

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”), the terms of which are set forth in part II below, is made and entered into by and between Collabera, Inc. (“Respondent”), and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) (together, “the parties”).

I. BACKGROUND

WHEREAS, on April 17, 2019, IER notified Respondent that IER initiated an investigation of a charge that was filed in November 2018, identified as DJ # 197-48-725, and made complete on April 8, 2019 under 28 C.F.R. § 44.301. The charge alleged that Respondent had engaged in (1) an unfair documentary practice based on citizenship status by requesting more or different documents than legally required to establish employment eligibility, and (2) hiring discrimination based on citizenship status, in violation of 8 U.S.C. §§ 1324b(a)(1) and (6);

WHEREAS, IER’s April 17, 2019 notification letter informed Respondent that IER’s investigation of the charge could include investigation of other potential violations of § 1324b beyond those the charging party had alleged;

WHEREAS, IER notified Respondent by letter dated October 18, 2019, that it had initiated an independent investigation of Respondent under 8 U.S.C. § 1324b(d)(1), identified as DJ # 197-79-548, to determine whether Respondent discriminated in its hiring and/or referral processes, or committed unfair documentary practices, based on citizenship status, in violation of 8 U.S.C. §§ 1324b(a)(1) and/or (a)(6);

WHEREAS, on June 16, 2020, IER accepted as complete a charge filed by Charging Party [REDACTED] (“Charging Party”) against Collabera, Inc., identified as DJ # 197-82-169, alleging that Respondent requested his Permanent Resident Card for completion of the Form I-9 rather than allowing him a choice of documents, because of his citizenship status, in violation of 8 U.S.C. § 1324b(a)(6);

WHEREAS, IER concluded based upon its investigations of DJ # 197-48-725, DJ # 197-79-548, and DJ #197-82-169 (collectively “the Investigations”), that there is reasonable cause to believe that Respondent: (a) engaged in hiring discrimination against protected individuals during the job candidate screening process when its recruiters refused to forward and/or refer such individuals who held permanent work authorization, unless said protected individuals could provide an unexpired Department of Homeland Security-issued document, in violation of 8 U.S.C. § 1324b(a)(1); (b) engaged in unfair documentary practices based on citizenship status on 38 occasions between September 4, 2018 and March 31, 2019, when Collabera recruiters requested non-U.S. citizen candidates provide a specific document associated with the candidates’ immigration status (a Permanent Resident Card or Employment Authorization Document) during the applicant screening process for purposes of confirming their employment eligibility, in violation of 8 U.S.C. § 1324b(a)(6); and (c) requested a Permanent Resident Card from the Charging Party to complete the Form I-9 because of his status as a Lawful Permanent

Resident, rather than affording him a choice of acceptable documents, in violation of 8 U.S.C. § 1324b(a)(6);

WHEREAS, Respondent denies that it intentionally discriminated against any protected individual, including the charging party, on the basis of citizenship status or on the basis of any other protected status under 8 U.S.C. § 1324b;

WHEREAS, the parties wish to resolve this investigation without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained below, and to fully and finally resolve the Investigations as of the date of the latest signature below, the parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement becomes effective as of the date of the latest signature on the dually-signed Agreement (hereinafter, "Effective Date"). The "term of this Agreement" shall be two years following the Effective Date.
2. Respondent shall pay a civil penalty to the United States Treasury in the amount of \$53,000.00 (fifty-three thousand dollars).
3. The monies discussed in paragraph 2 shall be paid via the FedWire electronic fund transfer system within twenty (20) calendar days of Respondent's receipt of a fully signed copy of this Agreement and fund transfer instructions. Respondent shall send a confirmation of the payment to Silvia.Dominguez-Reese@usdoj.gov and Ramya.Sekaran2@usdoj.gov on the day the funds are transferred. The email confirming payment shall have Respondent's name and the investigation numbers, DJ #s 197-48-725, 197-79-548, and 198-82-169, in the subject line.
4. The provisions of paragraph 2 notwithstanding, IER shall not seek from Respondent any additional civil penalty for the violations of 8 U.S.C. § 1324b(a)(1) and (a)(6) that are the subject of these investigations through the Effective Date of this Agreement.
5. Within twenty (20) days of the Effective Date, Respondent shall send a check to [REDACTED] for \$35,475.92, representing lost wages and interest due as a result of the alleged discrimination, at the address IER provided. On the day of payment, Respondent shall notify IER at Silvia.Dominguez-Reese@usdoj.gov and Ramya.Sekaran2@usdoj.gov that payment was made and attach an image of the check.
6. Regarding the payment in paragraph 5, Respondent may withhold applicable taxes based on the rates of the current year and shall provide [REDACTED] with any applicable income tax reporting form. Respondent is separately responsible for paying any employer-side taxes or Social Security contributions or other payments due under applicable federal or state law based on the back pay payment.

7. In compliance with 8 U.S.C. § 1324b, Respondent shall not:
 - (a) Discriminate in hiring, or recruiting or referral for a fee, on the basis of citizenship, immigration status or national origin unless required by law, regulation, executive order, or government contract.
 - (b) selectively request documentation from Lawful Permanent Residents (LPRs) or aliens authorized to work (AAWs) during its candidate screening process, based on citizenship status, unless such requests are necessary to resolve uncertainty about whether an AAW will now or in the future require sponsorship or are necessary to comply with a law, regulation, executive order, or government contract.
 - (c) request more or different documents than are required by law for employment eligibility verification and shall permit all employees to present any document or combination of documents acceptable by law both at initial hire and during any lawful reverification of continued employment authorization.
 - (d) intimidate, threaten, coerce, or retaliate against any person for his or her participation in this matter or the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
8. Respondent shall post an English and Spanish version of IER's "If You Have The Right to Work" poster ("IER Poster"), in color and measuring no smaller than 8.5" by 11", an image of which is available at <https://www.justice.gov/crt/worker-information#poster>, in all places where notices to employees and job applicants are normally posted. The IER Poster will be posted within fourteen (14) days from the Effective Date and will remain posted for three (3) years thereafter.
9. Within seventy-five (75) days of the Effective Date of this Agreement, Respondent will review any existing training materials and employment policies that relate to candidate screening, hiring, employment eligibility verification and reverification, including completion of the Form I-9, and shall revise, or if necessary create, such policies and training materials to ensure that they:
 - (a) prohibit discrimination on the basis of citizenship, immigration status, and national origin (1) in candidate screening and shortlisting; (2) in the hiring and firing process; (3) during the Form I-9 employment eligibility verification and reverification process; and (4) in the E-Verify process, in compliance with 8 U.S.C. § 1324b;
 - (b) include citizenship, immigration status, and national origin as prohibited bases of discrimination;

- (c) eliminate any prohibition on the referral or hiring of candidates who provide receipts that constitute or extend valid work authorization documents, including but not limited to eliminating any prohibition on the referral or hiring of non-U.S. citizens who present I-797 receipts that extend their work authorization; and
- (d) prohibit any reprisal action against an employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in any lawful manner in any investigation or action under 8 U.S.C. § 1324b.

Respondent shall submit such policies to IER for review and approval within seventy-five (75) days of the Effective Date, and shall implement such policies within 15 days of IER's approval.

10. Within one hundred (100) days of the Effective Date, Respondent shall ensure that all recruiters, and other employees or parties who perform services for or on behalf of Respondent that include recruiting, advertising, hiring, onboarding, and/or running E-Verify cases, do the following:
 - (a) complete training on their obligation to comply with 8 U.S.C. § 1324b, consisting of viewing a free Employee/HR webinar presentation, either online or via an IER-provided recording. In addition:
 - i. all personnel will be paid their normal rate of pay during the training, and the training will occur during their normally scheduled workdays and work hours. Respondent shall bear all costs associated with these training sessions, not including IER's webinar platform or other related expenses.
 - ii. during the term of the Agreement, all new personnel involved in recruiting, advertising, hiring, the Form I-9, and E-Verify processes who begin their roles after the training described in this paragraph has been conducted shall view an IER Employer/HR webinar training within sixty (60) days of hire or promotion.
 - iii. respondent shall compile attendance records listing the individuals who attend the training described in this paragraph, including each individual's full name, job title, signature, and the date of the training, and send the record via email to Silvia.Dominguez-Reese@usdoj.gov and Ramya.Sekaran2@usdoj.gov (or any other individual(s) IER designates) within ten (10) days of each training session.

- (b) complete the training assessment tool (Attachment A) to confirm their understanding of the law related to employment eligibility verification, as described herein:
 - i. Respondent shall require personnel to answer the 16 multiple-choice assessment questions. In advance of the assessment, Respondent shall provide employees with the United States Citizenship and Immigration Services Handbook for Employers (M-274), Form I-9 Instructions, and Respondent's training materials.
 - ii. After administering the assessment, Respondent shall review and score each individual's responses to the assessment questions and keep a record of how many individuals answer each question correctly on the initial try.
 - iii. If any individual selects an incorrect response, Respondent shall, within seven days, inform the individual that the answer is incorrect; administer the question(s) again; require the individual to indicate where in the M-274, Form I-9 Instructions or Respondent's training materials the individual found the correct answer; and require the individual to quote or explain the source language that provides the correct answer. Respondent will re-administer the assessment tool questions until each individual submits a correct response to each question.
 - iv. Respondent shall provide to IER within one-hundred twenty (120) days of the Effective Date (a) the number of individuals who answered each question incorrectly on their initial attempt and on subsequent attempts, and (b) the number of individuals who selected each incorrect answer.

- 11. During the term of this Agreement, IER reserves the right to make such reasonable inquiries as it, in its discretion, believes necessary or appropriate to assess Respondent's compliance with this Agreement, including but not limited to, requiring written reports from Respondent concerning its compliance; inspecting Respondent's premises; interviewing Respondent's employees, officials or other persons; and requesting copies of Respondent's documents.
- 12. Every twelve (12) months during the term of this Agreement, starting within thirty (30) days of the Effective Date, Respondent shall send an email to all members of its recruiting and account management teams reminding them that workers may establish their employment eligibility through any documents deemed acceptable by the Lists of Acceptable Documents and that the law prohibits recruiters from requesting specific documents from non-U.S. citizens based on their citizenship status, including by requesting Permanent Resident Cards from lawful permanent residents or requesting

Employment Authorization Cards from aliens authorized to work. At least five (5) days before sending the initial email, Respondent shall provide a draft to IER for approval.

13. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)ii.
14. If IER has reason to believe that Respondent is in violation of any provision of this Agreement, IER may, in its sole discretion, notify Respondent of the purported violation rather than initiate a new investigation or seek to judicially enforce the Agreement. If IER has exercised its discretion to notify Respondent of the purported violation, Respondent shall have thirty (30) days from the date it is notified by IER of the purported violation(s) to cure the violation(s) to IER's satisfaction.
15. This Agreement does not affect the right of any individual to file a charge alleging an unfair immigration-related employment practice against Respondent with IER, IER's authority to investigate Respondent or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of Respondent's employment practices occurring after the Effective Date or outside the scope of this investigation.

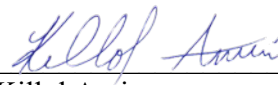
III. ADDITIONAL TERMS OF SETTLEMENT

16. This Agreement resolves any and all differences between the parties relating to investigations DJ #s 197-48-725, 197-79-548 and 197-82-169 through the Effective Date of this Agreement.
17. This Agreement sets forth the entire agreement between the parties and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both parties and shall not be construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of Settlement") are material terms, without waiver of either Parties' right to argue that other terms in the Agreement are material.
18. This Agreement may be enforced in the United States District Court for the District of New Jersey. This paragraph, or the initiation of a lawsuit to enforce the Agreement under this paragraph, including any counterclaims asserted, does not constitute and should not be construed as a waiver of sovereign immunity or any other defense the United States might have against a claim for enforcement.
19. The parties agree that, as of the Effective Date of this Agreement, litigation concerning the violations of 8 U.S.C. § 1324b that IER has reasonable cause to believe that Respondent committed is not reasonably foreseeable. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to this matter, the party is no longer required to maintain

such a litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.


20. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected and the term or provision shall be deemed not to be a part of this Agreement. The parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
21. The parties agree to bear their own costs, attorneys' fees and other expenses incurred in this action.
22. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. The parties agree to be bound by facsimile signatures.

Collabera, Inc.

By: 
Killol Amin
General Counsel for Collabera, Inc.

Dated: 12/17/2020

Immigrant and Employee Rights Section

By: 
Alberto Ruisanchez
Deputy Special Counsel

Dated: 1/13/21

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