



erecruit SOFTWARE LICENSE AGREEMENT

This Software License AGREEMENT (this "*Agreement*") is made at Mumbai on **this** day of **2010** between :

M/s

a company duly incorporated and registered under the laws of _____ and having its office at _____

(the "**Purchaser**", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include their respective executors, administrators, heirs and assigns) of the **FIRST PART**;

AND

WINDFALL ENTERPRISES, a firm duly incorporated and registered under the laws of **India**, and having its corporate office at 03 Kala Bhavan, 03 Mathew Road, Opera House, Mumbai 400005, India (the "**Seller**", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include it's executors, administrators, heirs and assigns) of the **SECOND PART**.

WHEREAS:

- A. The Seller has developed a web based software for automation of the Human Resources (HR) processes of corporate firms and for the processes of the recruitment and staffing industry called **erecruit** (the "**Software**") and are the sole owners of the same ;
- B. The Software **erecruit** is a web based software (www.erecruit.co.in ; www.erecruit.com.sg) and is licensed on a **SaaS** (Software as a Service) model. i.e. The Software is hosted on the internet and access to the same is granted to the Purchasers for a monthly fee ;
- C. The Purchaser is a company incorporated under the laws of **India / Singapore** and is engaged in the business of Human Resources (HR) recruitment ;
- D. The Purchaser is desirous of licensing the Software developed and owned by the Sellers
- E. Accordingly, the Sellers have agreed to license out, in reliance on, *inter alia*, the representations, warranties and undertakings set out in this Agreement, and the Purchaser has agreed to license the Software, on the terms set out in this Agreement.

NOW THEREFORE, in consideration of, and subject to, the mutual covenants, agreements, terms and conditions herein contained the Parties agree as follows :

1. Definitions

- a. Rules of Interpretation. While construing any term or provision in this Agreement:
- b. References to Recitals, Clauses, Appendices and Schedules are to the recitals and clauses of, and appendices and schedules to, this Agreement;
- c. Any reference to a statutory provision shall include such provisions and any regulations made in pursuance thereof as from time to time modified or re-enacted;





- d. Words denoting the singular in number only shall include the plural number and vice versa;
- e. Words denoting the masculine gender only shall include the feminine gender and vice versa;
- f. Headings in this Agreement are for convenient reference only and shall not be used to construe or interpret this Agreement;
- g. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

2. Limitation of Use

- a. The Seller grants to the Purchaser, a non-exclusive, non transferable license of their Software as per the terms and conditions set herein.
- b. The Software and the accompanying documentation is owned by the Seller solely and protected by copyright laws.
- c. The Purchaser may not copy the Software or the documentation. The Seller retains any and all rights, title interest and ownership of, in and to the Software, copies of the Software and the documentation. The Seller retains the right to modify and/or enhance the Software or documentation without obligation to notify the Purchaser of such changes or to furnish the changes to the Purchaser.
- d. The Purchaser may **not** loan, rent, lease or distribute the Software and /or documentation. The Purchaser may not assign or transfer this license, the Software, any copies of the Software, and/or the documentation. Any attempt to sublicense, assign, or transfer any of your rights, duties or obligations under this Agreement is disallowed.
- e. The Purchaser may **not** reverse engineer, decompile or disassemble the Software, and may not modify, translate, or create derivative works from the Software and/or documentation. The Purchaser agrees to protect the software and documentation from unauthorized publication, use, reproduction and/or distribution.
- f. The Software license may **not** be transferred to any other entity, sister concern, subsidiary etc. The Software will be for personal use of the Purchaser only and **not** be used by Franchisees or subsidiary concerns or third parties
- g. The Software license is granted on a limited basis. It is subject to the number of logins and the number of databases and sites, as defined in the "Final Configuration" clause. The Purchaser agrees **not** to use the license for a configuration in excess of what is agreed to. For any increase in configuration, the Purchaser agrees to recompense the Seller in advance, as per the terms set out in the "Price and Payment Terms" clause.
- h. The Software license **cannot** be reversed retrospectively. No refund of any kind is payable by the Seller to the Purchaser, for any reason whatsoever.
- i. The Software is hosted on the internet server in a time limited compiled form (as a dll or an exe) and may not be decompiled or tinkered with by the Purchaser.
- j. The Software is owned by the Seller, but the data generated or stored by the Software is solely owned by the Purchaser and the same shall be always available to him / her. The Seller has **no** rights over the said data at any time whatsoever.





3. Technical

The Software is hosted on the internet on the latest servers with adequate Hard Disk space, minimum 4GB RAM, and a high upload bandwidth.

- a. The server is hosted with a tier 1 ISP [currently Cybersite in Singapore and Net4India in Mumbai, India]
- b. The software runs on SQL 2008. Uptime of 99 % is guaranteed
- c. The software is tested and optimised for Internet Explorer (versions 7, 8). The users need to use the IE browser for an optimal environment.

4. Final Configuration

- a. **xxx** number of logins.
- b. **1 (One)** number database.
- c. **1 (One)** site. Logins may access the Software from any part of the world.
- d. Deployment / Installation and Training of one batch is included within the scope.
- e. Web forms are included in the scope of supply

5. Price and Payment Terms

- a. **S\$ XX,000** (Singapore Dollars XXX Thousand XX Hundred only) is payable in advance.
- b. The price for the Software is inclusive of all taxes and levies. The price includes the cost of setup and training to any one batch.

6. Upgrade Prices

- a. For every add on user in the future, beyond the original **xxx** # logins, a sum of **S\$ YYY** only per user is chargeable.
- b. For every *add on* site in the future – a charge of **S\$ 1500** is applicable.
- c. Web forms are an add on and are available for a one time lump sum cost of S\$ 1,500 (**Singapore Dollars One Thousand Five Hundred only**).
- d. In general, upgrades may be availed of by paying the difference in the price. The prices for upgrades can be got from the website [<http://www.erecruit.co.in/prices.html>]

7. Support / AMC

- a. Free hosting and support for **12 months** after installation / deployment is included within the above price.
- b. AMC after the free support of **12 months** is valued as per the number of users and capped to a maximum of **S\$ YYY** per annum. AMC is payable in advance.
- c. AMC entitles the user to free hosting for the period of the AMC and includes support for the same period. Support shall mean to include training, resolution of queries and assistance to users through msn / google talk or other IMs, phone, email or visits to the Purchaser's office in Mumbai as required.





8. Seller Warranties

- a. The Seller warrants that he has taken all efforts to make the Software robust and devoid of bugs and that he will remedy to the best of his ability any bug which is found subsequently.
- b. The Seller disclaims all other warranties, either expressed or implied, to the maximum extent of law. This includes, but is not limited to, warranties of merchantability and fitness for a particular purpose, with respect to the Software, the accompanying written materials (documentation) and any accompanying hardware.
- c. **No Liability for Consequential Damages :** In no event shall the Seller or its distributors be liable for any damages whatsoever (including, without limitation, damage or loss of business, business interruption, loss of business information, or any other pecuniary loss) arising out of use of the Software, even if the Seller has been advised of the possibility of such damages. In no event shall the Seller's liability, however founded, exceed the price paid by the Purchaser in the first place.

9. Purchaser Warranties

- a. The Purchaser warrants that he will not loan, rent, lease or distribute the Software and/or the accompanying documentation. The Purchaser further warrants that he will not assign or transfer this license, the Software, any copies of the Software, and/or the documentation to any third party or body corporate or individual.
- b. The Purchaser warrants that he will use this Software solely for his firm. He will not use this software for any franchisees and will not commercially exploit this software.
- c. The Purchaser warrants that he will not default on any payment and further warrants that he will not default on the payment terms. The Purchaser agrees that in the event of any such default, the Seller has the right to block access to the Software and / or terminate this agreement immediately and not further license the Software to the Purchaser. The Purchaser agrees that the Seller is not obliged to refund any part of the payments made by the Purchaser to the Seller for the license of the software, in the eventuality of such a default occurring.

10. Termination

- a. This Agreement may be terminated at any time by the Seller if the Purchaser defaults on any of his payments or payment terms, or the Purchaser violates any clause of this Agreement

11. Arbitration

- a. All disputes and/or differences arising in connection with this Agreement shall, to the extent possible, be settled amicably by prompt good faith negotiations between the representatives of the Parties. In default of such an amicable settlement within **sixty (60)** days of the commencement of discussions, such disputes and/or differences shall be referred to arbitration which shall be governed by the provisions of the Arbitration and Conciliation Act, 1996.
- b. The place of arbitration shall be **Mumbai** and the language of arbitration shall be **English**. The arbitrator's award shall be substantiated in writing. The arbitrators shall also decide on the costs of the arbitration procedure. The Parties hereto shall submit to the arbitrators' award and the same shall be enforceable in any competent court of law





12. Miscellaneous

- a. Severability. If any provision of this Agreement shall be waived or held invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.
- b. Assignment. The Purchasers shall not assign or transfer all or any of their respective rights or obligations under this Agreement.
- c. Cumulative Rights. The rights and remedies of the Parties contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.
- d. Governing Law. This Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the laws of India. Further, the Parties irrevocably agree that, subject to the clause on Arbitration above, the courts of **Mumbai, India** have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

[Execution page on the next sheet]





IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first herein above written.

SIGNED AND DELIVERED)
by the within named **SELLER**)
M/s Windfall Enterprises)
by the authorised signatory)
Mr. Dipesh Dholakia)
)
)

SIGNED AND DELIVERED)
by the within named **PURCHASER**)
M/s)
by the authorised signatory)
Mr.)
)
)

Witness :

Windfall Enterprises

Bank Name : Standard Chartered Bank (SCB)
Country, city : India, Mumbai
Our Account # : 22405261779
Swift Code : SCBLINBBXXX

Swift Code (SCB – New York) SCBLUS33XXX
ABA # of SCB New York 256
Chips UID (SCB India) 056826
SCB NY A/c# 3582088635001
FedWire SCB NY 026002561

