

Test and Evaluation Agreement for Remote Access

Please scroll down and read the following terms carefully. By clicking "I Accept", "I Agree" (or clicking a similar expression of acceptance) or by attempting to access or use the Software or SAP Materials and associated services made available by SAP with the platform and other materials that accompany the Service ("SAP Materials"), You agree that this Agreement forms a legally binding agreement between You ("You" or "Your") and SAP America Inc., for and on behalf of itself and its subsidiaries and affiliates (as defined in Section 15 of the German Stock Corporation Act) and You agree to be bound by all of the terms and conditions stated in this Agreement.

If You are trying to access the Software or SAP Materials on behalf of Your employer or as a consultant or agent of a third party (either "Your Company"), You represent and warrant that You have the authority to act on behalf of and bind Your Company to the terms of this Agreement and everywhere in this Agreement that refers to 'You' or 'Your' shall also include Your Company.

If You do not agree to these terms, do not click "I Accept", and do not attempt to access or use the Service or SAP Materials.

1. Scope

1.1 Under this Test and Evaluation Agreement for Remote Access ("Agreement") You are granted a 180-day free trial license to access, test and evaluate the following software:

Brilliant Hire by SAP

(hereinafter "Software") remotely on SAP systems. SAP may supply under this Agreement additional materials and documentation related to the Software (hereinafter "SAP Materials").

WHAT'S INCLUDED. The Service includes a cloud based recruit evaluation platform. It includes SaaS application for recruiters, Job Applicants and Hiring managers to improve recruitment process.

The purpose of this Agreement is to enable You to test the Software and evaluate how You may use the Software to support your business processes and for SAP to receive Your feedback about such test and evaluation of the Software. In addition, under this Agreement You may get familiar with the functionality of the Software to determine its possible use in a productive use environment. You acknowledge that the Software is a preliminary version and not subject to any productive use license agreement or any other agreement with SAP. SAP has no obligation to offer the Software for productive use or any other use, be it remotely accessible or by any other form of access. In addition, SAP has no obligation to include or remove any functionality from the Software in any future version or in any SAP standard product. You and SAP mutually acknowledge and agree that it would be imprudent and unreasonable to rely upon the expectation of entering into a contract regarding the productive use of the Software.

1.2 Use of the SAP systems is limited to access the Software for the purpose as permitted under this Agreement.

1.3 SAP is not responsible for any data produced, used or inserted by You under this Agreement.

1.4 Remote access to the Software is dependent upon the availability of the SAP systems. SAP may suspend access to the SAP systems at any time, in its sole discretion. SAP shall endeavour to provide You with advance notice of any such suspension if practicable.

1.5 Remote access might also be subject to acceptance of separate terms.

1.6 Remote access connectivity is the sole responsibility of the You. SAP is not responsible for any problems or interruptions with respect to the connectivity to the SAP systems or Software under this Agreement.

2. License Rights and Intellectual Property

2.1 During the term of this Agreement SAP grants to You a non-transferable and non-exclusive, limited license to remotely access and

use the Software for the exclusive purpose of testing and evaluation in accordance with the SAP Materials. You shall not use the Software for any productive purposes.

2.2 You shall not remove notices and notations in the Software and the SAP Materials that refer to copyrights, trademark rights, patent rights and other intellectual property rights. Unless expressly agreed otherwise herein, any and all patent rights, copyrights, trademark rights and other rights in the Software and the SAP Materials, as well as any improvements, inventions, design contributions or derivative works conceived or created by either party in or to the Software and the SAP Materials, shall remain the exclusive property of SAP and/or its licensors. Except for the limited license rights expressly granted herein, this Agreement does not transfer any proprietary right or interest in the Software and the SAP Materials to You. Between You and SAP all title to and rights in the Software and the SAP Materials, operational know-how and business secrets related thereto vest exclusively in SAP and/or its licensors, notably copyright and rights of authorship, rights to inventions, and any other industrial and intellectual property rights. All license rights not expressly granted to You in this Agreement are reserved by SAP and its licensors. You do not acquire any rights to the source code of the Software.

2.3 As far as any proprietary rights described in Section 2.2 of this Agreement directly accrue to an employee or subcontractor of You involved in the testing and evaluating, You shall ensure the grant of rights under Section 2.2 through appropriate undertakings with such employees and subcontractors.

2.4 You shall not be entitled to license, sell, lease, rent, outsource or otherwise transfer, make available or otherwise give access to the Software and the SAP Materials to third parties. You may utilize subcontractors for those activities within the scope of this Agreement provided You ensures that such subcontractors adhere to the provisions set forth in this Agreement and You remains liable to SAP for the acts and omissions of its subcontractors.

2.5 You shall not be entitled to duplicate, translate, decompile, reverse-engineer or otherwise modify any parts of the Software and the SAP Materials. No development activities are allowed or supported under this Agreement.

3. Services and Support by SAP

3.1 The use of the SAP system is an unsupported service. SAP is not obliged to provide or offer any updates to the Software. SAP may, in its sole discretion, provide You with guidelines for testing and evaluation purposes.

3.2 Any services by SAP, in particular assistance and consulting with respect to the use of the Software for individual business needs of You, are not subject to this Agreement.

4. Obligations of You

4.1 You may appoint a project manager who serves as a contact person for all matters of testing and evaluating.

4.2 You shall give comments on how the test runs, documenting related problems.

5. Limitation on Warranties and Liabilities

THE SOFTWARE AND ANY SAP MATERIALS ARE LICENSED TO LICENSEE "AS IS", WITHOUT ANY WARRANTY, ESCROW, TRAINING, MAINTENANCE, OR SERVICE OBLIGATIONS WHATSOEVER ON THE PART OF SAP. SAP MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY TYPE WHATSOEVER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. LICENSEE ASSUMES ALL RISKS ASSOCIATED WITH ITS USE OF THE SOFTWARE AND THE SAP MATERIALS, INCLUDING WITHOUT LIMITATION RISKS RELATING TO QUALITY, PERFORMANCE, DATA LOSS, AND UTILITY IN A PRODUCTION ENVIRONMENT. IN NO EVENT SHALL SAP BE LIABLE TO LICENSEE OR TO ANY THIRD PARTY FOR ANY DAMAGES (WHETHER DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR ANY OTHER TYPE OF DAMAGE) ARISING IN CONNECTION WITH (i) LICENSEES USE OF OR INABILITY TO USE THE SOFTWARE OR THE SAP MATERIALS, (ii) SAPS PROVISION OF OR FAILURE TO PROVIDE SERVICES PERTAINING TO THE SOFTWARE OR THE SAP MATERIALS, OR (iii) AS A RESULT OF ANY DEFECT IN THE SOFTWARE OR THE SAP MATERIALS. THIS DISCLAIMER OF LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION THAT MAY BE BROUGHT AGAINST SAP, WHETHER IN CONTRACT OR TORT,

INCLUDING WITHOUT LIMITATION ANY ACTION FOR NEGLIGENCE. LICENSEES SOLE REMEDY IN THE EVENT OF BREACH OF THIS AGREEMENT BY SAP OR FOR ANY OTHER CLAIM RELATED TO THE SOFTWARE OR SAP MATERIALS SHALL BE TERMINATION OF THIS AGREEMENT.

6. Data Protection and Confidentiality

6.1 Each Party shall comply with applicable data protection laws and regulations.

6.2 You shall treat as confidential all confidential information and trade secrets of SAP and its licensors acquired in connection with the performance of this Agreement that are expressly identified as confidential or proprietary or that are reasonably identifiable as confidential or proprietary based on the circumstances of their disclosure or by their nature ("Confidential Information") and to use such Confidential Information only to perform this Agreement. SAPs Confidential Information shall include all of, but are not limited to the Software (in object and source code), SAP Materials, programming techniques and concepts, processing methods, system designs embedded in the Software, inventions, techniques, concepts, designs, flow charts, documentation, product specifications, application programming interface specifications, techniques and processes that relate to the Software or the SAP Materials, information on SAP Companies and business partners, information about deployed third-party software and any access credentials used to access the SAP systems, including, but not limited to password or account information. The terms and conditions of this Agreement shall also be treated confidential.

6.3 The foregoing obligation shall not apply to the extent that You show that the information (i) was public knowledge at the time it was disclosed by SAP and had not become public knowledge through an act or omission by You or Your Company or agent in breach of contract, or (ii) was in the possession of or known to You before You received it from SAP, or (iii) had been lawfully disclosed to You by another person entitled to do so, or (iv) had been independently developed by You without reference to SAPs information.

6.4 Confidential Information may be provided to third parties only upon prior written consent SAP. These third parties must be subject to a written non-disclosure obligation. The term "third party" as used this Section 6.4 does not apply to employees and subcontractors of You whose proper performance under this Agreement reasonably requires access to such information and who have executed corresponding non-disclosure agreements.

6.5 You grant to SAP a license in the Feedback that is non-exclusive, perpetual, irrevocable, worldwide, royalty-free, and sub-licensable under all relevant intellectual property rights. SAP may do whatever it wishes with the Feedback, including (1) use, (2) publish, (3) disclose, (4) display, (5) perform, (6) copy, (7) make or have made, or (8) sell it. SAP does not have to identify You as the Feedbacks source. SAP owes You no money or anything else in exchange for the Feedback and SAP is not obligated to do anything with the Feedback.

"Feedback" means information and materials provided by You under this Agreement which relate directly to the design and performance of the Software and/or other SAP Materials.

6.6 This Agreement is subject to the [Privacy Statement](#) available at our website. You acknowledge and agree that You are not permitted to request or collect and Sensitive Data (as defined below) and shall instruct all applicants to not provide and Sensitive Data. "Sensitive Data" shall include but not be limited to information on racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health or sex life and personal data concerning bank and credit accounts.

6.7 You acknowledge and agree that if You request Brilliant Hire by SAP to delete Your Personal Data (as defined under the Privacy Statement), You will not be able to continue to use Brilliant Hire by SAP.

7. Term and Termination

7.1 This Agreement enters into force upon the availability of the Software to You and remains effective for a period of one hundred eighty (180) days thereafter. It ceases automatically upon expiration of this period without requiring any notice of termination.

7.2 Either party may terminate this Agreement at any time during the term upon thirty days advance written notice to the other party.

7.3 Either party may terminate this Agreement in the event the other party breaches an obligation under this Agreement, including but not limited to a breach of Sections 2 and 6.

7.4 Upon expiration or termination of this Agreement Your access to the SAP system, Software and SAP Materials shall be terminated. To the extent applicable, You shall return to SAP and/or destroy any of the SAP Materials and the Software provided by SAP under this Agreement. Any further use of the SAP system, Software and SAP Materials is not allowed and all parts of the Software, if any must be removed in its entirety from Your systems.

8. General

8.1 This Agreement constitutes the complete and exclusive statement of the agreement between SAP and You related to the subject matter hereof, and supersedes all prior written and oral contracts, proposals and other communications between the parties relating to the subject matter. Oral agreements do not exist.

8.2 Any changes to this Agreement must be in writing. This also applies to any waiver of this written form requirement.

8.3 All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective addresses specified by either party.

8.4 You may not assign or otherwise transfer any of its rights under this Agreement without SAP's prior written consent.

8.5 If any provision of this Agreement proves to be invalid, this will not affect any other provision of this Agreement.

8.6 This Agreement does not entitle either party to use the other party's name, trademark or trade designation for purposes of advertising and marketing without prior written consent of this party unless provided otherwise herein.

8.7 This Agreement shall be governed by and construed under the Commonwealth of Pennsylvania law without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and United States of America law, rules, and regulations, United States of America law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for

the International Sale of Goods shall not apply to this agreement. The Uniform Computer Information Transactions Act as enacted shall not apply. The parties agree that the exclusive venue for all legal and equitable actions related to or arising from this Agreement shall be the United States Federal courts sitting in Philadelphia, Pennsylvania. The waiver by either party of any of its rights hereunder shall not be construed as a waiver of any subsequent breach.

Last updated : April 15, 2018