

# JazzHR Terms of Service

Effective April 4th, 2023

These Terms of Service govern a customer's acquisition and use of Hireku, Inc. (together with its Affiliates as defined herein, "JazzHR") software, free trials and/or services. By mutually executing an Order Form with JazzHR that references these Terms of Service or by using the JazzHR website, a customer agrees to these Terms of Service and the applicable Order Form (together, the "Agreement"). Customer's represent that the individual executing the Order Form is entering into this Agreement on behalf of the entity identified on the Order Form ("Customer") and that the individual executing the Order Form has authority to bind the Customer to this Agreement.

JazzHR's direct competitors are prohibited from accessing the software and/or services provided by JazzHR, except with JazzHR's prior express written consent. In addition, the software and services may not be accessed for the exclusive purpose of monitoring performance, or functionality, or for any other benchmarking or competitive purposes.

These Terms of Service were last updated April 4, 2023. JazzHR reserves the right to periodically modify these Terms of Service upon written notice to Customer, and such modification will become effective in the next service term. Archived versions of the Terms of Service are available [here](#).

## **1. Access Grant.**

1.1 Provision of Access. Subject to all the terms and conditions of this Agreement, JazzHR will provide Customer with a non-exclusive, non-

transferable, non-sublicensable right to access the generally available software services and support described in the applicable Order Form and other products and services JazzHR may provide to the Customer in connection with the provision of software services (the “Services”) during the Service Term identified in the Order Form (“Service Term”), solely for Customer’s internal use. The Services are accepted upon delivery and will work in accordance with JazzHR’s published documentation located at [help.jazzhr.com](http://help.jazzhr.com) (“Documentation”). Customer may use the Services for the benefit of any entity controlling, controlled by, or under common control with a party hereto, where “control” means the ownership of more than fifty percent (50%) of the voting securities in such entity (“Affiliate”). This Agreement and the access provided hereunder are non-transferable, except as expressly provided herein. JazzHR retains all rights not expressly granted to the Customer pursuant to this Agreement. Customers may be subject to usage limitations for certain services (such as texting, emailing, job board postings, eSignatures) and use in excess of the usage limitations will be subject to additional fees. Any usage limitation(s) are accepted by Customer and Customer hereby acknowledges that these limitations may impact the fees paid by the Customer.

1.2 Customer Use of the Services. Customer will not, and will not permit any third party to: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services, Documentation or data related to the Services (provided that reverse engineering is prohibited only to the extent such prohibition is not contrary to applicable law); modify, translate, or create derivative works based on the Services; use the Services for timesharing or service bureau purposes or for any purpose other than its own benefit; rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation to any third party; remove any proprietary notices from the Services or Documentation; use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person; or use the Services other than in accordance with this Agreement and in compliance with all applicable laws and regulations,. Customer will cooperate with JazzHR in connection with the performance of this Agreement by making available such personnel and information as may be reasonably required, and taking such other actions as JazzHR may reasonably request. Customer will also cooperate with JazzHR in establishing a password or other procedures for verifying that only designated employees

of Customer have access to any administrative functions of the Services. Customer will designate an employee who is the account owner and will be responsible for all matters relating to this Agreement (“Primary Contact”) in the initial Order Form. Customer may change the individual designated as Primary Contact at any time in the Services administrative settings.

1.3 Modification of Services. JazzHR will not materially decrease the overall functionality of the Services.

1.4 Future Functionality. Customer agrees that Customer’s subscription to the Service and acceptance of this Agreement are not contingent on the delivery of any future functionality or features.

1.5 Limited Trial Access. Where Customer has elected to participate in a trial of the JazzHR Platform, JazzHR grants to Customer a limited, non-exclusive, non-transferable, worldwide right for Customer to access and use, and to permit its authorized users to access and use, certain features of the Services, solely for internal business purposes, in accordance with the Documentation (“Limited Trial Access”) for a period of twenty one (21) days (the “Limited Trial Access Period”). For Customers with Limited Trial Access, Sections 7.1 and 8.2 of these Terms do not apply.

## **2. JazzHR’s Responsibilities.**

2.1 Service Levels. JazzHR will use commercially reasonable efforts to provide customer support and maintain platform uptime of at least 99.9%.

2.2 Data Protection and Security.

2.2.1 Safeguards. JazzHR will implement and maintain reasonable administrative, physical and technical safeguards that are designed to prevent any unauthorized use, access, processing, destruction, loss, alteration, or disclosure of any of Customer's data, including any applicant or employee data furnished by Customer ("Customer Data") as may be held or accessed by JazzHR.

2.2.2. Access to Systems. To the extent required to enable certain JazzHR functionality, Customer may in Customer's sole discretion provide JazzHR access to Customer systems, including, without limitation, email providers and LinkedIn accounts solely for the purpose of providing the Services. For the avoidance of doubt, access to systems by JazzHR will require, in each instance, provisioning of access by Customer and only to the extent that Customer determines such access is required.

2.2.3 GDPR. To the extent JazzHR processes Customer Data subject to the EU General Data Protection Regulation ("GDPR"), the terms of the JazzHR GDPR Data Processing Addendum located at [www.jazzhr.com/agreements/dpa/](http://www.jazzhr.com/agreements/dpa/) ("DPA"), which is hereby incorporated by reference, shall apply and the parties agree to comply with such terms.

2.2.4 CCPA. JazzHR will provide the Services and process any Customer Data as a for-profit corporation solely on behalf of Customer in accordance with the Agreement. JazzHR will not retain, use, sell, or disclose Customer Data for any other purpose other than for the specific purpose of providing the Services under the Agreement, except as otherwise permitted by law. To the extent JazzHR processes Customer Data subject to the California Privacy Rights Act ("CPRA"), the terms of the JazzHR CPRA Data Processing Addendum located at [www.jazzhr.com/cpra-data-processing-addendum/](http://www.jazzhr.com/cpra-data-processing-addendum/) ("CDPA"), which is hereby incorporated by reference, shall apply and the parties agree to comply with such terms.

2.2.6 Changes in Data Protection Laws. Customer understands that it has an independent duty to comply with any and all Laws applicable to it. If any variation to the Agreement between the Parties is required to maintain compliance with changes to applicable data protection laws, the Parties will

negotiate necessary variations to this Agreement in good faith to address changes.

### **3. Fees and Payment.**

3.1 Fees. Customer will pay JazzHR the applicable fees described in the Order Form (collectively, “Fees”) in accordance with the terms of this Agreement. If Customer believes that JazzHR has billed Customer incorrectly, Customer must contact JazzHR no later than thirty (30) days after the closing date on the first billing statement in which the error or problem appeared, to receive an adjustment or credit. Inquiries should be directed to CSM@jazzhr.com. In the event Customer payment of undisputed Fees to JazzHR remains unpaid more than thirty (30) days after an invoice becomes due, or more than ten (10) days after an invoice becomes due for two (2) consecutive payments, all remaining fees due during the Service Term shall become immediately due and payable. Except as expressly set forth in this Agreement, all Fees are non-cancellable and non-refundable.

3.2 Renewal Service Term Fees. In the event that Customer exceeds any product consumption limit identified in an applicable Order Form, Customer will automatically upgraded to the next tier and a prorated portion of Fees for the applicable remaining Service will apply. Customer will be billed for the upgraded product level in each subsequent renewal term (each a “Renewal Service Term”), until Customer provides notice requesting a downgrade of Services in accordance with section 9.1 to the extent the Agreement is automatically renewed. Fees for each Renewal Term may be increased by JazzHR once per year at renewal to the then current per unit rate to be applied to the Renewal Service Term fees in an amount. JazzHR reserves the right to change the Renewal Service Term fees or applicable charges and to institute new charges and fees at the end of any Service Term solely upon sixty (60) days prior notice to Customer. Without limiting the foregoing, any Renewal Service Term in which the subscription volume or products for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior Term’s per-unit pricing and may result in a larger increase in per unit pricing.

3.3 Charges. Fees will be invoiced and charged on the schedule identified in the applicable Order Form via the method of payment identified on the Order Form, which may include credit card or invoice. Where no schedule is identified, Fees will be charged on the effective date of the Order Form and are due upon receipt, unless other payment terms are identified on the Order Form.

3.4 Taxes. Any amounts payable hereunder are exclusive of, and Customer shall be responsible for all taxes, including general sales tax, value added taxes, duties, use taxes, withholdings and other governmental assessments, excluding taxes based on the net income of JazzHR, unless Customer provides to JazzHR a valid tax-exempt certificate. In the case of any withholding requirements, Customer will pay any required withholding itself and will not reduce the amount paid to JazzHR on account thereof.

## **4. Intellectual Property.**

4.1 JazzHR IP. Except as expressly set forth in this Agreement, JazzHR will own and retain all right, title and interest in and to (a) the Services, including all software, improvements, enhancements, modifications, or proprietary methodologies thereto, (b) any software, applications, inventions, methodologies, or other technology developed as part of any professional services (as set forth in an Order Form or statement of work mutually executed by both parties hereto that references this Agreement) or support, and (c) all intellectual property rights related to all of the foregoing. This Agreement does not grant Customer (i) any rights to the Intellectual Property Rights in the Services or (ii) any rights to use the JazzHR trademarks, logos, domain names, or other brand features. “Intellectual Property Rights” means current and future worldwide rights under patent, copyright, trade secret, trademark, moral rights, and other similar rights.

4.2 Customer Data. CUSTOMER RETAINS ALL RIGHTS, TITLE AND INTEREST IN ITS CUSTOMER DATA, AND THIS AGREEMENT DOES NOT GRANT JAZZHR ANY RIGHTS TO CUSTOMER DATA OR THE

INTELLECTUAL PROPERTY RIGHTS EMBODIED IN CUSTOMER DATA EXCEPT FOR THE LIMITED RIGHTS EXPRESSLY SET FORTH IN THIS AGREEMENT.

4.3 Feedback. Notwithstanding anything to the contrary, if Customer or any of its employees or contractors provide JazzHR with any ideas, suggestion(s), enhancement requests, feedback and/or recommendation(s) regarding the Services, including without limitation, new and/or improved features or functionality relating thereto ("Feedback"), JazzHR is free to use and disclose such Feedback without any obligation to Customer or such employees or contractors and to incorporate into any existing or future products or features.

## **5. Confidential Information.**

5.1 Definition of Confidential Information. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Customer includes Customer Data; Confidential Information of JazzHR includes the Services, and the terms and conditions of this Agreement and all Order Forms (including pricing). Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

5.2 Protection of Confidential Information. As between the parties, each party retains all ownership rights in and to its Confidential Information. The

Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section. Notwithstanding the foregoing, JazzHR may disclose the terms of this Agreement and any applicable Order Form to a subcontractor to the extent necessary to perform JazzHR's obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein.

5.3 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to Confidential Information.

## **6. Warranty.**



6.1 General Warranties. JazzHR warrants to Customer that Services under this Agreement are provided in compliance with all applicable federal, state and local laws. JazzHR warrants that the Services will conform to the Documentation. JazzHR represents and warrants that (i) it has sufficient right, title and interest in the Services in order to provide the Services pursuant to the terms and conditions of this Agreement, and (ii) its execution and performance of this Agreement will not violate or conflict with any obligation it has to any third party.

6.2 Third Party Services. The foregoing warranty does not apply to, and JazzHR strictly disclaims all warranties with respect to connections and/or links to non-embedded services, products and professional services that are provided and sold to Customer by third parties which interoperate with or are used in connection with the Service, including, without limitation, via application programming interfaces (collectively, "Third Party Services"). Any exchange of data or other interaction between Customer and Third Party Services is solely between customer and the operator of such Third Party Services, and is governed by customer's agreement with such Third Party Services provider.

6.3 Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND JAZZHR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. JAZZHR NOR ITS LICENSORS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CUSTOMER ACKNOWLEDGES THAT JAZZHR DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. JAZZHR IS NOT RESPONSIBLE FOR THE ACCURACY, COMPLETENESS, APPROPRIATENESS, OR LEGALITY OF DATA, USER POSTS, OR ANY OTHER INFORMATION POSTED BY A USER.

## **7. Mutual Indemnification.**

7.1 JazzHR Indemnification. JazzHR will indemnify, defend, and hold Customer harmless from and against all third-party claims, and all losses, damages, liabilities, and expenses, in each case, that are paid or payable to such third parties pursuant to such claims (including reasonable attorneys' fees and expenses), to the extent arising out of or resulting from any third-party claim or allegation that the Services infringe or misappropriate such third party's patent, trademark, trade secret, copyright, or other intellectual property rights. JazzHR's obligations pursuant to this Section 7.1 will not apply, however, to the extent that such claim is caused by: (i) Customer's use of the Services other than in accordance with the terms of this Agreement; (ii) Customer's failure to use or implement corrections or enhancements to the Services made available free of charge to Customer by JazzHR, (iii) customized portions or components of the Services designed and provided to Customer accordance with Customer specifications, (iv) modification of the Services that have not been performed by or on behalf of JazzHR, and/or (v) combination of the Services with other products, services, processes or materials not supplied by JazzHR (including, without limitation, Customer Data).

7.2 Customer Indemnification. Customer will indemnify, defend, and hold JazzHR harmless from and against all third-party claims, and all losses, damages, liabilities, and expenses, in each case, that are paid or payable to such third parties resulting from such claims (including reasonable attorneys' fees and expenses), to the extent arising out of or resulting from any third-party claim or allegation that the Customer Data and/or Customer's provision thereof to JazzHR violates such third-party's patent, trademark, trade secret, copyright, or other intellectual property or proprietary right(s), or any claim that Customer has violated any applicable law(s), regulation(s), or the rights of any employee or candidate.'

7.3 Indemnification Procedure. As a condition to the indemnifying party's obligations pursuant to this Section 7, the indemnified party must: (i) promptly notify the indemnifying party in writing of all indemnifiable claims; (ii) provide the indemnifying party with reasonable assistance to settle or defend such claims, at the indemnifying party's own expense; and (iii) grant to the

indemnifying party the right to control the defense and/or settlement of such claims, at the indemnifying party's own expense; provided, however, that: (1) the failure to so notify, and/or provide assistance will only relieve the indemnifying party of its obligation to the indemnified party to the extent that the indemnifying party is prejudiced thereby; (2) the indemnifying party will not, without the indemnified party's consent (such consent not to be unreasonably withheld or delayed), agree to any settlement that: (x) makes any admission of wrongdoing on behalf of the indemnified party; or (y) consents to any injunction against the indemnified party (except an injunction relating solely to the indemnified party's continued use of any infringing Service); and (3) subject to the foregoing, the indemnified party will have the right, at its expense, to participate in any indemnifiable claim and to be represented by legal counsel of its choosing, but will have no right to settle a claim without the indemnifying party's written consent.

7.4 Sole Remedy. THIS SECTION 7 SETS FORTH CUSTOMER'S SOLE REMEDIES AND JAZZHR'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

## 8. Limitation of Liability.

8.1 Limitation of Damages. EXCEPT WITH RESPECT TO BREACHES OF SECTION 5 OF THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

8.2 Limitation of Liability. EXCEPT FOR LIABILITY ARISING OUT OF A PARTY'S INDEMNITY OBLIGATIONS, GROSS NEGLIGENCE, FRAUD OR

WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY OR THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES, BE LIABLE TO THE OTHER PARTY FOR ANY REASON, WHETHER IN CONTRACT OR IN TORT, FOR ANY CLAIMS, SUITS, LIABILITY OR DAMAGES ARISING OUT OF OR BASED UPON THIS AGREEMENT, IN THE AGGREGATE, EXCEED THE GREATER OF THE AMOUNT ACTUALLY PAID BY CUSTOMER TO JAZZHR UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE, OR ONE THOUSAND U.S. DOLLARS (\$1,000) REGARDLESS OF THE FORM IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT.

8.3 Limitation of Claims. Any claim or cause of action arising out of or related to use of the Service or to the Agreement must be filed within one (1) year after such claim or cause of action arose, or be forever waived.

## **9. Term and Termination.**

9.1 Term. This Agreement will remain in full force and effect for the Service Term as specified in the Order Form and, unless otherwise identified on the Order Form, will automatically renew for additional periods of the same length as the Service Term identified in an Order Form (together with each “Renewal Service Term,” the “Term”) subject to section 3.2 of the Agreement, unless either party requests termination in writing at least thirty (30) days prior to the end of the Service Term. The Service Term identified in each Order Form will commence on the effective date of the Order Form. A termination request by either party will be given via certified mail or via e-mail to the customer Billing Contact or JazzHR’s customer success team at [CSM@jazzhr.com](mailto:CSM@jazzhr.com).

9.2 Suspension. Notwithstanding anything to the contrary in this Agreement, JazzHR may impose limitations on bandwidth usage, and/or temporarily suspend Customer’s and any user authorized by Customer to access to any portion or all of the Services if JazzHR reasonably determines that (i) there is a threat to or attack on any of the Services; (ii) Customer’s or any Customer’s

users use of the Services abuses, disrupts or poses a security risk to the Services or to any other customer, integration partner or vendor of JazzHR; or (iii) Customer is in breach of its obligation to pay any Fees due under the Agreement (collectively, "Service Suspension(s)"). JazzHR will provide notice of a Service Suspension arising under Section 9.2(i) or Section 9.2(ii) as soon as reasonably possible. Prior to suspension of service pursuant to sub-Section (iii) above, JazzHR will provide Customer with notice of non-payment and the amount due in the Services ("Non-payment Notice"). Unless the amount has been paid, JazzHR reserves the right to suspend Customer access to the Services seven (7) calendar days after such Non-payment Notice. JazzHR will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Customers user may incur as a result of a Service Suspension.

9.3 Termination. In addition to any other express termination right set forth in this Agreement: i. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party breaches any material provision of this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; or ii. Either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (iii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, and such proceeding is not dismissed within one hundred twenty (120) days of institution; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business without a successor.

9.4 Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, Customer shall immediately discontinue use of and/or access to the Service(s). No expiration or termination will affect Customer's obligation to pay all Fees that have become due before the effective date of such expiration or termination, or entitle Customer to any refund, except that Customer will be entitled to a refund of unused Fees as of the date of

termination to the extent that termination is caused by a material breach of the Agreement by JazzHR.

9.5 Data. JazzHR will provide Customer with tools to pull their Customer Data at any time during the Term in the Services. After the expiration of the Term, Customer Data will no longer be accessible and will be deleted in accordance with JazzHR's data retention policy.

9.6 Survival. Any terms and conditions of this Agreement that by their nature or otherwise reasonably should survive termination, cancellation or other expiry of this Agreement shall survive any termination, cancellation or other expiry of this Agreement.

## **10. Miscellaneous.**

10.1 Entire Agreement. This Agreement constitute the entire understanding of the parties with respect to the Service and supersedes all previous agreements, statements and understandings from or between the parties regarding the subject matter of this Agreement. This Agreement also supersedes any conflicting language contained in any applicable past or future purchase order regarding the subject matter of this Agreement.

10.2 Amendment. There will be no force or effect to any different terms of any related purchase order provided as part of payment processing, even if signed by the parties after the date hereof. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by a duly authorized representative of each Party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the Party claimed to have waived.

10.3 Notices. All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a “Notice”) must be in writing and to:

JazzHR: 610 Lincoln St., #205, Waltham, MA 02451 [legal@jazzhr.com](mailto:legal@jazzhr.com)

Customer: Billing Contact identified in the Order Form or any administrative contact identified by Customer in the Services administrative settings.

10.4 Publicity. JazzHR may use Customer name or logo to identify you as a customer. Any further reference by JazzHR, including in JazzHR marketing materials requires the advance written permission of the Customer. Use of Customer’s name and logo will be revocable at any time by Customer.

10.5 Force Majeure. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement, to the extent such failure or delay is caused by any circumstances beyond such Party’s reasonable control.

10.6 Waiver. No failure to exercise, or delay in exercising, any rights, powers or remedies arising from this Agreement will operate or be construed as a waiver of the rights of such a party to demand full compliance with the terms of this Agreement. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect whatsoever.

10.7 Severability. If any provision of this Agreement is declared invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability, the remainder of the agreement will remain valid and enforceable to the fullest extent permitted.

## 10.8 Dispute Resolution.

10.8.1 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law.

10.8.2 Negotiation. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, the parties will use their best efforts to settle the dispute. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

10.8.3 Binding Arbitration. If the parties do not reach such solution within a period of sixty (60) days, then, upon notice by either party to the other, all disputes shall be finally settled by binding arbitration taking place in New York, New York. Each of the parties to this Agreement hereby agrees and consents to such venue and waives any objection thereto. The arbitration shall be conducted in English, on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. The prevailing party shall be entitled to an award of reasonable attorney fees. An award of arbitration may be confirmed in a court of competent jurisdiction sitting in New York, New York.

10.9 Assignment. Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of JazzHR, which shall not be unreasonably withheld, or conditioned. Any purported assignment or delegation in violation of this Section will be null and void. JazzHR may freely assign and/or transfer this Agreement. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.



10.10 Compliance with Laws. Notwithstanding anything to the contrary, Customer may not provide to any person or export or re-export or allow the export or re-export of the Services or any software or anything related thereto or any direct product thereof (collectively “Controlled Subject Matter”), in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. Without limiting the foregoing Customer acknowledges and agrees that the Controlled Subject Matter will not be used or transferred or otherwise exported or re- exported to countries as to which the United States maintains an embargo (collectively, “Embargoed Countries”), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury’s List of Specially Designated Nationals or the U.S. Department of Commerce’s Table of Denial Orders (collectively, “Designated Nationals”). If you have any questions regarding JazzHR, the practices of this site or software, or your dealings with us, please feel free to email us at [legal@jazzhr.com](mailto:legal@jazzhr.com).