

TELLENT REFERRAL TERMS & CONDITIONS

Last modified: 23rd of June 2023

This document sets out the terms and conditions ('Terms') on which Tellent allows Referrer to earn Commission for referring potential customers. By accepting the Terms, the Referrer and Tellent enter into an Agreement.

CONSIDERATIONS

Tellent (and Tellent Companies) provide(s) the Tellent SaaS and Ancillary Services. Referrer has a network of contacts that are or may be interested in SaaS products similar to those offered by Tellent (and Tellent Companies). The Parties wish for Referrer to refer potential customers from Referrer's network of contacts for the Tellent SaaS in exchange for a commission. Making Referrals will not be a core business activity for Referrer.

THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS

Article 0 - Definitions

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.

'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': The agreement between the Parties which incorporates the Terms, or these Terms if these Terms are not attached to another agreement;

'Ancillary Services': Services that are ancillary to the Tellent SaaS, such as premium support, training, onboarding and job advertisements;

'Conversion': The sale of services by Tellent and/or Tellent Companies to a Lead;

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

'KiwiHR(s) SaaS': The SaaS for human resources management marketed under the brand 'KiwiHR';

'Lead': A third party that is interested in purchasing Tellent SaaS;

'Partner Program Email Address': partners@recruitee.com or partners@tellent.com;

'Partnerstack': The system for managing referrals provided by PartnerStack Inc. on the partnerstack.com website and any system used by Tellent to manage referrals that subsequently replaces it;

'Party': Referrer or Tellent;

'Recruitee Netherlands': Recruitee B.V., a private company with limited liability under the laws of the Netherlands with company number 63881829;

'Recruitee Germany': Recruitee GmbH, a private company with limited liability under the laws of Germany, with company number HRB 98602;

'Recruitee USA': Recruitee Inc., a Delaware, USA corporation;

'Tellent': KiwiHR, Recruitee Germany, Recruitee Netherlands and Recruitee USA (jointly);

'Tellent Company': Any entity or entities that fall under Tellent (individually);

'Recruitee(s) SaaS': The SaaS for talent acquisition marketed under the brand 'Recruitee';

‘Referral’: The provision of contact details of a Lead in order for Tellent to attempt to sell Tellent SaaS to the Lead;

‘Referrer’: The entity that is referring or is aiming to refer potential customers to Tellent;

‘Referrer’s Partnerstack Account’: The Partnerstack account that the Referrer has used to enter into the Agreement through Partnerstack, or if Referrer is a Solution Partner, then the Partnerstack account that was approved as a Solution Partner account in one of the partner programs of Tellent (or Tellent Companies) in Partnerstack in connection to the Agreement;

‘Responsible Tellent Company’: An entity that is part of Tellent that is obligated to pay a specific Commission;

‘SaaS’: Software-as-a-Service;

‘Solution Partner’: A Referrer that has been accepted by Tellent (or a Tellent Company) as a Solution Partner in a written document that was signed by Tellent (or a Tellent Company) and a Solution Partner;

‘Tellent Product Suite’: KiwiHR SaaS and Recruitee SaaS;

‘Tellent SaaS’: Any SaaS that is part of the Tellent Product Suite.

Article 1 - Referrals

1.1 The Referrer will make Referrals to Tellent (and/or Tellent Companies). In return for the Referrals the Referrer will in case of Conversion receive a commission (‘Commission’) as set out below.

1.2 Referrals need to meet the following requirements to qualify for a Commission:

- Referrals will be made through one of the following channels:
 - Through Partnerstack and tracked through a tracking cookie or other tracking technology offered by Partnerstack
 - By email to a Partner Program Email Address
- Referrals by email to a Partner Program Email Address include at least the full company name of the Lead, the first and last name of a contact person of the Lead and the phone number and/or email address of such contact person;
- If a Referral has been made by email to a Partner Program Email Address then the contact person of the Lead has explicitly asked from Referrer to be contacted by Tellent (and Tellent Companies) or agreed with Referrer to be contacted by Tellent (and Tellent Companies);
- The Lead is not a paying customer of Tellent (or any Tellent Company) at the time of the Referral nor has the Lead created a trial account for the Tellent SaaS within the last 12 months; and
- Tellent is not (and no Tellent Companies are) at the time of the Referral already actively pursuing the Lead that is included in a Referral or Tellent has explicitly indicated that the Referral qualifies for a Commission.

1.3 The receipt of a Referral will be promptly confirmed by Tellent (or a Tellent Company) (or by Partnerstack on behalf of Tellent or a Tellent Company). If Tellent (and/or Tellent Companies) are already actively pursuing a Lead that was included in a Referral, then Tellent (or the Tellent Companies) will promptly inform Referrer of this.

1.4 For the sake of clarity, Tellent is (and the Tellent Companies are) not liable for Referrals not being eligible for Commission due to tracking cookies being removed by Leads or other failures of tracking technology that are attributable to Partnerstack or otherwise not attributable to Tellent (and the Tellent Companies).

Article 2 – Commission scheme for all Referrers except Solution Partners

2.1 **Applicability** - This article 2 applies to all Referrers except Solution Partners.

2.2 The commission percentage - Referrer will in case of Conversion receive a Commission from the Responsible Tellent Company of 20% (twenty percent) of all fees excluding taxes for the services provided to the Lead by Tellent (and the Tellent Companies). For the sake of clarity, the Commission is deemed to cover any costs incurred by Referrer to make Referrals, the Commission will only be owed by the Responsible Tellent Company and only the Responsible Tellent Company will be liable in relation to the payment of the Commission.

2.3 Services covered by the Commission - The Commission will exclusively be owed in relation to the following services provided to the Lead:

- Tellent SaaS.

2.4 Services not covered by the Commission - For the sake of clarity, the Commission will not be owed in relation to the following services provided to the Lead:

- Any Ancillary Services.

2.5 Duration of the Commission - The Commission will exclusively be calculated in relation to the provision of the services in the first 12 (twelve) months of paid usage of the Tellent SaaS by the Lead.

2.6 Commission due date - The Commission will be owed 6 (six) weeks after the moment that Tellent (and/or Tellent Companies) receive payment from the Lead of the fees that relate to the Commission. If the Lead makes a partial payment, then the Responsible Tellent Company will owe the corresponding partial Commission.

2.7 Expiration of Referrals - Referrals for the same Leads cannot be made multiple times. The Commission will only be calculated in relation to services if there is a Conversion in relation to the Lead within 1 (one) year after the Referral.

2.8 Interruption of services - The Commission will no longer be calculated in relation to then-current upcoming fees in relation to a Lead if the Tellent SaaS services provided to such Lead have been terminated or suspended for more than 6 (six) months. For the sake of clarity, any Commission that was owed prior to termination or suspension would still be owed.

2.9 Compensation for assistance - The Referrer may offer to assist Tellent (and/or any Tellent Companies) after the Referral to achieve the Conversion of the Lead and Tellent (and/or any Tellent Companies) may accept such offer. However, Tellent (and Tellent Companies) will not owe Referrer any compensation for such assistance in addition to the compensation explicitly described in these Terms.

2.10 Tellent records are leading – In all matters relating to (the calculation and payment of) Commission, the records of Tellent (and Tellent Companies) are always leading unless Referrer is able to provide conclusive counterevidence.

2.11 Services purchased by the Referrer – The Commission will not be owed in relation to Services that are purchased by the Referrer or its Affiliates.

2.12 Breach of the Terms - The Commission will not be owed if the Referrer has breached the Terms to make the Referral.

Article 3 – Commission scheme for Solution Partners

3.1 Applicability - This article 3 applies to all Solution Partners.

3.2 The commission percentage - Referrer will in case of Conversion receive a Commission from the Responsible Tellent Company of 25% (twenty five percent) of all fees excluding taxes for the services provided to the Lead by Tellent (and the Tellent Companies). For the sake of clarity, the Commission is deemed to cover any costs incurred by Referrer to make Referrals, the Commission will only be owed by the Responsible Tellent Company and only the Responsible Tellent Company will be liable in relation to the payment of the Commission.

3.3 Services covered by the Commission - The Commission will exclusively be owed in relation to the following services provided to the Lead:

- Tellent SaaS.

3.4 Services not covered by the Commission - For the sake of clarity, the Commission will not be owed in relation to the following services provided to the Lead:

- Any Ancillary Services.

3.5 Commission due date - The Commission will be owed 6 (six) weeks after the moment that Tellent (and/or Tellent Companies) receive payment from the Lead of the fees that relate to the Commission. If the Lead makes a partial payment, then the Responsible Tellent Company will owe the corresponding partial Commission.

3.6 Expiration of Referrals - Referrals for the same Leads cannot be made multiple times. The Commission will only be calculated in relation to services if there is a Conversion in relation to the Lead within 1 (one) year after the Referral.

3.7 Interruption of services - The Commission will no longer be calculated in relation to then-current upcoming fees in relation to a Lead if the Tellent SaaS services provided to such Lead have been terminated or suspended for more than 6 (six) months. For the sake of clarity, any Commission that was owed prior to termination or suspension would still be owed.

3.8 Compensation for assistance - The Referrer may offer to assist Tellent (and/or any Tellent Companies) after the Referral to achieve the Conversion of the Lead and Tellent (and/or any Tellent Companies) may accept such offer. However, Tellent (and Tellent Companies) will not owe Referrer any compensation for such assistance in addition to the compensation explicitly described in these Terms.

3.9 Tellent's records are leading – In all matters relating to (the calculation and payment of) Commission, the records of Tellent (and Tellent Companies) are always leading unless Referrer is able to provide conclusive counterevidence.

3.10 Services purchased by the Referrer – The Commission will not be owed in relation to Services that are purchased by the Referrer or its Affiliates.

3.11 Breach of the Terms - The Commission will not be owed if the Referrer has breached the Terms to make the Referral.

Article 4 - Disclaimers

4.1 Referrer has no obligations whatsoever to attempt to make Referrals or to assist Tellent (and Tellent Companies) after the Referral.

4.2 Tellent and Tellent Companies have no obligation whatsoever (to attempt) to reach an agreement with the Lead and in no event will Commission be due if there is no Conversion.

Article 5 - Marketing

5.1 Referrer will not publicly advertise any services of Tellent (and Tellent Companies), including, but not limited to, placing advertisements relating to the services of Tellent (and Tellent Companies) in online advertising platforms, and Referrer will not gain Leads using mass mailings or similar ways of reaching out.

5.2 Referrer may use marketing materials of Tellent (and Tellent Companies) to gain Leads in so far as such use is explicitly pre-approved by Tellent (and/or Tellent Companies) in writing. Any such approval may be withdrawn at any time.

5.3 In trying to find (potential) Leads, providing Tellent (and Tellent Companies) with Referrals and all other activities performed by Referrer in relation to the Agreement, Referrer will always fully comply with all applicable laws and regulations, including but not limited to the General Data Protection Regulation (2016/679) and the e-Privacy Directive 2002/58 and their respective national implementations.

5.4 Referrer will not speak negatively about Tellent (and Tellent Companies), its services or otherwise behave in a manner that negatively impacts Tellent (and Tellent Companies).

5.5 The Referrer will make sure that any statements that it makes about the services of Tellent (and Tellent Companies) are truthful and not misleading.

5.6 The Referrer will not offer any payments or discounts to Leads as an incentive to purchase services from Tellent (and Tellent Companies). The Referrer may not share the Commission with any Leads.

Article 6 - Information

6.1 Tellent (and Tellent Companies) will promptly and at least on a monthly basis inform Referrer when it owes Commission to Referrer. Tellent (and Tellent Companies) will also inform Referrer about the amount of Commission and which Leads the Commission relates to. The aforementioned information may also be provided by Tellent (and/or Tellent Companies) on a continuous or regular basis through Partnerstack and on behalf of Tellent (and/or Tellent Companies).

Article 7 - Exclusivity

7.1 The Agreement does not grant Referrer any exclusivity with regard to making Referrals.
7.2 Referrer will inform Tellent (and Tellent Companies) on their respective requests without undue delay on whether it promotes (or plans to promote) services that compete with Tellent or any of the Tellent Companies. Referrer warrants that it has, prior to entering into this Agreement, truthfully answered any questions from Tellent (and Tellent Companies) with regard to promoting (or planning to promote) services that compete with Tellent SaaS, if such questions have been asked.

Article 8 – Compliance

8.1 Both Parties will comply with applicable laws and regulations in connection to the subject matter of this Agreement.

8.2 The Referrer must correctly identify itself to Tellent (and Tellent Companies) and to Partnerstack and must provide Tellent and Tellent Companies with any information they respectively reasonably request for reasons of compliance with laws and regulations.

Article 9 – Intellectual Property Rights

9.1 No intellectual property rights will be transferred in the context of this Agreement. In so far as a license for intellectual property rights is granted between the Parties in connection to this Agreement such licenses are non-exclusive, non-transferable, non-sublicensable, royalty-free, revocable, limited, personal and will end when this Agreement is terminated.

Article 10 – Termination and Suspension

10.1 This Agreement may be terminated by either Party at any time with a notice period of 3 (three) calendar months for any reason. The terminating Party will not be required to compensate the other Party for any damages resulting from the termination including, but not limited to, a loss of income. However, any Commission for Referrals that have been made prior to such termination will still be owed.

10.2 In case of a material breach of the Agreement by the Referrer, Tellent (and/or Tellent Companies) may immediately suspend or terminate the Agreement.

10.3 If, in the past, Tellent (and/or Tellent Companies) have terminated an agreement with the Referrer with similar subject matter as the Agreement, the Referrer is not permitted to sign up again to any of the referral programs of Tellent (and Tellent Companies) without the explicit prior permission of Tellent (and/or Tellent Companies). If such prior permission has not been granted, then there will be no Agreement between the Parties and the Referrer will not be entitled to any Commission.

10.4 If the Referrer has not earned any Commission for 6 (six) months, then Tellent (and/or Tellent Companies) may immediately terminate the Agreement without prior notice.

Article 11 - Limitation of Liability

11.1 If a Referral does not lead to any provision of one or more services by Tellent and/or Tellent Companies to the Lead, this will never cause liability of one Party towards the other Party.

11.2 Referrer is not liable for the performance of contracts in relation to the provision of services by Tellent and/or any Tellent Companies entered into between Tellent (and/or Tellent Companies) and the Lead. Referrer will not become a party to such contracts.

11.3 Referrer is not liable towards Tellent (and any Tellent Companies) if a Lead does not procure services from Tellent (and any Tellent Companies).

11.4 Tellent is (and the Tellent Companies are) not liable towards Referrer for any damages resulting from or related to the quality (or lack of quality) of the services provided or offered to the Lead.

11.5 Tellent is (and the Tellent Companies are) not liable towards Referrer if Tellent and/or Tellent Companies or the Lead terminate the services that Tellent and/or the Tellent Companies provide to the Lead.

11.6 Tellent (and Tellent Companies) shall never be liable for indirect or consequential damages, including lost profits and revenue. The total liability of Tellent (and Tellent Companies) arising out of or related to the Agreement will not exceed the Commission paid by Tellent (and Tellent Companies) to Referrer in the 12(twelve)-month period preceding the damage causing event. Any limitations agreed upon under this article will also apply to the liability of directors, affiliates, officers, employees, contractors, agents and members of Tellent (and Tellent Companies).

11.7 Any limitation of liability under this Agreement doesn't apply insofar as the limitation of liability is not permitted under applicable laws and regulations, such in the case of intent or deliberate recklessness.

Article 12 - Severability

12.1 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.

Article 13 - Survival

13.1 For the sake of clarity, after termination the Agreement will remain in effect with regard to any subject matter that requires survival due to its nature and/or purpose.

Article 14 - Independent Parties

14.1 No agency, joint venture, or employment is created as a result of the Agreement.

14.2 Both Parties will not claim to be acting on behalf of each other, including, but not limited to, claiming to be an agent or representative of the other Party.

Article 15 – Competent Court and Applicable Law

15.1 This agreement is governed by Dutch law and any disputes in relation to this agreement will be governed by the courts of Amsterdam, The Netherlands.

Article 16 – Notices and rights

16.1 Any notices by Tellent (and Tellent Companies) in connection to the Agreement may be provided by postal mail, email or through Partnerstack. All Tellent Companies may individually exercise each of the rights of Tellent and Tellent Companies.

Article 17 - Changes to the Terms

17.1 Tellent reserves the right to make changes to these Terms at any time. New versions of the Terms will be published in a PDF file accessible through <https://recruit.ee/referral-terms> and Tellent must give notice to Referrer of the publication of new versions of the Terms. Any new version of the Terms will enter into effect after 30 (thirty) days if a prior version of the Terms was already applicable between the Parties, unless explicitly stated otherwise by Tellent.

17.2 Changes to the Terms may lead to additional Affiliates of Tellent Companies being added to the definition of Tellent. Such additions lead to such Affiliates, jointly with the other entities that together form Tellent, becoming a Party to the Agreement.

Article 18 - Responsible Tellent Company

18.1 Insofar as a Commission is earned by the Referrer in relation to a sale made by Recruitee Germany, Recruitee Netherlands or Recruitee USA, the Responsible Tellent Company is deemed to be Recruitee Netherlands.

18.2 Insofar as a Commission is earned by the Referrer in relation to a sale made by KiwiHR, the Responsible Tellent Company is deemed to be KiwiHR.

Article 19 - Miscellaneous

19.1 Anyone accepting these Terms on behalf of Referrer represents and warrants that he or she is a duly authorized representative of Referrer, with full power and authority to agree to these Terms.

19.2 There are no verbal side agreements. Changes to the Agreement must be made in writing and signed by both Parties, except in the case of a change to the Terms in accordance with article 17. The validity of the Referrer's general terms and conditions is excluded, even if reference is made to such in individual correspondence.

19.3 The Responsible Tellent Company may make payments that are owed to the Referrer under the Agreement by:

- bank transfer directly to the Referrer;
- bank transfer via another Tellent Company to the Referrer;
- by indirectly paying the Referrer through Partnerstack to Referrer's Partnerstack Account; or,
- by any other way that is explicitly agreed to by the Parties in writing.

The latest version of these Terms can be downloaded (as a PDF) through the following URL: <https://recruit.ee/referral-terms>