

# **Terms of Service for Australian, New Zealand and Asia-Pacific Users**

## **- Humanforce Talent (formerly LiveHire)**

These Terms of Service were last modified on: 7 May 2020

## Our agreement with you

These Terms of Service are very important and constitute a legally binding agreement between you, the User, and us, Humanforce Talent (formerly Humanforce Talent (formerly LiveHire) ) Ltd (ABN 59 153 266 605) (**Humanforce Talent (formerly LiveHire)** ) of Level 10, 461 Bourke Street, Melbourne, Victoria 3000, Australia (**Agreement**), so please take a few minutes to read them. Amongst other things, this Agreement explains:

- how you can use or terminate our Services and your use of the Platform;
- how your content is used and protected, including privacy and copyright protection;
- how we can change, suspend or terminate your access to, and use of, the Services and the Platform;
- the warranties and disclaimers that apply; and
- the limitations of, and exclusions to, our obligations and liability to you.

You understand that by signing up to, or logging into, the Platform, or using the Services provided through the Platform, you are agreeing to be legally bound by this Agreement. If you do not accept this Agreement in its entirety, then you may not access or use the Platform. If you agree to this Agreement on behalf of any Person, you represent and warrant that you have the authority to bind that Person to this Agreement and that your agreement to these terms will be treated as the agreement of that Person. In that event, “you” and “your” will refer and apply to that Person.

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## Using our Services

### Identity

All User identity information associated with an Account must be real and verifiable. Only the Person specified during the process of registering an Account may use that Account, and no User may have more than one Account. We may validate User information at any time by any reasonable means, including validating any part of the personal information contained in a Member’s profile, curriculum vitae and/or any background checks completed by a Service Provider or Humanforce Talent (formerly LiveHire). Failure to provide identity verification when reasonably requested may result in suspension of your Account or restricted access.

The Platform and the Services are not for use by anyone under the Minimum Age. By using the Platform or the Services, you represent, acknowledge and agree that you are at least

the Minimum Age. If you are not at least the Minimum Age, you may not use the Platform or the Services at any time or in any manner or submit any information to us or the Platform.

### **Security**

You must ensure and maintain the secrecy and security of any username and password that you enter or we provide to you in connection with the Platform. You must not disclose the username or password to any third party. You will need to change your password regularly by following the relevant instructions. We will be entitled to treat any use of, or action taken through the use of, such password on the Platform as being made or authorised by you. You must not allow any third party to perform any action, including posting jobs or making a Connection, under or through your Account, and you remain entirely responsible for any and all activities that occur on the Platform or otherwise under your login name. You agree to immediately notify us if you become aware of any unauthorised use of your Account, your login name or any other breach of security known to you. You must not misuse our Services. For example, you must not interfere with our Services or try to access them using a method other than using the Platform and following the instructions and restrictions that we provide. You may use our Services only as permitted by law, including applicable export and re-export control laws and regulations. You must not use the Services to advertise work or services that are illegal or would infringe or violate the rights of a third party. You must not enter into this Agreement or use the Platform or Services if you are: (a) a citizen of, or reside in, a country in which doing so is prohibited by law, decree, regulation, treaty or any other administrative act; (b) a citizen or resident of, or located in, a country or region that is subject to Australian sanction laws (which include Australian autonomous sanctions and United National Security Council sanctions) or New Zealand sanctions (if any); or (c) an individual or an individual employed by or associated with an entity identified on the Australian Department of Foreign Affairs and Trade Consolidated List or otherwise ineligible to receive items subject to Australian and/or New Zealand export control laws and regulations.

### **SMS / Text Messaging**

By enabling SMS/text notifications you are electing to receive messages about opportunities from your connected Talent Communities, at the phone number you provided. We may also contact you via SMS as part of an identity verification process. If you elect not to receive SMS / Text Notifications, we will contact you by email only.

For help regarding SMS / Text Messaging, contact [support@livehire.com](mailto:support@livehire.com). To unsubscribe from SMS notifications at any time, reply 'STOP', or access your Humanforce Talent (formerly LiveHire) profile to manage your communication preferences. Message and data rates may apply. Message frequency varies.

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## Rules of interpretation

Capitalised terms in this Agreement have the meaning set out in the "Definitions" section of this Agreement. In addition, the following rules of interpretation also apply to this Agreement:

- words like "us", "we", "our", "LiveHire", "LiveHire.com" "Humanforce Talent" refer to Humanforce Talent (formerly LiveHire) Ltd (ABN 59 153 266 605);
  - words like "you" and "your" refer to the Person entering into this Agreement with us;
  - "including" means "including, but not limited to";
  - the singular includes the plural, and vice versa; and
  - headings are for ease of reference only and should otherwise be ignored.
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## Privacy

Our [Privacy Policy](#) explains how we treat your personal data and protect your privacy when you use our Services or the Platform. If you are an EU/ UK individual, please note that when you create an Account with us, we will process your information as described in our [Privacy Policy](#). You consent to our collection, use, disclosure and storage of your Personal Information as set out in that Privacy Policy. In connection with your use of the Services, we may send you service announcements, administrative messages, and other information. You may opt out of some of those communications by following the unsubscribe process outlined in your 'Profile Settings' page. For any question in regards to your data and privacy you can [contact us](#) directly.

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## Intellectual Property

The Platform and Services (including all associated Intellectual Property) are the sole property of Humanforce Talent (formerly LiveHire) and/or each Service Provider (as applicable) unless otherwise indicated. Using our Services or the Platform does not give

you an interest in, ownership of or any rights (including Intellectual Property) in the Platform, the Services or any content you may access. You may not use content from our Services or the Platform unless you obtain permission from its owner or are otherwise permitted by law. This Agreement does not grant you any right or licence to use any branding or logos used in our Services or the Platform. You must not remove, obscure, or alter any legal notices displayed in or along with our Services or the Platform. You may not copy, modify, reproduce, distribute, sell, or lease any part of our Platform or the Services or any included software or Intellectual Property, nor may you reverse engineer or attempt to extract the source code of that software, unless you have our written permission or (and only to the extent) any applicable laws actually prohibit such restrictions. Some of our Services allow you to submit content. You retain ownership of any Intellectual Property that you hold in that content. You are liable for any content you upload, transmit or otherwise submit to or communicate via the Services or the Platform. If we receive any notice of alleged infringement of Intellectual Property by you, then we will respond as we see fit, which may include removing the relevant content from the Platform and/or suspending or terminating the provision of Services to you. When you upload or otherwise submit content via the Services or the Platform, you give Humanforce Talent (formerly LiveHire), our Clients and Service Providers a non-exclusive, transferable, sub-licensable, royalty-free, perpetual, worldwide licence to use, host, store, reproduce, modify, create derivative works (such as those resulting from translations, adaptations, variations or other changes we make so that your content works better with the Services and the Platform), communicate, commercialise, analyse, publish, publicly perform, publicly display and/or distribute, in any way now known or in the future developed, such content. In some of our Services, there are terms or settings that narrow the scope of our use of the content submitted in those Services. Some Services may offer you ways to access and remove content that has been provided to the Platform. However, content may continue to exist on our systems where: (a) immediate deletion is not possible due to technical limitations; (b) your content has been used by Clients and/or Service Providers and they have not deleted it; or (c) where deletion would restrict our ability to: (i) investigate illegal activity or breaches of this Agreement; (ii) to comply with our legal obligations; or (iii) to comply with a request from a law enforcement, judicial or administrative authority or a government agency. We may also use content in accordance with the licence in de-identified form, including statistical information which is aggregated and anonymised. In each of these cases, this licence will continue even if you stop using our Services. It is your responsibility to ensure you have all necessary rights to grant us this licence for any

content that you submit to our Platform or in the use of our Services. You agree not to infringe or violate any third party Intellectual Property rights in connection with, and remain liable for, any content or information you may make available on or through, your use of the Platform and the Services. If you submit feedback or suggestions about our Services or the Platform, we may use your feedback or suggestions without obligation to you.

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## **Our Fees**

### **Fees for Users**

No charges are payable by a User for their use of the Platform. Where you are a Client any charges for the Services will be governed by our commercial agreement with the Client.

### **Billing and Payments**

If any fees apply to your use of the Platform or Services you must pay Humanforce Talent (formerly LiveHire) any applicable fees at the time those amounts are due and payable using agreed payment method(s).

### **Taxes**

You will be liable to pay any foreign, federal and/or state taxes as may be applicable to you or your business in connection with your access to, or use or receipt of, the Services or the Platform.

### **Interest**

If we are required to collect overdue fees from you, you must pay all costs (including legal fees), if any, incurred by us in collecting those overdue fees from you.

### **Coupons**

Any voucher, coupon, discount or any other offer used to pay for or reduce any fees can only be used once. Where there isn't an expiry identified on a voucher, coupon, discount or any other offer, and where permitted by law, it is valid for only 30 days from the date of the offer or notice date.

### **Mobile**

We may charge Users for our mobile services, but in any event please be aware that your carrier's normal rates and fees, such as text messaging and data fees, will also apply. Where you are a Client any mobile charges will be governed by our commercial

agreement with the Client. In the event you change or deactivate your mobile telephone number, you must update your account information on the Platform within 48 hours to ensure that any messages or notifications are not sent to any person who may acquire your old number. You authorise other Users to sync (including through an application) their contact list information onto their mobile devices, which may include the transfer of your basic information visible to them on the Platform, as well as your name and profile picture if this is public.

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## General User Obligations

You must provide a consistent and high level of courtesy, respect and professionalism toward each other User. You must use good judgement when posting information, comments, feedback, or other content regarding us, other Users, or any other third party anywhere within the Platform. Any content that you submit via the Platform must not be Unacceptable Content, must be in English and must not contain any information enabling or requesting contact or payment outside the Platform. You must take your own precautions (including antivirus software) to ensure that your access to the Platform and Services does not expose you to viruses or other code that is harmful or may assist in causing harm.

### Misleading conduct

You agree that it is a condition on your use of the Platform and the Services that you will not mislead or deceive others or engage in any conduct which is misleading or deceptive (or likely to mislead or deceive), malicious, or discriminatory, including by any act or omission.

### Safety

We do our best to keep the Platform safe, however we cannot guarantee safety. You agree to help us keep the Platform safe and agree that you will not, on or through the Platform or in connection with the Services:

- engage in unlawful conduct, including in any multi-level marketing such as a pyramid scheme, or post unauthorised commercial communications (such as spam);
- upload viruses or other malicious code or content;
- solicit login information or access an Account belonging to someone else;
- upload any Unacceptable Content, or otherwise bully, intimidate, or harass any User or any other person;

- do anything that could disable, overburden or impair the proper working or appearance of the Platform, such as a denial of service attack or interference with page rendering or other Platform functionality; or
- facilitate or encourage any of the above or any other violations of this Agreement or our policies set out on our Website.

You must not create any “links” to any part of the Platform, or “frame” or “mirror” any content contained in, or accessible through, the Platform, on any server or internet-based device without our prior written consent. Other than as provided by the Platform or Services, you may not use any data mining, screen scraping or similar software or other data gathering, analysis or extraction tools or processes on the Website, except with our prior written consent.

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## Agency Recruiters

If you are an Agency Recruiter, you understand that by using the Platform you represent and warrant that:

- you have the consent of candidates to enter their Personal Information into the Platform and your general notes;
- you have notified candidates that their Personal Information will be entered into the Platform;
- you have provided candidates with a privacy collection statement in accordance with:
  - for candidates in Australia (and any other country other than New Zealand), the Privacy Act 1988 (Cth) covering the matters in Australian Privacy Principle 5.2; and
  - for candidates in New Zealand, the Privacy Act 1993 covering the matters in New Zealand Information Privacy Principle 3(1),

prior to entering their Personal Information into the Platform or at a minimum:

*You consent to your personal information being collected, used and disclosed by [Agency Recruiter], its clients and their service providers (including Humanforce Talent (formerly LiveHire) Ltd (<https://www.humanforce.com/privacy-policy/>)) for recruitment and talent pooling purposes and to receiving electronic communications in relation to this. Our Privacy Policy further explains how your personal information is collected, used*



*and disclosed, how to access, correct or complain about the handling of personal information and how to contact us.*

- the information you enter into the Platform is not fraudulent, false, misleading or deceptive, or likely to mislead or deceive, and you will not mislead or deceive others or engage in any conduct which is misleading, malicious, or discriminatory, including by any act or omission;
- you will assist Humanforce Talent (formerly LiveHire), as required, to resolve any candidate complaints in relation to the handling of their Personal Information and any actual or suspected breaches of the Australian Privacy Act 1988 (Cth) or the New Zealand Privacy Act 1993;
- you will reimburse Humanforce Talent (formerly LiveHire) for Humanforce Talent (formerly LiveHire) reasonable costs arising from resolving any significant complaints or actual or suspected data breaches in relation to the handling of candidate Personal Information; and
- you comply with the Australian Privacy Act 1988 (Cth) and the New Zealand Privacy Act 1993 and all other laws relating to privacy and the protection of candidate Personal Information.

You acknowledge that:

- we will treat the Personal Information of your employees entered into the Platform (which may include their name, contact email and phone number) in line with our Privacy Policy; and
- under these Terms of Service, Agency Recruiters constitute Users of the Platform which means the provisions of these Terms of Service apply to Agency Recruiters.

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## **Suspension and Cancellation of Accounts**

### **Suspension or cancellation by us for cause**

Without limiting any other remedies available to us, we may suspend or cancel your Account at any time by notice to you if:

- you breach this Agreement or otherwise violate our rights or those of another User;
- we are unable to verify or authenticate any information you provide to us; or
- we reasonably believe that your actions might cause a legal liability to any other User or us.

Also, if you engage in any action or activity that circumvents the Platform or this Agreement in such a way as to avoid or reduce fees that would otherwise be payable to us, then you will be liable to us for the difference and we may suspend or cancel your Account.

#### **Cancellation by us without cause**

In addition to the above rights of suspension and cancellation, we may by notice to you cancel your Account at any time, at our sole discretion.

#### **Cancellation by you without cause**

You can cancel your Account at any time by notice to us, although we'll be sorry to see you go. If you created or have been using your Account in connection with your role with a Client or Service Provider, the cancellation of your Account will not automatically result in the cancellation or termination of any agreement between us and that Client or Service Provider, which will instead be governed by the terms of that agreement and applicable law.

#### **Consequences of suspension or cancellation**

If we suspend or cancel your Account, or you cancel your Account, then (without limiting any other rights we may have):

- you must not continue to use or access the Platform or any Service, including under a different Account, or re-register under a new Account;
- to the extent permitted by law, no amount paid in advance by you will be refundable;
- we may obtain payment of any outstanding amount (or that becomes payable) through any payment methods available to us in connection with your suspended or cancelled Account or any other Account that you register; and
- we may refuse to provide an Account to you in the future.

All of your and our accrued rights, and the provisions of this Agreement that by their nature are intended to survive termination or expiry of this Agreement (including the section above titled "Intellectual Property" and the sections below titled "Warranties and Disclaimers" and "Limitations of Liability") will survive any termination or expiry of this Agreement.

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## Our Role

You agree that:

- any information or content made available by us on the Platform or via the Services is intended to provide general information only in summary form, including in relation to legal or other issues;
- we are not a party to any Employment Contract;
- a Member is not an employee of ours and that we do not, in any way, provide, supervise, direct, or control any Member's work or services;
- a Client is not affiliated with us and we do not, in any way, manage, supervise, direct, or control any Client or the employment or work conditions of any Client;
- to the extent permitted by law, we will not have any liability or obligations under or related to any Employment Contract between a Member and a Client or any acts or omissions by any Member;
- we have no control over any Member or Client or over the work, services or opportunities promised or rendered by any Member or Client, as applicable;
- we make no representations and give no warranties in connection with any Member or Client, including as to the reliability, capability, or qualifications of any Member or the quality, security or legality of any work or services provided by any Member or Client, and to the extent permitted by law expressly exclude any liability in connection therewith;
- we give no guarantee to any party of the continued availability of any particular Member or any job or vacancy and will not be liable to you should a Member or Client not accept or be available to accept a Connection or employment offer; and
- in no event will we be liable to you or anyone else for any decision made or action taken by you or anyone else in reliance upon any information contained on or omitted from the Platform.

We do not endorse or recommend any User or any job, business or other employment or relevant opportunities available through or advertised on the Platform, and strongly recommend you obtain independent legal, accounting, financial and taxation advice as appropriate prior to entering into any Employment Contract or other agreement with any person. It is solely your responsibility to evaluate the accuracy, completeness and usefulness of all services, opinions, advice, merchandise and/or other information provided or available through the Platform or in connection with the Services, and on the internet generally. The Platform may contain links to internet sites maintained or

controlled by third parties. You acknowledge and agree that: (a) we are not responsible for the contents of any such sites (including the accuracy, legality or decency of any information) or any link contained on such sites; (b) such link does not imply any endorsement by us; (c) we are not responsible for the legality or Intellectual Property compliance of any such site; and (d) we will not be liable for any damages or loss arising in any way out of, in connection with or incidental to any information or third party service provided by any third party. While we take all reasonable due care in ensuring the privacy and integrity of information you provide to us, the possibility always exists that this information could be unlawfully accessed or observed by third parties while in transit over the internet or while stored on our system. To the greatest extent possible pursuant to law, we expressly disclaim any liability to you should this occur.

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## Warranties and Disclaimers

We provide our Services using a reasonable level of skill and care and we hope that you will enjoy using them. But there are certain things that we don't promise about our Services. You must not rely on the Platform, any information in it, or its continuation. To the extent permitted by law, and other than as expressly set out in this Agreement, Humanforce Talent (formerly LiveHire), each Service Provider and, to the extent applicable, each Client:

- provide the Platform and all information and Services on an “as is” and “as available” basis;
- disclaim any and all implied warranties, representations, conditions and guarantees, including any warranties, representations, conditions and guarantees of merchantability, fitness for a particular purpose, title, accuracy of data, and non-infringement; and
- exclude any warranties, representations, conditions and guarantees about the Platform or Services, including about the content within the Platform or the Services, the specific functions of the Platform or the Services, or their reliability, availability or ability to meet your needs, the safety or security of the Platform or the Services or regarding the delivery of any messages (such as emails, in-mails, SMS, social media, posting of answers or transmission of any other User generated content) sent through the Platform or the Services to anyone.

If you are dissatisfied or harmed by us or anything related to us, then you may cancel your Account and terminate this Agreement in accordance with the section above titled “Suspension and Cancellation of Accounts” and, to the extent permitted by law, such cancellation and termination will be your sole and exclusive remedy. In no event shall you seek or be entitled to rescission, injunctive or other equitable relief, or to enjoin or restrain the operation of the Platform or the Services, exploitation of any advertising or other materials issued in connection therewith, or exploitation of the Platform or the Services or any content or other material used or displayed through the Platform or Services. We do not have any obligation to verify the identity of the persons subscribing to our Services or the Platform, nor do we have any obligation to monitor the use of our Services or the Platform by other Users of the community. To the extent permitted by law, we exclude any warranty or representation that the Services and Platform will function without interruption or errors. You acknowledge that the Services and Platform may be interrupted, or subject to errors, due to maintenance, updates, or system or network failures or other causes. To the extent permitted by law, we disclaim all liability for any Losses as may be caused by or in connection with any such interruption or errors in functioning. To the extent permitted by law, we expressly exclude any liability for any remarks, information or other content posted or made available on the Platform or via the Services, including by any User or third party, even if it may not be Unacceptable Content. Other than as required by law, we do not have, and expressly exclude any liability for, any obligation to monitor content on the Platform or submitted via the Services for Unacceptable Content. We will remove or restrict access to any information or content posted or made available on the Platform or via the Services where required by law or if ordered to do so by a court. Otherwise, we may remove or restrict access to any such information or content if we consider such information or content to be Unacceptable Content, but we have no obligation to do so.

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## Limitations of Liability

To the extent permitted by law, other than as expressly provided below, neither we nor any Service Provider will be responsible to you or any other Person in connection with any lost profits, revenues, or data, financial losses or indirect, special, consequential, exemplary, or punitive loss or damages relating to or in connection with your use of the Platform or the Services. To the extent permitted by law, neither we nor any Service Provider shall be cumulatively liable for: (a) any Losses in excess of five times the most recent (as at the date such liability to you accrued) monthly fees that you paid for the Services, if any; or

(b) AUD\$100, whichever amount is greater. You agree that this limitation of liability is part of the basis of the bargain between the parties and without it the terms and prices charged would be different. This limitation of liability shall:

- apply regardless of whether: (i) you base your claim on contract, tort, statute or any other legal theory; (ii) we knew or should have known about the possibility of such damages; or (iii) the limited remedies provided in this section fail their essential purpose;
- not apply to any damage that we may cause you intentionally or knowingly in violation of this Agreement or applicable law, or as otherwise mandated by applicable law that cannot be disclaimed from in this Agreement; and
- not apply if you have entered into a non-standard agreement to purchase Services with a separate Limitation of Liability provision that expressly supersedes this section in relation to those Services.

We recognise that in some countries, you might have legal rights as a consumer. To the extent permitted by law, any liability of ours in connection with the Services or Platform under any statutory right (including any condition or warranty implied by law or any guarantee or other right under any statute) that by law cannot be excluded is, where permitted by law, limited at our option to the resupply of the relevant services or the payment of the cost of same.

Without limiting the foregoing, if you reside in New Zealand and are in “trade” as defined in the Fair Trading Act 1986, you agree that for the purposes of section 5D of the Fair Trading Act 1986 and section 43 of the Consumer Guarantees Act 1993:

- the Platform and the Services are being supplied and acquired in trade;
- the parties to these Terms of Service are all in trade;
- sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 and the provisions of the Consumer Guarantees Act 1993 do not apply to these Terms of Service or to any matters, information, representations or circumstances covered by these Terms of Service; and
- it is fair and reasonable that the parties are bound by this provision.

In Australia, if you are a “consumer” as defined in the Australian Consumer Law, our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the services, you are entitled to cancel your service contract with us and to a refund for the unused portion of the agreement, or to compensation for its reduced value. You are also entitled to be compensated for any other reasonably

foreseeable loss or damage. If the failure does not amount to a major failure, you are entitled to have problems with the services rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

In New Zealand, if you are a “consumer” as defined in the Consumer Guarantees Act 1993, our services come with guarantees that cannot be excluded under that Act. For failures with the services that cannot be remedied or if the failure is of a substantial character, you can cancel your service contract with us and are entitled to a refund for the unused portion of the agreement, or to compensation for the service contract’s reduced value. You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure with the service can be remedied, you are entitled to have the problems with the services rectified in a reasonable time and, if this is not done, to either have the failure remedied elsewhere and recover from us the reasonable costs incurred in having the failure remedied, or cancel your contract and obtain a refund for the unused portion of the contract.

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## General

### Language

Where we have provided you with a translation of the English language version of this Agreement and/or any other documentation, you agree that the translation is provided for your convenience only and that the English language versions of this Agreement and any other documentation will govern your relationship with us.

### Notices

Each User must provide and maintain a valid Address on the Platform. You consent to the use of: (a) electronic signatures or other electronic means to complete this Agreement and any other agreements to be entered into between you and Humanforce Talent (formerly LiveHire); (b) electronic means to deliver any notices and provide any disclosures pursuant to this Agreement; and (c) electronic records to store information related to this Agreement or your use of the Platform. Notices will be invalid unless made in writing and given: (i) by us, via email to the relevant Address that you provide and maintain on the Platform; (ii) by us, by posting on the Website; or (iii) by you, via email to [contactus@humanforce.com](mailto:contactus@humanforce.com). An email will be taken to have been served at the time of sending, unless within 24 hours of it being sent the sender receives a manual or automated response indicating that it was not delivered successfully.

## **Amendments to the Services or this Agreement**

We are constantly changing and improving our Services. From time to time we may modify functionalities or features, and we may suspend or stop a Service altogether. We reserve the right to modify this Agreement and/or any policy set out on our Website applicable to your use of the Platform or the Services (including the Privacy Policy) in our discretion from time to time, including to reflect changes to the law or changes to our Services. Modifications to this Agreement will be notified to you and/or posted on the Website. It is your duty to stay up to date regularly with changes to this Agreement and our Privacy Policy. You agree that the provision of an updated version of this Agreement (or any relevant part of it) will be sufficient notification of any modification, without the need to specifically identify the modification. Modifications will not apply retroactively and will become effective on the date specified which will be no sooner than 7 days after they are posted or notified (whichever is earlier). If you do not agree to the modified Agreement, you must cancel your Account and terminate this Agreement. By logging into the Platform after we have posted any modifications on the Website or provided a notice to you, you accept and agree to be bound by the Agreement as modified. Except only as permitted above, no modification or amendment to this Agreement will be binding upon either party unless in a written instrument signed by a duly authorised representative of each party.

## **Dates and Timelines**

All references to days shall be to calendar days, except as expressly noted otherwise.

## **No Waiver**

The failure or delay of either party to exercise or enforce any right or claim does not constitute a waiver of such right or claim and shall in no way affect that party's right to later enforce or exercise it, unless such party issues an express written waiver, signed by a duly authorised representative of each party.

## **Assignability**

You may not assign this Agreement, or any of your rights or obligations under it, without our prior written consent. We may freely assign this Agreement without your consent.

## **No Third-Party Beneficiary Rights**

Except to the extent that this Agreement purports to confer a right on any Service Provider (which we hold in trust for that Service Provider), this Agreement shall: (a) create rights and obligations only between us and each User; and (b) not create any rights for any



other Person. For the avoidance of doubt, no User will be entitled to enforce the terms of this Agreement as they apply between us and another User.

### **Severability**

If and to the extent any provision of this Agreement is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof shall be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable to the extent of its illegality, invalidity, or unenforceability, and shall be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity, or unenforceability of such provision in that jurisdiction shall not in any way affect the legality, validity, or enforceability of such provision in any other jurisdiction or of any other provision in any jurisdiction.

### **Applicable law**

The courts in some countries will not apply the laws of Victoria, Australia to some types of disputes. If you reside in a country where the laws of Victoria, Australia are excluded from applying or if you reside in New Zealand, then your country's laws will apply to such disputes related to this Agreement. Otherwise, you agree that the laws of Victoria, Australia, excluding its choice of law rules, will apply to any disputes arising out of or relating to this Agreement or the Services. Similarly, if the courts in your country will not permit you to consent to the jurisdiction and venue of the courts in Melbourne, Victoria, Australia, then your local jurisdiction and venue will apply to such disputes related to this Agreement. Otherwise, all claims arising out of or relating to this Agreement or the Services will be litigated exclusively in the federal or state courts of Melbourne, Victoria, Australia or if you reside in New Zealand, and you and we consent to the jurisdiction of those courts.

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## **Definitions**

In this Agreement the following phrases have the following meanings:

**Account** means the User's account in the Platform.

**Address** means, in respect of a User, each of the User's email address and postal address (where the User can usually be contacted) registered for that User's Account.

**Agency Recruiter** means a recruitment agency that has been engaged as an external service provider to a Client and invited to submit candidates for consideration for roles via the Platform.

**Client** means an entity, organisation or individual which has a commercial arrangement with us which permits them to use our Services and/or Platform, primarily to search for, contact or otherwise engage with Members for recruitment and talent pooling purposes.

**Connection** (also **Talent Community Connection**) means an agreement between a Member and a Client to be connected for potential employment opportunities and related communication. It can arise in a number of ways, for example through a Member choosing to join a Client's Talent Community, applying for a job, or accepting a contact request or invitation sent from a Client.

**Employment Contract** means any contract between a Member and an employer, whether as an employee, independent contractor or otherwise.

**Intellectual Property** means any and all intellectual property rights (whether statutory, common law or otherwise), including all rights in inventions, patents, patent applications, utility models, copyright (including future copyright), trademarks, logos and design marks, service marks, trade names, business names, brand names, designs, know how, trade secrets and rights in confidential information, domain names, other names and locators associated with the world wide web, internet addresses, semiconductor or circuit layout rights, and all and any other intellectual property rights, whether registered or unregistered, and including all applications and rights to apply for any of the same.

**Losses** means all claims, legal proceedings, judgements, adjudications, damages, liabilities, losses (including losses of revenue), costs, and expenses (including reasonable lawyers' fees and all related costs and expenses on a solicitor and own client basis).

**Member** means a User who registers with the Platform as a candidate and uses the Platform and/or the Services primarily to search for, contact or otherwise engage with Clients or other Users for their own purposes.

**Minimum Age** means 16 years old. However, if applicable law requires that you must be older in order for you to legally enter into this Agreement or for LiveHire to lawfully give you access to the Platform and to provide the Services to you without parental consent (including using your Personal Information) then the Minimum Age is such older age.

**Person** means any individual, candidate, company, partnership, joint venture or other legal entity or entities.

**Personal Information** in Australia as the meaning in the Australian Privacy Act 1988 (Cth) as amended and, in New Zealand has the meaning in the New Zealand Privacy Act 1993 as amended.

**Platform** means the Website and all associated software, apps, files, emails, SMS, pictures, data, hardware, technology, business systems and processes and other resources.

**Service Providers** include a range of parties to whom we outsource certain functions of our business for our back-office, IT, professional support services (such as partners, service providers, contractors, suppliers, distributors and agents, including IT and web support contractors, cloud service providers, finance agencies, marketing partners and analysis companies).

**Services** means any products, goods or services that we or any Client or Service Provider provide to or for you, whether or not via the Platform.

**Unacceptable Content** means any content that we determine:

- is racist, hateful, violent, defamatory, harassing, abusive, threatening, malicious, inflammatory or otherwise objectionable;
- is pornographic, sexually explicit, obscene or excessively profane;
- is unlawful or encourages unlawful conduct;
- is fraudulent, false, misleading or deceptive or likely to mislead or deceive;
- infringes or violates, or encourages the infringement or violation of, any Person's rights, including Intellectual Property, confidentiality, security or privacy rights;
- amounts to commercial advertising of any other website, product or service; or
- contains any link to any website that includes any of the above types of content.

**User** means a Person whose name is specified during an online registration process to create an Account on the Platform in the name of that Person, whether that Person then uses the Platform as, or on behalf of, a Client or Service Provider, as a Member, or on some other basis.

**Website** means the website(s) located at [www.humanforce.com](http://www.humanforce.com), [www.humanforce.com.au](http://www.humanforce.com.au), our Blog and all other related domains and subdomains.