

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is entered into by and between Cloud Peritus, 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 July 1, 2021, IER received a charge filed on behalf of [REDACTED] (“Charging Party”), DJ # 197-79-574 (“IER Charge”), alleging unfair documentary practices in violation of the unfair immigration-related employment practices provisions of 8 U.S.C. § 1324b (“Act”).

WHEREAS, the Immigrant and Employee Rights Section’s investigation of the IER Charge (the “IER Investigation”) determined that there is reasonable cause to believe Respondent, not understanding the requirements of its Form I-9 software, requested additional documentation from the Charging Party after he had presented sufficient proof of his permission to work, based on his status as a non-U.S. citizen, in violation of 8 U.S.C. § 1324b(a)(6).

WHEREAS, Cloud Peritus contends that its actions were not unlawful and that it did not engage in unfair documentary practices, and denies the findings of the IER investigation.

WHEREAS, the Parties wish to resolve the IER 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 instant investigation 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, which date is considered to be and referenced herein as the “Effective Date.” The “term of this Agreement” is two years following the Effective Date.
2. Respondent shall pay a civil penalty to the United States Treasury in the amount of \$1,756.
3. Respondent shall give IER the name, title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalties no later than the Effective Date. Respondent shall pay the monies discussed in paragraph 2 using the FedWire electronic fund transfer system within ten business days of receiving fund transfer instructions from IER. On the day Respondent makes the payment, Respondent shall send an email to Tamara Hoflejzer at Tamara.Hoflejzer@usdoj.gov (or any other individual IER designates) to confirm that payment was made. The email confirming payment shall have Respondent’s name and the investigation number, DJ # 197-79-574,

in the subject line.

4. This Agreement resolves any and all differences between the Parties with respect to the IER Investigation through the Effective Date. IER shall not seek from Respondent any additional civil penalty or relief on behalf of itself or the Charging Party, beyond that referenced in paragraph 2, for the alleged unfair documentary practice in violation of 8 U.S.C. § 1324b(a)(6) that is the subject of the IER Investigation through the Effective Date. Further, IER shall not commence any civil enforcement proceeding against Respondent with respect to the claims included in the IER Investigation through the Effective Date. Nothing in this paragraph prevents IER from seeking to enforce the terms of this Agreement.
5. In accordance with 8 U.S.C. § 1324b, Respondent shall not:
 - a. discriminate on the basis of citizenship, immigration status, or national origin in violation of 8 U.S.C. § 1324b.
 - b. discriminate in the employment eligibility verification and reverification process; Respondent shall (i) honor documentation that on its face reasonably appears to be genuine, relates to the person, and satisfies the requirements of 8 U.S.C. § 1324a(b); (ii) not request more or different documents than are required by law; and (iii) 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.
 - c. 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.
6. Respondent shall not disclose to any employer or prospective employer of the Charging Party any information or documentation related to the Charging Party's charge filed with IER.
7. Respondent shall post an English and Spanish version of the IER "If You Have The Right to Work" poster ("IER Poster"), in color and measuring no smaller than 8.5" x 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. Respondent shall post the IER Poster within 14 days from the Effective Date of this Agreement and it will remain posted for two years from the Effective Date.
8. Throughout the term of this Agreement, Respondent shall give a copy of the most current version of the Form I-9 Lists of Acceptable Documents ("Lists") to individuals at the same time and in the same manner as Respondent gives them with the Form I-9 to complete, and shall inform those individuals of their right to choose to present any documentation that is on the Lists or is otherwise acceptable for purposes of employment eligibility verification or reverification.

9. During the term of this Agreement, Respondent shall ensure that all individuals who are responsible for formulating, providing training on, or implementing Respondent's hiring, firing, equal employment, and employment eligibility verification policies, including all officers, managers and employees who have any role in the employment eligibility verification process, such as completing the Form I-9 and/or using the E-Verify program (collectively called "Human Resources Personnel"), have readily available the most current version of the Form I-9, USCIS Employment Eligibility Verification Handbook for Employers (M-274) ("Handbook"), available at www.uscis.gov/I-9, and the most current USCIS E-Verify Manual (M-775) ("Manual"), available at www.uscis.gov/USCIS/Verification/E-Verify/E-Verify_Native_Documents/manual-employer_comp.pdf. Copies of these documents and future revisions of the Form I-9, Handbook, and Manual can be obtained from the United States Citizenship and Immigration Services at www.uscis.gov.

10. Within 60 days of the Effective Date, Respondent shall review any existing employment policies and revise such policies, or develop and propose new policies, that relate to nondiscrimination in hiring and employment eligibility verification and reverification, including completing the Form I-9, and provide them to IER. IER shall review and approve such policies to ensure compliance with 8 U.S.C. § 1324b, and Respondent shall implement final revised policies within 15 days after IER's approval. These revised or new employment policies shall:
 - a. prohibit discrimination on the basis of citizenship or immigration status, and national origin (1) in the hiring and firing process; (2) during the Form I-9 employment eligibility verification and reverification process; and (3) in the E-Verify process, in accordance with 8 U.S.C. § 1324b;
 - b. include, as lawful and appropriate, citizenship, immigration status, and national origin as prohibited bases of discrimination; any similar Equal Employment Opportunity (EEO) statements that Respondent includes in printed or electronic materials available to the public or employees shall also include these prohibited bases of discrimination;
 - c. refer applicants and employees who complain, formally or informally, of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and reverification process immediately to the Immigrant and Employee Rights Section by directing the affected individual to the IER Poster and IER's worker hotline and website, and advise the affected individual of his or her right to file a charge of discrimination with the Immigrant and Employee Rights Section; 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 a lawful manner in any investigation or action under 8 U.S.C. § 1324b.

11. During the term of this Agreement, Respondent shall provide any revisions to employment policies relating to nondiscrimination on the basis of citizenship, immigration status, or national origin to IER for approval at least 30 days prior to the proposed effective date of such new or revised policies.
12. Within 90 days of the Effective Date, Respondent's Chief Executive Officer and all Human Resources Personnel shall participate in a training on 8 U.S.C. § 1324b, the appropriate use of E-Verify (if Respondent at any point during the term of this Agreement participates in E-Verify), and the employment eligibility verification and reverification process as it relates to discrimination on the basis of citizenship, immigration status, or national origin.
 - a. The training shall consist of viewing the IER Employer/HR Representative webinar presentation, and participants shall register at <https://www.justice.gov/crt/webinars>.
 - b. All Human Resources Personnel will be paid their normal rate of pay for their time spent during the training, and the training will occur during the normally scheduled workday and work hours. Respondent shall bear all costs associated with these training sessions.
 - c. During the term of this Agreement, all new Human Resources Personnel hired or promoted after the training described in this paragraph has been conducted, shall attend an IER Employer/HR webinar within 60 days of hire or promotion.
 - d. Respondent shall confirm attendance of each trainee at each training session via email to Tamara Hoflejzer at Tamara.Hoflejzer@usdoj.gov within 10 days of each training session. The emails transmitting attendance records shall have Respondent's name and the investigation number, DJ # 197-79-574, in the subject line.
13. Within 90 days of the Effective Date, all Human Resources Personnel and any authorized individuals who transmit Form I-9 information to E-Verify shall register for email updates from USCIS on the following topics by visiting <https://public.govdelivery.com/accounts/USDHSCISEVERIFY/subscriber/new>:
 - a. Federal Register Announcements;
 - b. E-Verify updates;
 - c. Temporary Protected Status; and
 - d. I-9 Central.
14. 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. At IER's discretion, Respondent shall provide such documents in Excel or .csv format unless the Parties agree otherwise.

15. If IER has reason to believe that Respondent is in violation of any provision of this Agreement during the term of this Agreement, IER may, in its sole discretion, notify Respondent of the purported violation without opening an investigation. Upon such notification, Respondent shall have 15 days to provide an explanation regarding the purported violation. If Respondent's explanation does not satisfy IER's concern, Respondent will have 30 days from the date of IER's notification of dissatisfaction with Respondent's explanation to cure the purported violation to IER's satisfaction before IER deems Respondent to be in violation of this Agreement.
16. Every four months during the term of this Agreement, starting within 60 days of the Effective Date, Respondent shall provide IER with all Forms I-9 where Respondent completed Section 2 or Section 3 within the previous four-month period.
17. 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. Respondent shall, at IER's discretion, provide data field from such documents in Excel spreadsheet format unless requested otherwise.
18. This Agreement does not affect the right of any individual to file a charge under the Act alleging an unfair immigration-related employment practice against Respondent, 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 of the scope of the IER Investigation.

III. ADDITIONAL TERMS OF SETTLEMENT

19. 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 IER Investigation. 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 Party's right to argue that other terms in the Agreement are material.
20. The United States District Court for the Eastern District of Virginia shall be the preferred venue for enforcement of any claims over which that court has subject matter jurisdiction. Otherwise, a party must bring any claim or counterclaim to enforce the agreement in a court of competent jurisdiction. This provision does not constitute a waiver of sovereign immunity or any other defense the United States might have against a claim for enforcement or counterclaims asserted against it.
21. In accordance with rules and precedent determining the standard for implementing or maintaining a litigation hold, the Parties agree that, as of the Effective Date, litigation

concerning the alleged violation of 8 U.S.C. § 1324b that are the subject of the IER Investigation is not reasonably foreseeable. To the extent that any 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.

22. 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 invalid term or provision shall be deemed not to be a part of this Agreement. The Parties will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement invalid.
23. The Parties shall bear their own costs, attorneys' fees and other expenses incurred in this investigation.
24. 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 shall be bound by facsimile signatures.

Cloud Peritus

By:



Eswar Lingam
Chief Executive Officer

Dated: May 6th, 2022

Immigrant and Employee Rights Section

By:



Alberto Ruisanchez
Deputy Special Counsel

Dated: 5-9-2022

Jodi Danis
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Tamara Hoflejzer
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