

TERMS OF SERVICE

FOR TEXTKERNEL OR PARSING SERVICES

The following Terms Of Service ("TOS") shall apply to Company's purchase and use of Textkernel OR Parsing service (hereafter referred to as the "OR Parsing Service").

These TOS are part of the Order Form(s) for the license(s) to the OR Parsing Service, and are incorporated into the Order Form(s) as if fully set forth therein.

1. DEFINITIONS

A number of notions are handled in the Agreement, singular or plural, that start with a capital letter, and have the meaning of the italicized words as defined in this article.

Agreement: these TOS, including any executed Order Forms and SOWs, and their amendments, addendums, and attachments.

Available / Availability: the time during which the OR Parsing Service is accessible by Company for live, real-time processing and data exchange at a reasonable acceptable speed.

Company Content: all data, content, and information (including Personal Information) owned, held, used or created by or on behalf of the Company that is stored, or inputted into the OR Parsing Service.

Confidential Information: the terms of the Agreement and any information that is not public knowledge that Parties designate, either in writing or orally, as confidential, or which, under the circumstances of disclosure ought to be treated as confidential. Confidential Information includes without limitation: software, hardware, products, services, policies and practices, Intellectual Property Rights, development and marketing plans, and financial information.

Data Protection Laws: all applicable data protection and privacy laws and regulations, including the EU Regulation 2016/679, as amended from time to time.

Deficiency: an interruption to, or problem with the Availability of the OR Parsing Service, that is either demonstrable or reproducible.

Force Majeure Event: any event or circumstance beyond the control of the non-performing Party, that prevents the non-performing Party from complying with any of its obligations under the Agreement, other than its obligation to pay money. Force Majeure Event does not include any strike or other labor unrest that affects only one party, an increase in prices, or a change of law.

Functionality: the user functions and possibilities of the software applications that are described in the Agreement.

Intellectual Property Rights: all intellectual property rights, whether those rights happen to be registered or not, and wherever in the world those rights may exist, including but not limited to associated Confidential Information, copyrights, data-base rights, trade secrets, trademarks, patents, inventions, designs and know how.

Maintenance Windows: has the meaning ascribed to that term in Section 4.2.

OR Parsing Service: has the meaning ascribed to that term in Section 2.1.

Order Form: the form in which Parties describe the details of the OR Parsing Service that will be provided and the applicable prices, payment conditions, and scope of use. The Parties agree that all Order Forms shall be governed by this TOS.

Personal Information: any data or information that constitutes personal data or personal information under any applicable Data Protection Laws;

Planned Downtime: expected time during Maintenance Windows, during which the OR Parsing Service will not be Available.

Security Breach: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Information and/or Confidential Information;

Support: the rendering of assistance and advice by Textkernel to Company concerning the usage of Functionality, as well as the rendering of assistance with the tracking of causes, also including deficiencies.

Terms of Service ("TOS"): these specific terms and conditions, and their attachments, for OR Parsing Services committed under an Order Form, including but not limited to: terms of use, policies or service level agreements, that will be attached to the respective Order Form(s). The Parties agree that the TOS shall be governed by the applicable Order Form.

Term: any period during which the Agreement is in force and effect.

Textkernel Content: all software and related processes, algorithms, methods, data, databases, and techniques developed by Textkernel, including the OR Parsing Service, and all subsequent Updates.

Updates: any feedback, changes, updates, upgrades, releases, fixes customizations, additions, translations, improvements, or modifications made to, or derivative works created from, the OR Parsing Service or Textkernel Content.

User: a person under the responsibility of Company, who has been given access to the Functionality;

Working Hours: EU: 8:30 AM CET to 6 PM CET/CEST, Monday till Friday. US: 7 AM EST to 5 PM EST, Monday till Friday.

2. SERVICE DESCRIPTION

- 2.1. The OR Parsing Service is a multilingual resume parsing tool that returns the extracted data in structured format, integrated in Oracle Recruiting, part of the Oracle Cloud HCM platform.
- 2.2. During the Term of this Agreement, Textkernel grants Company a non-exclusive, worldwide, non-transferable, non-assignable, non-sublicensable, license to use the OR Parsing Service, as provided by Textkernel, in the manner permitted by the Agreement.
- 2.3. Textkernel shall provide the OR Parsing Service competently, and in accordance with the Agreement and applicable laws.

3. TERMS OF USE

- 3.1 Unless otherwise agreed upon in a signed Order Form, Company shall:
 - a. only use the OR Parsing service for Company’s lawful business purposes and only on the Oracle Recruiting Cloud platform;
 - b. not sell, transfer, distribute, sublicense or assign any of the OR Parsing Service or Textkernel Content or its rights to use any of the OR Parsing Service or Textkernel Content, to any third party, or use them in any other way for public commercial purpose;
 - c. not alter, reverse engineer, decompile, disassemble or otherwise attempt to derive or obtain information about the functioning, composition or operation of the OR Parsing Service, including the Textkernel Content therein;
 - d. not impersonate another person or misrepresent authorization to act on behalf of others or Textkernel;
 - e. maintain the confidentiality of any login or access credentials provided by Textkernel for use of the OR Parsing Service;
- 3.2. Company shall indemnify and hold harmless Textkernel against claims from third parties caused by acts of Company that conflict with this section 3.

4. AVAILABILITY

- 4.1. Textkernel will make reasonable efforts to make access to the OR Parsing Service Available 24 hours x 7 days a week, except during Planned Downtime.
- 4.2. Maintenance Windows means: scheduled time reserved for regular maintenance or system recovery testing in production environments, during which the OR Parsing Service may not be Available, and which may be performed by Textkernel as set out below:

Maintenance Window	EU Amsterdam times	US Amsterdam times (US Times)	Impact
< 2hrs	TUE or THU 23:00-02:00 CET/CEST	WED or FRI 07:00-11:00 CET/CEST (01:00-04:00 EST/EDT)	Planned Downtime < 30 minutes *
> 2 hrs	SAT or SUN 08:00-13:00 CET/CEST (02:00-07:00 EST/EDT)	SAT or SUN 08:00-13:00 CET/CEST (02:00-07:00 EST/EDT)	Planned Downtime < 120 minutes **

*) Textkernel will notify Company 1 week ahead of the Maintenance Window. If the anticipated Planned Downtime is below 5 minutes Textkernel will not send a notification.
 **) Textkernel will notify Company 2 weeks ahead of the Maintenance Window. If Textkernel anticipates a Planned Downtime of more than 120 minutes, Textkernel will communicate this clearly in advance to the Company.

Emergency maintenance (for example, but not limited to security vulnerabilities/prevention of degradation in one of our critical components) may be deployed outside of the Maintenance Window if deemed necessary. Textkernel will make every reasonable effort to perform unscheduled emergency maintenance during Maintenance Windows. Textkernel will make reasonable efforts to provide the Company with advanced notice of anticipated emergency maintenance.

Textkernel publishes all of its maintenance on <https://status.textkernel.nl>

5. SUPPORT

- 5.1. Textkernel shall maintain log files of Company’s Support requests.

- 5.2. Company is entitled to request from Textkernel the following Support:
- Telephone support: during Working Hours Textkernel shall provide advice and assistance to Company by telephone to diagnose suspected problems concerning the availability or performance of the OR Parsing Service;
 - E-mail support: e-mails can be sent to support e-mail address (service@textkernel.com) at any time and will be answered during Working Hours, based on priority and the order in which the requests are received;
 - Support portal: Company may be given access to a support portal in which support requests can be registered at any time directly into Textkernel's support ticket system. Support tickets will be answered during Working Hours, based on priority and the order in which the requests are received.
- 5.3. When reporting a Deficiency, Company shall provide Textkernel with the following minimum information, in writing:
- a. a clear and reasonable description of the Deficiency;
 - b. if possible accompanied by materials, such as printouts, files, data, etc., which resulted when the Deficiency occurred and which may be helpful to identify and correct the Deficiency, including a description of the type of work being performed when the Deficiency occurred;
 - c. if applicable, the type of error message that was displayed.

6. SERVICE LEVELS

- 6.1. If Company reports a Deficiency for correction the following Service Levels apply:
- A. Level 1: the OR Parsing Service partially or wholly has ceased to work, and Company is unable to continue working with all or a major part of the Functionality, or performance or Availability is seriously impacted or disrupted, in which case Textkernel shall respond within one (1) hour of receipt of the Deficiency report, and immediately thereafter shall use reasonable commercial efforts to design a temporary or permanent correction or workaround solution which shall be provided to Company as soon as reasonably possible. Textkernel will work outside of Working Hours to address and resolve Level 1 Deficiencies.
 - B. Level 2: the performance or Availability of the OR Parsing Service in the production environment is impacted or disrupted, but Company is able to continue working with the OR Parsing Service, albeit with limitations in Functionality or performance, in which case Textkernel shall respond within one (1) hour of receipt of the Deficiency report, and shall use reasonable commercial efforts to design, during Working Hours, a temporary or permanent correction or workaround solution which shall be provided to Company as soon as practicable.
 - C. Level 3: the performance or Availability of the OR Parsing Service is impacted, but Company is able to continue working with the major Functionality without serious performance limitations, in which case Textkernel shall respond within four (4) hours of receipt of the Deficiency report. Textkernel shall use reasonable efforts to design, during Working Hours, a temporary or permanent correction or workaround solution which shall be provided to Company as soon as practicable.
 - D. Level 4: there is only a minor impact on Functionality or performance of the OR Parsing Service, in which case Textkernel shall respond within one (1) business day of receipt of the Deficiency report. Textkernel may decide to include the correction of the Deficiency in a subsequent update or new version of the OR Parsing Service, or, in its sole discretion, may design a temporary or permanent correction or workaround solution.
- 6.2. Company shall propose the Service Level for each Deficiency in writing and shall include the reasons for such a proposal. Textkernel shall accept Company's proposed Service Level, unless Textkernel provides a reasonable basis why a Deficiency should be assigned a different Service Level. If the parties do not agree on the Service Level assignment for any Deficiency within four (4) hours of receipt of the notification by Textkernel, the dispute shall be escalated to the management of each party for resolution in good faith.
- 6.3. To the extent that Textkernel believes repairing a Deficiency may impact the Availability of the OR Parsing Service, Textkernel will use its best efforts to provide a temporary, sufficient solution.
- 6.4. If Company reports a Deficiency that Textkernel determines cannot be resolved by telephone, e-mail or portal support, and the Deficiency was not corrected by an update or modification to the OR Parsing Service, Textkernel will provide a correction or workaround solution, which may be permanent or temporary.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. Textkernel or its licensors, as applicable, shall retain all right, title and interest, including Intellectual Property Rights, in and to the Textkernel Content. Should further action be necessary in this respect, the Company will cooperate fully with Textkernel to secure title and ownership.
- 7.2. The Intellectual Property Rights of Company Content remains the property of the Company. The Company grants Textkernel a worldwide, fully paid up, licence to use, store, copy, and modify Company Content for any purpose in connection with the exercise of its rights and the performance of its obligations in accordance with the Agreement.
- 7.3. Textkernel shall indemnify Company for all damages finally awarded against Company, arising out of, or relating to claims stating that the OR Parsing Service infringe the Intellectual Property Rights of any third party, provided that:
- a. Company promptly notifies Textkernel in writing of any such claim;

- b. Company does not make any admission of liability, or prejudices or settles such claim without Textkernel's prior written permission;
 - c. Textkernel has sole control of the defense and all related settlement negotiations, and Company gives reasonable cooperation and all information required to defend such claims.
- 7.4. The indemnity in section 7.3 does not apply to the extent the claim is based upon:
- a. modifications to the OR Parsing Service if such modifications were not made or expressly authorized by Textkernel or were made by Textkernel in compliance with Company's designs, specifications or instructions; or
 - b. use of the OR Parsing Service by Company in a manner not reasonably foreseeable by Textkernel; or
 - c. Company's combination of the OR Parsing Service with other products or devices not specified or supplied by Textkernel to the extent the infringement would not have resulted from the use of the OR Parsing Service alone.
- 7.5. If at any time a claim as mentioned in section 7.3 is made, or in Textkernel's reasonable opinion is likely to be made, then in defence or settlement of such claim, Textkernel may (at Textkernel's discretion):
- a. obtain for the Company the right to continue using the items which are the subject of such claim; or
 - b. modify, re-perform or replace the items which are the subject of such claim so they become non-infringing.

8. CONFIDENTIALITY

- 8.1. Each Party shall retain all right, title and interest to such Party's Confidential Information disclosed to the other Party.
- 8.2. Each Party must, unless it has the prior written consent of the other Party:
- a) keep confidential at all times the Confidential Information of the other Party; and
 - b) not violate any rights, title and interests of the disclosing Party to the Confidential Information; and
 - c) effect and maintain adequate security measures to safeguard the other Party's Confidential Information from unauthorised access or use; and
 - d) disclose the other Party's Confidential Information to its personnel or professional advisors on a need to know basis only and, in that case, ensure that any personnel or professional advisor to whom it discloses the other Party's Confidential Information is aware of, and complies with, the provisions this article 6; and
 - e) not reverse engineer, disassemble, copy or decompile any prototypes, software, data, or other tangible objects which embody Confidential Information; and
 - f) not otherwise attempt to derive or obtain information about the functioning, composition or operation of the OR Parsing Service and the Confidential Information therein; and
 - g) not use the Confidential Information to inform or create a product or service that is similar to the other Party's product or service.
- 8.3. The obligation of confidentiality in this article 6 does not apply to any disclosure or use of Confidential Information:
- a) for the purpose of performing the Agreement or exercising a Party's rights under the Agreement;
 - b) required by law;
 - c) which is publicly available through no fault of the recipient of the Confidential Information or its personnel;
 - d) which was rightfully received by a Party to the Agreement from a third party without restriction and without breach of any obligation of confidentiality.
- 8.4. Each Party shall immediately inform the other Party of any Security Breach. The Parties agree that such breaches entitle the non-breaching Party to seek injunctive relief, in addition to any other legal or equitable remedies available to it.

9. PRIVACY AND DATA PROTECTION

- 9.1. Each Party acknowledges and agrees that any Personal Information transferred under the Agreement was and is obtained, held, stored, deleted, processed and - if relevant - transferred in accordance with the Data Protection Laws.

10. INVOICING AND PAYMENT

- 10.1. Unless otherwise agreed in the Order Form(s), access to the OR Parsing Service is charged on the basis of a periodic license fee, based on the number of Users or accounts that have access to the OR Parsing Service and/or the level of access and functionality.
- 10.2. All fees quoted in the Agreement or an Order Form exclude any taxes. Unless otherwise agreed upon in the Order Form or SOW, Textkernel shall not increase the price of the Services with more than four percent (4%) per year for auto-renewable Agreements.
- 10.3. The Parties shall comply with the payment schedule specified in the Order Form or SOW. If the Order Form or SOW does not contain a payment schedule, Textkernel shall issue invoices for licenses or subscriptions on an Order Form per 12-month term in advance, and for work included on a SOW after performance of such work.
- 10.4. If Company wholly or partially disputes the invoice, it must notify Textkernel accordingly within fourteen (14) calendar days of invoice date in writing, carefully stating the reasons. Disputing the invoice does not discharge Company from its obligation to pay the invoice. Textkernel and Company shall use their best efforts to resolve any disputes over an invoice carefully and without any undue delay.
- 10.5. In the event Company fails to pay any amount payable by it under the Agreement, Textkernel shall be entitled, but not

obliged, to charge Company interest on the overdue amount, payable by Company forthwith on demand, from the due date up to the date of actual payment, at the rate of 1% per month on the outstanding sum with any part of the month being calculated as a full month.

- 10.6. If Company has arrears in payment of more than six (6) weeks, Textkernel has the right to suspend the fulfillment of its obligations pursuant to all Order Forms or SOW's, without being liable for damages in connection with this suspension or cancellation. All reasonable costs that Textkernel incurs as a result of Company's non-compliance with its obligations pursuant to this provision shall be borne by Company in full.

11. TERMINATION

- 11.1. This Agreement shall be effective from the date of mutual execution. The Term of this Agreement shall commence as of the effective date and will continue unless terminated as specified herein.
- 11.2. Either Party may, by notice to the other Party, immediately terminate the Agreement if the other Party:
 - i) breaches any material provision of the Agreement and the breach is not:
 - a. remedied within 20 business days of the receipt of a notice from the first Party requiring it to remedy the breach; or
 - b. capable of being remedied.
 - ii) becomes insolvent, liquidated or bankrupt, has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, becomes subject to any form of insolvency action or external administration, or ceases to continue business for any reason; or
 - iii) is unable to perform a material obligation under the Agreement for 30 days or more due to a Force Majeure Event;
 - iv) has arrears in payment of more than six (6) weeks under the Agreement.
- 11.3. Textkernel may suspend or terminate Company's access to and use of the OR Parsing Service and terminate this Agreement without notice if Textkernel determines that Company is in breach of section 3 of this Agreement.
- 11.4. Upon termination or expiry of the Agreement, or upon the request of the disclosing Party, the receiving Party must promptly return or destroy all Confidential Information of the disclosing Party and provide a written certification of such return or destruction.
- 11.5. Except as otherwise set forth in the Agreement, Company shall return all licensed Intellectual Property, and all tangible embodiments thereof, to Textkernel. Upon the expiration or other termination of the Agreement, Company shall have no further rights of use thereof.
- 11.6. Termination or expiry of the Agreement does not affect either Party's rights and obligations that accrued before that termination or expiry. This includes Parties accrued rights and obligations regarding indemnity, confidentiality, liability, data protection, Intellectual Property rights, and governing law.

12. LIABILITY

- 12.1. To the extent permitted by law, Textkernel shall not be responsible for lost profits, revenues, or data. financial losses, or indirect, special consequential, exemplary, or punitive damages.
- 12.2. To the extent permitted by law, the total liability of Textkernel, for any claim under the Agreement, including for any implied warranties, is limited to the amount Company paid Textkernel to use the OR Parsing Service during the 12 months prior to the event giving rise to the liability.

13. MISCELLANEOUS

- 13.1. Textkernel's provision of the OR Parsing Service to the Company is non-exclusive. Nothing in the Agreement prevents Textkernel from providing the OR Parsing Service to any other party.
- 13.2. Textkernel has the sole right to verify compliance of the Agreement by Company, through an audit during the Term of the Agreement. Textkernel agrees to bear all costs incurred by it in relation to the audit, unless the audit results show material errors in the compliance of the Agreement by Company.
- 13.3. Any variation to the Agreement must be in writing and signed by both Parties.
- 13.4. Verbal statements, promises or agreements connected to the execution of the Agreement have no legal effect unless these are confirmed in writing by both Parties.
- 13.5. Any notice or other communication will be deemed to be properly given only when sent via a recognized courier or confirmed e-mail. The Party giving the notification carries the risk of proof if a notification is not received according to the other Party.
- 13.6. Upon occurrence of a Force Majeure Event, the non-performing Party shall promptly notify the other Party of occurrence of that Force Majeure Event, its effect on performance, and how long that Party expects it to last. Thereafter the non-performing Party shall update that information as reasonably necessary. During a Force Majeure Event, the non-performing Party shall use reasonable efforts to limit damages to the other Party and to resume its performance under the Agreement.
- 13.7. The fact that a Party does not demand fulfillment or exercise a right or authority it has under the Agreement, to demand from any stipulation within a mentioned Term of the Agreement, does not affect the right to still demand fulfillment or exercise such right, unless this Party expressly and in writing has waived such right.

- 13.8. If any provision of the Agreement is, or becomes, illegal, unenforceable, or invalid, the relevant provision is deemed to be modified to the extent required to remedy the illegality, unenforceability or invalidity. If modification is not possible, the provision must be treated for all purposes as severed from the Agreement without affecting the legality, enforceability, or validity of the remaining provisions of the Agreement.
- 13.9. The Agreement shall be governed by, interpreted, and construed in accordance with the laws of the Netherlands. Any disputes arising out of or in connection with the Agreement shall be exclusively submitted to the competent court in The Hague, The Netherlands. This leaves unimpaired the obligation of both Parties to make supreme effort to solve disputes connected to the Agreement, as much as possible amicably, by mutual agreement.
- 13.10. During the Term of the Agreement, Textkernel can mention the cooperation with Company as a reference case in the market and can place Company's logo and a short summary of the cooperation on the Textkernel website(s).