribute Job Advertisements through various Distribution Channels. Tellent may in its sole discretion charge additional fees for Job Advertisements. All fees for Job Advertisements will be communicated by Tellent during the ordering process for Job Advertisements.

2.4 Job Advertisements - Tellent's Commitment Tellent will make commercially reasonable efforts to distribute Job Advertisements through Distribution Channels. However, Subscriber acknowledges and accepts that Tellent does not control the Distribution Channels or communication networks, and that it cannot guarantee that Subscriber's Job Advertisements will actually be delivered over the Internet or via communication networks, be accepted by the relevant Distribution Channels, or be received and/or read by job applicants or potential job applicants.

2.5 Job Advertisements - Responsibility Subscriber's Job Advertisements must comply with any applicable laws and regulations including those relating to labour and employment, and anti-discrimination. Subscriber understands and agrees that Subscriber is solely responsible for any liability or claims arising out of publication of Job Advertisements or material which third parties can access through such Job Advertisements. Subscriber agrees to indemnify and hold Tellent and its subsidiaries, and their respective officers, directors, employees, and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of a breach of this article by Subscriber or a breach of the additional service policies of Distribution Channels. In certain cases, Distribution Channels may require that Subscriber agrees to additional service policies in order to allow Subscriber's Job Advertisement to be distributed on or via their services, and Subscriber hereby agrees to such additional service policies as they apply to the distribution of Subscriber's Job Advertisements. Subscriber is solely responsible for researching the policies of entities in the Distribution Channels. Subscriber agrees not to post or promote any Job Advertisements that: contain inaccurate, spammy, false, misleading or offensive information; contain hidden keywords, or; sell or promote services.

2.6 Changes to Distribution Channels Changes in relation to any Distribution Channels for Job Advertisements can be made at any time, with no prior announcement and at Tellent's convenience.

2.7 Trial period Use of a Subscription for the Recruitee SaaS is free during Subscriber's free trial period which is 18 days by default, unless the Parties agree otherwise or the Subscriber enters into a paid Subscription.

2.8 SLA for Selected Plans The Service Level Addendum ('SLA') available on Tellent's website (https://kiwihr.com/terms-and-conditions) applies as an addendum to these Terms. The SLA will not apply to a Subscription if the Parties have duly executed another written service level agreement/addendum that is applicable to such a Subscription.

2.9 Careers Site Tellent may offer Subscriber a Careers Site. This Careers Site is intended, among other things, to provide the public with a list of job opportunities, and therefore Subscriber's usage of the Careers Site is not intended to be private. Job opportunities published on the Careers Site will be distributed to the job boards of Indeed. The Subscriber agrees to the terms and conditions of Indeed in connection to the distribution of such job opportunities to Indeed (https://www.indeed.com/legal). Subscriber can opt-out to such distribution to Indeed and the terms and conditions of Indeed by notifying Tellent.

2.10 Fees If a Subscription of the Subscriber is due for renewal with a Subscription Term of 1 (one) year or more, Tellent may at each renewal of the Subscription increase its applicable fees, rates and prices for the Subscription with up to 5% for each year that has passed since the beginning of the previous Subscription Term or the percentage of change of the Consumer Price Index since the beginning of the previous Subscription Term, whichever is higher. If the Subscription of the Subscriber is due for renewal with a Subscription Term of less than 1 (one) year, then Tellent may at each renewal of such Subscription increase its applicable fees, rates and prices for the Subscription with up to 5% in relation to the previous Subscription Term. For the sake of clarity, the aforementioned in this article does not apply to the KiwiHR SaaS.

3. KiwiHR SaaS

3.1 General This Article 3 will only apply insofar as the Agreement relates to the KiwiHR SaaS and Services that are provided in relation to the KiwiHR SaaS.

3.2 Definitions The following definitions will apply anywhere in the Agreement but only insofar as the Agreement relates to the KiwiHR SaaS and Services that are provided in relation to the KiwiHR SaaS:
'Administrator': An End-User with the greatest role that Subscriber can grant to a single End-User in the KiwiHR SaaS and designated in the KiwiHR SaaS as an 'account owner';
'Company Account': A section of the KiwiHR SaaS designated in the KiwiHR SaaS as a 'company' and intended to confine the Subscriber Data held under a single Subscription, but also used for other purposes, such as grouping End-Users;
'Subscriber Content': Name, birth date, salaries and all other data associated with human resources management.

3.3 Data Transfers The Subscriber hereby provides prior written consent, in accordance with article 4.1 of the DPA, for Personal Data (as defined in the DPA) to be transferred to any Third Countries (as defined in the DPA), however only insofar as such transfers are in relation to the KiwiHR SaaS and only if Subscriber has a Subscription for the KiwiHR SaaS.

3.4 Trial period Use of a Subscription for the KiwiHR SaaS is free during Subscriber's free trial period which is 14 days by default, unless the Parties agree otherwise or the Subscriber enters into a paid Subscription.

3.5 Renewals Notwithstanding the Terms, at renewal of a Subscription for the KiwiHR SaaS the fee for the renewal Subscription Term of the KiwiHR SaaS will be an adjusted fee to match the then-current number of End-Users of the KiwiHR SaaS multiplied by the fee per such End-User for the prior Subscription Term of the Subscription for the KiwiHR SaaS plus any price increase in accordance with the Terms. The fees for such a renewal Subscription Term of the KiwiHR SaaS will be due from the moment of the respective renewal.

3.6 Increase in End-Users During Subscription Term If the number of End-Users of the KiwiHR SaaS increases during a Subscription Term, then the Subscriber will be charged for the entire remainder of the Subscription Term for each additional End-User based on a fee that is calculated pro-rata from the fee that applies for the End-Users that have already been charged to

the Subscriber during such Subscription Term. Such charge will be due immediately. For the sake of clarity, if the number of End-Users of the KiwiHR SaaS decreases during a Subscription Term, then the Subscriber will not be credited nor refunded for any fees that relate to such decrease.

3.7 Fees If a Subscription of the Subscriber is due for renewal, Tellent may at each renewal of the Subscription increase its applicable fees, rates and prices for the Subscription. Such an increase will be announced by Tellent at least 40 days prior to the respective renewal. For the sake of clarity, the aforementioned in this article does not apply to the Recruitee SaaS and Javelo SaaS.

4. Javelo SaaS

4.1 General This Article 4 will only apply insofar as the Agreement relates to the Javelo SaaS and Services that are provided in relation to the Javelo SaaS.

4.2 Definitions The following definitions will apply anywhere in the Agreement but only insofar as the Agreement relates to the Javelo SaaS and Services that are provided in relation to the Javelo SaaS:
'Administrator': An End-User with the greatest role that Subscriber can grant to a single End-User in the Javelo SaaS and designated in the Javelo SaaS as a 'company administrator';
'Company Account': A section of the Javelo SaaS designated in the Javelo SaaS as a 'company account' and intended to confine the Subscriber Data held under a single Subscription, but also used for other purposes, such as grouping End-Users;
'Subscriber Content': Name, role, performance reviews, employee feedback and all other data associated with performance management.

4.3 Trial period Use of a Subscription for the Javelo SaaS is free during Subscriber's free trial period that may be offered by Tellent, unless the Parties agree otherwise or the Subscriber enters into a paid Subscription.

4.4 Renewals Notwithstanding the Terms, at renewal of a Subscription for the Javelo SaaS the fee for the renewal Subscription Term of the Javelo SaaS will be an adjusted fee to match the then-current number of End-Users of the Javelo SaaS multiplied by the fee per such End-User for the prior Subscription Term of the Subscription for the Javelo SaaS plus any price increase in accordance with the Terms. The fees for such a renewal Subscription Term of the Javelo SaaS will be due from the moment of the respective renewal.

4.5 Increase in End-Users During Subscription Term If the number of End-Users of the Javelo SaaS increases during a Subscription Term, then the Subscriber will be charged for the entire remainder of the Subscription Term for each additional End-User based on a fee that is calculated pro-rata from the fee that applies for the End-Users that have already been charged to the Subscriber during such Subscription Term. Such charge will be due immediately. For the sake of clarity, if the number of End-Users of the Javelo SaaS decreases during a Subscription Term, then the Subscriber will not be credited nor refunded for any fees that relate to such decrease.

4.6 SLA The Service Level Addendum ('SLA') available on Tellent's website (https://kiwihr.com/terms-and-conditions) applies as an addendum to these Terms. The SLA will not apply to a Subscription if the Parties have duly executed another written service level agreement/addendum that is applicable to such a Subscription.

4.7 Fees If a Subscription of the Subscriber is due for renewal with a Subscription Term of 1 (one) year or more, Tellent may at each renewal of the Subscription increase its applicable fees, rates and prices for the Subscription with up to 5% for each year that has passed since the beginning of the previous Subscription Term or the percentage of change of the Consumer Price Index since the beginning of the previous Subscription Term, whichever is higher. If the Subscription of the Subscriber is due for renewal with a Subscription Term of less than 1 (one) year, then Tellent may at each renewal of such Subscription increase its applicable fees, rates and prices for the Subscription with up to 5% in relation to the previous Subscription Term. For the sake of clarity, the aforementioned in this article does not apply to the KiwiHR SaaS.

4.8 Data Export and Deletion of Data Notwithstanding the Terms, in case of termination of the Javelo SaaS, the Subscriber may request Subscriber Content held by Tellent as part of the terminated Javelo SaaS within 30 (thirty) calendar days after termination and upon such request

Tellent will provide a copy of such Subscriber Content instead of making it available through the API of the Javelo SaaS.

Country Specific Terms

Last modified: 6th of October 2023

1. General

1.1   These Country Specific Terms are an addendum to the Terms. These Country Specific Terms modify and supplement the Terms. These Country Specific Terms may be modified by Tellent under the same terms and conditions that apply to modifications to the Terms.

1.2   In the event of any inconsistency arising between the provisions of these Country Specific Terms and the other Documents of the Agreement, the provisions of those other Documents shall prevail, unless explicitly mentioned otherwise in these Country Specific Terms.

2. DACH

2.1 General If the Agreement determines that the laws of Germany apply to the Agreement, then this Article 2 will apply, otherwise this Article 2 will not apply.

2.2 Warranty and Disclaimer DACH Notwithstanding the Terms, Article 6 of the Terms shall be replaced by this Article 2.2.

2.2.1 Tellent's Warranties Tellent warrants that the Services do not violate any third party's valid patent, copyright, trademark, trade secret or other intellectual property right and that the Services shall perform materially in accordance with the agreed quality under the Agreement, including: the Documentation, subject to Article 9 of the Terms, and; the Availability Warranty (as defined in the SLA), insofar as Subscriber has a Subscription for a 'Lead' plan.

2.2.2 Subscriber's Remedies Subscriber shall report to Tellent any material deviation of the Services from the agreed quality under the Agreement or if Services, insofar as used by the Subscriber as permitted hereunder, infringes a third party's intellectual property right (defect in title) (collectively "Defects") within 30 days of the date on which the defect in material or defect in title first appeared. Such agreed quality under the Agreement will include: the Documentation, subject to Article 9 of the Terms, and; the Availability Warranty (as defined in the SLA), insofar as Subscriber has a Subscription for a Recruitee SaaS 'Lead' plan. Subscriber's remedies for any Defect shall be (a) to request re-performance or repair of the Services from Tellent or (b) if Tellent fails to provide such remedy within two objectively reasonable time periods set by the Subscriber or if such remedy is objectively impracticable, to terminate the Subscription. Subscriber's right to claim damage, including Subscriber's indemnification rights under Article 8 of the Terms, shall be limited in accordance with Article 2.3 of these Country Specific Terms. Subscriber's right to rebate the remuneration due to Defects shall in any event be limited to claims for unjustified enrichment.

2.3 Limitation of Liability DACH Notwithstanding the Terms, article 7 of the Terms shall be replaced by this Article 2.3.

2.3.1 Unlimited Liability Nothing shall limit Tellent's liability (a) in the event of willful misconduct or gross negligence, (b) within the scope of a guarantee explicitly given to the Subscriber by Tellent, (c) in the event that a defect is maliciously concealed, (d) in case of an injury to life, body or health, and (e) according to the German Product Liability Act.

2.3.2 Limited Liability In case of damages caused by slight negligence, (i) if Cardinal Contractual Obligations are breached, Tellent's liability is limited to foreseeable damages typical to the contract, or (ii) any other liability for damages caused by slight negligence is excluded. "Cardinal Contractual Obligations" shall mean obligations fulfilment of which is essential to the proper implementation of the contract, and breach of which jeopardizes the achievement of the purpose of the contract and on fulfilment of which the Subscriber regularly relies.

2.3.3 Liability Exclusion Regardless of the legal grounds giving rise to liability, Tellent shall not be liable for indirect or consequential damages, including lost profits, the recruiting or not

recruiting of particular individuals and/or losses of Subscriber and/or third parties, unless any such damage has been caused by Tellent's wilful misconduct or gross negligence.

2.3.4 Liability Cap TELLENT'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT WILL NOT EXCEED THE FEES (CALCULATED PRO RATA) FOR THE CONTINUED PROVISION FOR SIX MONTHS OF ANY SAAS PROVIDED BY TELLENT TO SUBSCRIBER UNDER THE AGREEMENT IMMEDIATELY PRIOR TO THE FIRST OCCURRENCE GIVING RISE TO SUBSCRIBER'S CLAIM(S) AGAINST TELLENT ('LIABILITY CAP'). THE LIABILITY CAP APPLIES TO: (I) ANY DAMAGES; (II) ALL CLAIMS IN THE AGGREGATE, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS.

2.3.5 Loss of Data Liability for loss of data shall be limited to the recovery costs which would have arisen if backup copies had been regularly made in appropriate relation to the risk of such loss.

2.3.6 Duty to Mitigate Damages The Subscriber shall take all reasonable measures to mitigate and/or to avoid damages, including, in particular, an obligation for Subscriber to make back-up copies of data on a regular basis and to carry out security checks (in particular for the purpose of defending or detecting viruses, malware and other disruptive programmes within Subscriber's own IT System).

2.3.7 Vicarious Agents etc. To the extent Tellent's liability is limited or excluded, the same shall apply in respect of any personal liability of Tellent's legal representatives, employees and vicarious agents.

2.3.8 Initial Defect Liability Tellent's fault-independent liability for initial Defects ("*Garantiehaftung*") under Sec. 536a para. 1 of the German Civil Code, shall be excluded.

2.3.9 Guarantees Nothing in this Agreement shall constitute or result in a liability for guarantees under the German Civil Code, unless the Parties have explicitly agreed on the same by using the terms "guarantee", "guaranteed" or any variants of the same.

2.4 Indemnification Notwithstanding any other terms and conditions, any indemnification obligation of the Subscriber under the Agreement shall not apply insofar as there is no culpability of the Subscriber.

3. France

3.1 General If the Agreement determines that the laws of France apply to the Agreement, then this Article 3 will apply, otherwise this Article 3 will not apply.

3.2 Notwithstanding the Terms, article 7 of the Terms shall be replaced by this Article 3.2:

3.2.1 Unlimited Liability Nothing shall limit Tellent's liability in the event of willful misconduct or gross negligence or fraud, and in case of an injury to life, body or health.

3.2.2 Limited Liability Subject to Article 3.2.1 of the Country Specific Terms, Tellent's liability is limited to foreseeable damages typical to the contract at the date of signature of the agreements and in particular Tellent shall not be liable for lost profits, the recruiting or not recruiting of particular individuals and/or losses of Subscriber and/or third parties. Liability for loss of data shall be limited to the recovery costs which would have arisen if backup copies had been regularly made in appropriate relation to the risk of such loss.

3.2.3 Liability Cap Subject to article 3.2.1 of the Country Specific Terms, Tellent's total liability arising out of or related to the Agreement, including liability that arises out of any indemnification by Tellent under the Agreement, will not exceed the fees (calculated pro rata) for the continued provision for six (6) months of any SaaS provided by Tellent to Subscriber under the Agreement immediately prior to the first occurrence giving rise to Subscriber's claim(s) against Tellent ('Liability Cap').

3.2.4 Duty to Mitigate Damages The Subscriber shall take all reasonable measures to mitigate and/or to avoid damages, including, in particular, an obligation for Subscriber to carry out security

checks (in particular for the purpose of defending or detecting viruses, malware and other disruptive computer programs within Subscriber's own IT System).

3.3 Indemnification Notwithstanding the Terms, an Indemnifying Party does not have the right to take sole conduct of a claim nor to take maximum control possible under applicable procedural laws. However, the Indemnifying Party does have the right to determine the strategy of the Indemnified Party in relation to a claim that the Indemnified Party has been indemnified for.

3.4 Late payments: If an invoice which is due is not paid, even partially, late payment interest will be automatically applied from the due date until the day of effective payment at a rate equal to 10% above the European Central Bank base rate as well as fixed costs of 40 euros per invoice as provided in Article L 441-10 of the Commercial Code.

3.5 IP-rights and Licenses The Subscriber grants Tellent a worldwide, non-exclusive, license to use Subscriber Content for the purpose of the provisioning of the Services and to improve the Services for the IPRs protection duration.

3.6 At its sole discretion Where these Terms state "at its sole discretion" or have similar wording, such wording should be strictly interpreted as that the party may use a right.