


TERMS AND CONDITIONS

TalentReef: Legal Terms and Conditions

Effective May 1st, 2020



These Legal Terms and Conditions (the “Applicable Terms and Conditions”) in combination with the associated Commercial Terms, form the agreement (the “Agreement”) between TalentReef, Inc. (“TalentReef”) and the Customer identified on the Commercial Terms.

RECITALS

WHEREAS, TalentReef has developed proprietary web and telephone based applications known as the TalentReef Network (the “TalentReef Platform”) and certain associated user manuals and materials (the “Documentation”); and

WHEREAS, Customer desires, pursuant to the Commercial Terms executed by it, to obtain from TalentReef (i) a license to access certain modules within the TalentReef Platform, and (ii) related services in the areas of job applicant screening and hiring (collectively, the “TalentReef Solution”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions stated in this Agreement, and for other good and valuable consideration the sufficiency of which is acknowledged by the parties, the parties further agree that:

During the Term (as defined below), and subject to the terms and conditions of this Agreement, TalentReef agrees to provide (i) the one-time start-up/implementation and configuration services as described in the Commercial Terms (the “Start-Up Services”), and (ii) the recurring monthly subscription-based services (the “Recurring Services”). The Recurring Services, together with the Start-Up Services, but expressly excluding any third-party services, are (the “Services”).

TalentReef also agrees, during the Term to facilitate Customer’s procurement of third party services as specified on the Commercial Terms, but subject to Customer entering into separate

agreement(s) applicable to the provisioning of such services as may be required from time-to-time by TalentReef and/or the third-party provider of such services.

I. TERM AND TERMINATION.

a) Term. This Agreement becomes effective as of the Effective Date, and unless terminated in accordance with the terms and conditions set forth in these Applicable Terms and Conditions, shall continue through the expiration of the Initial Term as specified on the Commercial Terms. If the Agreement is still in effect as of the expiration of the Initial Term, Customer's subscription to the Services will automatically renew for successive terms of 1 year (each, a "Renewal Term") unless and until either party (i) informs the other of its intention not to renew the subscription at least 30 days prior to the expiration of the then-current Initial Term or Renewal Term, as applicable, or (ii) earlier terminates this Agreement for breach as set forth below. "Term" means the period from the Effective Date through the expiration or termination of this Agreement including any Renewal Terms. TalentReef may modify the fees or other terms applicable during any Renewal Term, provided that TalentReef provides Customer with written notice of any such modifications not less than sixty (60) days before the commencement of the Renewal Term to which such modifications are applicable.

b) Termination. Either party may terminate this Agreement only if the other party commits a material breach and fails to cure such breach within 60 days of its receipt of written notice of the breach. If Customer rightfully terminates for breach, TalentReef shall refund to Customer a ratable share of any fees actually paid by Customer for Subscription Services not rendered prior to the date the termination of this Agreement takes effect. Customer acknowledges and agrees that such refund, together with Customer's termination right, shall be Customer's sole and exclusive remedy for a breach of this Agreement.

c) Effect of Termination. Upon termination of the Agreement for any reason, (i) all rights granted to Customer under this Agreement with respect to the TalentReef Platform, Documentation and Services will cease, (ii) Customer will promptly pay to TalentReef all amounts owing that are due pursuant to this Agreement, unless Customer rightfully terminates this Agreement for breach, and (iii) the following provisions of the Agreement shall remain in effect: Sections III.b), III.c), III.d), IV, V, VI, VII, IX.c), IX.f), and IX.h).

II. SERVICES.

a) Commitment to the Services. During the Term, (i) TalentReef shall host (or have hosted) the TalentReef Platform for Customer's locations subscribed to by Customer ("Locations") and for which Customer pays the applicable subscription fees as set forth on the Commercial Terms, and (ii) Customer agrees to pay for the Subscription Services during the Term for the Locations.

b) Implementation and Training. TalentReef will perform the consulting, training, configuration, development and/or integration Services as expressly set forth on the Commercial Terms (or statement of work if applicable). Any additional consulting, training, development, configuration, development and/or integration services are out of scope and subject to TalentReef agreeing to provide such services and may be subject to additional fees. Unless

otherwise agreed, if TalentReef provides these services, such work will be subject to these Applicable Terms and Conditions. For clarity, unless otherwise expressly specified in the Commercial Terms, any unduly complicated or unusual configuration or customization modifications requested as part of the Start-Up Services are out-of-scope and subject to additional fees.

c) Password Access. Customer may access the TalentReef Platform, including Customer's configured area within the TalentReef Platform (the "Customer Portal") via password. Customer shall be responsible for: (i) maintaining the confidentiality and security of its password(s), including, but not limited to, properly logging out of the Customer Portal; (ii) immediately notifying TalentReef of any loss, or any unauthorized use of, Customer's password(s) or account(s) or any other breach of security that is known or suspected by Customer; and (iii) requesting, disclosing and using the passwords solely as required to use the Services in accordance with the Agreement. TalentReef cannot and will not be liable for any loss or damage arising from Customer's failure to comply with this section, notwithstanding any language elsewhere in the Agreement.

d) Reliance on Information. In providing the Services, TalentReef shall be entitled to rely upon and act in accordance with any instructions, guidelines, data or information provided by Customer, and shall incur no liability in doing so. Customer shall indemnify and hold harmless TalentReef and its third party vendors, shareholders, directors, officers and employees ("TalentReef Indemnitees") from any and all claims, losses, actions, suits, proceedings or judgments, including, without limitation, costs and reasonable attorneys' fees, incurred by or assessed against such parties resulting, in whole or in part from (i) any action or failure to act by a TalentReef Indemnitee in reliance on any instruction, approval, election, decision, action, inaction, omission or nonperformance by Customer, its officers, directors, shareholders, employees and agents relating to the Services, (ii) any information or data provided to TalentReef by any Customer job-applicant in connection with the Services, (iii) any decision to hire (or not hire) by Customer any job-applicant, or (iv) any breach of any term or condition of this Agreement by Customer.

e) Customer's Hiring Policies Independent. Customer acknowledges that the Services do not include, and TalentReef has no responsibility or liability with respect to: (i) verifying any applicant information; (ii) advising Customer with respect to its employment, hiring or recruitment policies in general or any hiring or employment decision in- particular; and/or (iii) any determination of the legality of any questions asked, or the type of information requested of, applicants.

III. LICENSES.

a) License to TalentReef Platform. Subject to payment of the applicable fees and the limitations set forth in this Agreement, TalentReef hereby grants Customer a non-exclusive, non-transferable, non-sublicensable license to access and use the TalentReef Platform and Documentation for the sole purpose of receiving and using the TalentReef Platform modules and Services set forth in the Commercial Terms for Customer's internal business purposes. Customer further agrees that the license granted herein is further limited by the type and nature of the

Customer's business at each Location at the time such Location begins using the TalentReef Platform. Any increase in the number of Customer's business Locations utilizing the TalentReef Platform will result in additional license fees. Access and use of the TalentReef Platform shall be web-enabled access only, and nothing herein in this Agreement shall entitle Customer to the object or source code of the TalentReef Platform.

b) Restrictions on TalentReef Platform. Customer shall not, nor allow or authorize any third party to: (i) reproduce, allow use of, or access to the TalentReef Platform, or sell, rent, lease, use in a service bureau, sublicense or otherwise transfer or assign its rights to access and use the TalentReef Platform, in whole or in part, to a third party; (ii) alter, enhance or otherwise modify or create derivative works of or from the TalentReef Platform; (iii) disassemble, decompile, reverse engineer or otherwise attempt to derive the source code of the TalentReef Platform; (iv) remove or destroy any proprietary markings, confidential legends or any trademarks or trade names of TalentReef or its licensors placed upon or contained within the TalentReef Platform or the Documentation; or (v) upload, post or transmit into or via the TalentReef Platform any viruses or unlawful, threatening, abusive, libelous, defamatory, obscene, pornographic, profane, or offensive information of any kind. Customer further acknowledges and agrees that each individual accessing the TalentReef Platform may be required to agree and consent to TalentReef's then-current online end user license terms and conditions prior to accessing or utilizing the functionality of the TalentReef Platform.

c) Use of Customer Marks. Customer hereby agrees that TalentReef may use and display, and grants TalentReef the right to use and display the Customer's name(s), its product and service offering names, and its service marks, trademarks and other content ("Customer Marks") as Customer may provide from time-to-time within the TalentReef Platform and as necessary or useful to provide the Services. TalentReef shall observe any reasonable policies communicated to TalentReef when using the Customer Marks. Customer represents, warrants and covenants that TalentReef's use of the Customer Marks shall not infringe or misappropriate any intellectual property, proprietary or privacy rights of any person or entity.

d) Ownership. The TalentReef Platform will at all times reside on server(s) owned and operated by or on behalf of TalentReef. All trademarks, service marks, patents, copyrights, trade secrets and other proprietary rights in or related to the TalentReef Platform, the Documentation, the Services, any third party software, any applicant data provided into or through the TalentReef Platform or any other contents within the TalentReef Platform (other than Customer Marks), and/or copies or portions of any of the foregoing (collectively the "Delivered Solution") are and will remain the exclusive property of TalentReef or its licensors, whether or not specifically recognized or perfected under applicable law. Customer will not take any action that jeopardizes TalentReef's or its licensor's proprietary rights or acquire any right in the Delivered Solution, except the limited license rights specified herein. TalentReef or its licensor will own all rights in any copy, translation, modification, adaptation or derivation of the Delivered Solution, including any improvement or development thereof, and/or any ideas first reduced to practice. If Customer or any third party engaged by Customer is deemed to have any ownership interest or rights in the Delivered Solution, Customer shall assign and/or cause such third party to assign, and Customer does hereby irrevocably and assigns, without royalty, all of such ownership interest and rights to TalentReef.

e) Return of Applicant Data. Subject to a request by Customer within thirty (30) days from the end of the Term, talentReef shall upon termination or expiration, pursuant to a Statement of Work, provide Customer with a copy of the data input by Customer's applicants in the talentReef Platform to the extent then-stored within the talentReef Platform in either a flat-file or such other file format as the parties mutually agree. talentReef shall have no obligation to maintain, store or provide any Applicant Data to Customer after such thirty (30) day period.

IV. FEES AND EXPENSES.

a) Fees. Customer agrees to pay all fees set forth in the Commercial Terms. All fees due as specified in the Commercial Terms within the Initial Term are non-cancellable upon execution of this Agreement. All amounts paid are non-refundable except as expressly provided in Section I.b).

b) Payment. TalentReef will invoice Customer as specified on the Commercial Terms. Unless otherwise stipulated, payment shall be due no later than thirty (30) days from the invoice date. Failure of Customer to make any payment of any fees or other amounts when such come due shall be deemed to be a material breach of this Agreement. If Customer fails to pay any amounts due under this Agreement by the due date specified on the Commercial Terms (or if no such due date is specified thereon, then the date specified on the applicable invoice), TalentReef may elect to charge late fees equal to the lesser of 1.5% per month of the outstanding balance or the maximum amount permitted under applicable law. In addition, if Customer fails to pay any undisputed fees within five business days after receiving written notice from TalentReef specifying that such fees are overdue, TalentReef may suspend performance of the Services and/or terminate this Agreement as set forth in Section I.b). Any such suspension or termination will not relieve Customer of its obligation to pay late fees. If collection procedures are required, Customer shall pay all expenses of collection and all reasonable attorneys' fees and costs incurred by TalentReef in connection with such collection proceeding, regardless of whether or not a suit is filed. These remedies are in addition to all other remedies available to TalentReef.

c) Taxes. The fees do not include transfer, gross receipts, value-added, sales, use, import, withholding, excise, customs or other similar taxes, imports or duties applicable to or imposed on or as a result of the transactions contemplated by this Agreement under any applicable law or taxing jurisdiction (collectively, "Transaction Taxes"). Regardless of the party on whom Transaction Taxes are imposed under applicable law, Customer shall be solely responsible for and shall pay all Transaction Taxes. If at any time in TalentReef's sole discretion TalentReef determines that TalentReef should collect Transaction Taxes from Customer and remit such Transaction Taxes to a taxing jurisdiction under the laws of such jurisdiction, TalentReef may separately charge Customer, and Customer shall pay to TalentReef, the amount of such Transaction Taxes. If any tax jurisdiction formally asserts that TalentReef is liable for any Transaction Taxes, Customer agrees to indemnify, defend and hold harmless TalentReef Indemnitees from and against such claims, and shall immediately pay all such Transaction Taxes to the applicable jurisdiction on TalentReef's behalf, plus any corresponding interest, penalty interest, and penalties. If any tax jurisdiction asserts that TalentReef is liable for Transaction Taxes, Customer agrees to promptly reimburse TalentReef for the amount thereof plus any related interest and penalties paid by TalentReef to such jurisdiction. If any amount payable by

Customer to TalentReef is subject to withholding or other deduction, charge or tax, then the amount payable to TalentReef by Customer shall be increased so that after such withholding, deduction, charge or tax the net amount paid to TalentReef equals the full amount invoiced by TalentReef. Customer shall not be responsible for any taxes based upon TalentReef's income or assets.

d) All invoices and amounts payable to TalentReef are payable in full to TalentReef without deduction or set off.

V. CONFIDENTIALITY AND NON-DISCLOSURE.

a) Confidential Information. The parties recognize that, in the course of performing under this Agreement, each party may have access to information belonging to the other party, which is: (i) written information received from the other party that is marked or identified as confidential; (ii) oral or visual information identified as confidential at the time of disclosure; or (iii) written, oral or visual information that the receiving party knew, or should have known, based on the circumstances, should be treated as confidential (collectively, "Confidential Information"). The content and function of the TalentReef Platform, Documentation, and the Services shall always be treated as TalentReef's Confidential Information. The parties agree that any information directly licensed from job applicants and job seekers to TalentReef or its affiliates shall not be deemed information belonging to Customer. Each party agrees to take at least the same precautions and measures to safeguard the secrecy and confidentiality of the other's Confidential Information as it would for its own Confidential Information, but in no event less than reasonable precautions.

b) Violation of Confidentiality. The parties agree that any violation or breach of Section III or this Section V by Customer may cause TalentReef irreparable harm. Accordingly, in addition to any other remedies available at law or equity, TalentReef shall be entitled to an injunction or other decree of specific performance with respect to any violation, breach or explicit threat thereof in any court of competent jurisdiction, without any bond or other security being required and without the necessity of demonstrating actual damages.

VI. WARRANTIES AND LIMITATION OF LIABILITY.

Warranty and Disclaimer of Warranty. TalentReef warrants that it will use reasonable commercial efforts to provide Services substantially in accordance with the Commercial Services and the Documentation. THE FOREGOING IS TALENTREEF'S SOLE WARRANTY AND ANY OTHER WARRANTY, REPRESENTATION OR GUARANTY, EXPRESS OR IMPLIED, IS DISCLAIMED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TALENTREEF CANNOT GUARANTY THAT THE SERVICE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM HARMFUL VIRUSES. FURTHER, CUSTOMER ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR verifying the accuracy of the information it RECEIVES IN CONNECTION WITH THE SERVICES AND FOR ALL RECRUITMENT, HIRING AND EMPLOYMENT DECISIONS. CUSTOMER'S SOLE REMEDY FOR A

BREACH OR MISREPRESENTATION OF THIS WARRANTY IS AS EXPRESSLY SPECIFIED IN SECTION I.b).

VII. LIMITATION OF LIABILITY. LIABILITY ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES THAT ARE OBJECTIVELY MEASURABLE. REGARDLESS OF THE FORM OF ACTION OR THEORY OF RECOVERY, WHETHER IN CONTRACT, TORT, STATUTORY, WARRANTY OR OTHERWISE, IN NO EVENT SHALL TALENTREEF BE LIABLE OR RESPONSIBLE FOR: (a) INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, MULTIPLE OR EXEMPLARY DAMAGES, REGARDLESS OF ITS AWARENESS OF THESE RISKS; AND/OR (b) LOST PROFITS, LOST REVENUES, LOST DATA, LOSS OF BUSINESS EXPECTANCY, BUSINESS INTERRUPTION LOSSES, OR BENEFIT OF THE BARGAIN DAMAGES. CUSTOMER'S EXCLUSIVE REMEDY FOR MATERIAL BREACH IS SET FORTH IN SECTION I.b). WITHOUT LIMITING SECTION I.b), IN NO EVENT WILL TALENTREEF'S AGGREGATE LIABILITY FOR DAMAGES BE IN EXCESS OF THE AMOUNTS ACTUALLY PAID BY CUSTOMER FOR THE SERVICE IN THE PREVIOUS 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE INITIAL CLAIM FOR DAMAGES.

VIII. PUBLICITY. TalentReef may develop customer reference materials and media relations documents regarding this Agreement and/or Customer's usage and experience with TalentReef. TalentReef may use Customer's name and its trademark as a reference both publicly and privately, without limitations, in TalentReef's marketing and promotional materials, including but not limited to, press releases, newsletter articles, web site references, and e-mail.

IX. MISCELLANEOUS.

a) Assignment. Neither party to this Agreement may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign or otherwise transfer all of its rights and obligations under this Agreement in connection with a sale or other transfer of all or substantially all of such party's assets or equity (whether by sale of assets or stock or by merger or other reorganization), without the prior consent of the other party. Any attempted assignment in violation of the foregoing will be void. Subject to the foregoing, this Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective representatives, successors and assigns.

b) Compliance with Laws. The parties each agree to comply with all applicable federal, state and local laws, rules, regulations and ordinances applicable to its business as it may impact this Agreement; provided that it is expressly agreed that TalentReef shall not have any liability whatsoever under this Agreement with respect to any decision by Customer to utilize any psychological, fitness or other qualification assessment functionality, tools, questions or other configurable aspects of the TalentReef Platform and Customer hereby agrees to indemnify and hold TalentReef harmless with respect to the same. All provisions required by law to be included in this Agreement are incorporated by reference. If required by law, Customer shall provide all

of its applicants with a reasonable alternate method by which he or she can provide his or her information directly to Customer, along with any other accommodations required by law.

c) Confidentiality of Terms. The existence, terms, and conditions of this Agreement are Confidential Information of both parties, except that TalentReef may identify Customer as permitted under Section VIII of this Agreement.

d) Entire Agreement. This Agreement, including the Commercial Terms, constitutes the entire agreement and understanding between the parties concerning its subject matter, and supersedes in full all prior and contemporaneous written and oral agreements, understandings, proposals, promises and representations of the parties concerning its subject matter and its terms; provided, however, nothing herein shall effect or terminate ongoing rights from non-disclosure agreements entered into by the parties prior to the Effective Date; provided, further, any new Confidential Information exchanged between the parties shall be governed by the confidentiality obligations set forth herein.

e) Force Majeure. TalentReef shall not be liable for delays in its performance hereunder due to causes beyond its reasonable control, including, but not limited to, acts of God, widespread Internet outage, multi-day power outage, denial of service attacks, fire, war, riots, acts of terrorism, strikes or inability to obtain labor or materials on time.

f) Dispute Resolution. This Agreement is made under and will be construed in accordance with the laws of the State of Colorado, other than such laws, rules, regulations and case law that would result in the application of the laws of a jurisdiction other than the State of Colorado. Except as permitted under Section V.b), any suit to enforce any provision of this Agreement, or arising out of or based upon this Agreement, shall be brought exclusively in the state courts of the State of Colorado and the federal courts of the United States, located in Denver, Colorado. Each party hereby agrees that such courts shall have in personam jurisdiction and venue with respect to such party, and each party hereby submits to the in personam jurisdiction and venue of such courts and waives any objection based on inconvenient forum.

g) Independent Contractor. In performing Services hereunder, TalentReef is an independent contractor of Customer. Nothing shall be construed to create a partnership, joint venture or agency relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes and benefits.

h) Modification. No representation or promise hereafter made contrary to the provisions of this Agreement, nor any modification or amendment of this Agreement, shall be binding upon either party to this Agreement, unless in writing and signed by both parties.

i) Notices. Any notice required or permitted to be given under the terms of this Agreement shall be deemed given when reduced to writing and delivered by certified mail, return receipt requested, or overnight national courier with a tracking system, and addressed to (i) if to Customer, the address set forth for Customer on the Terms and Conditions, or (ii) if to TalentReef, then to TalentReef Networks, Inc., Attn: Chief Financial Officer, 950 17th St, Set

700, Denver, Colorado 80202, or to such other address as may be provided by TalentReef to Customer using notice consistent with this section.

j) Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the validity or enforceability of the other provisions hereof, the remaining provisions being deemed to continue in full force and effect.

k) Constructions. The captions and headings contained herein are for purposes of convenience only and are not a part of this Agreement; all references to this Agreement and the words “herein,” “hereof,” “hereto” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section, or other subdivision unless expressly specified otherwise; and the words “including,” “included” and “includes” mean inclusion without limitation. In the event of any ambiguities in the language hereof, there shall be no inference drawn in favor of or against either party.

l) Signature, Counterparts and PDFs. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement. A document signed and transmitted by .pdf or electronic copy shall have the same binding effect as an original signature.