

# **Talent Community – General Terms and Conditions for Australian and NZ Clients - Humanforce Talent (formerly LiveHire)**

These General Terms and Conditions are effective on and from:

18 April 2019

**Welcome to Humanforce Talent (formerly LiveHire)'s Talent Community!** These Talent Community – General Terms and Conditions (**General Terms and Conditions**) apply to parties who use and access the Humanforce Talent (formerly LiveHire) 'Talent Community'. These General Terms and Conditions are additional to, and supplement, our Website Terms of Service, as they apply to the Platform, from time to time.

## **Our agreement with you**

These General Terms and Conditions are very important, as together with the **Specific Terms and Conditions** as may be agreed between the parties from time to time in connection with the Solution, they constitute a legally binding agreement between the company specified in the Specific Terms and Conditions (**Company, you**), being the user of the Solution, and us, Humanforce Talent (formerly LiveHire) Ltd (ABN 59 153 266 605) (**Humanforce Talent (formerly LiveHire), us**) of Level 10, 461 Bourke Street, Melbourne, Victoria 3000. These General Terms and Conditions and the Specific Terms and Conditions, together, form the **Talent Community Agreement** between you and us.

## **1. BACKGROUND**

- 1.1. Humanforce Talent (formerly LiveHire) is a cloud-based technology, data and talent community solutions provider, which operates the Platform, being an online recruitment platform 'Humanforce Talent (formerly LiveHire)' as made available through www.Humanforce Talent (formerly LiveHire).com and any associated URL.
- 1.2. In connection with the Platform, Humanforce Talent (formerly LiveHire) offers the Solution, being a live talent marketplace solution and talent community software application which facilitates interaction between users of the Solution and their current, historical and prospective employees, applicants, network members, partners and other individuals.
- 1.3. The Company wishes to access the Solution and has engaged Humanforce Talent (formerly LiveHire) to provide the Solution in accordance with the provisions of the Talent Community Agreement. The terms and conditions in the Talent Community Agreement and the Website Terms of Service govern the provision of the Solution to the Company by Humanforce Talent (formerly LiveHire).

## **2. INTERPRETATION**

- 2.1. The following definitions apply in the Talent Community Agreement:  
**Agreement Date** means, with respect to the Company, the agreement date

specified in the most recent Specific Terms and Conditions (and for the avoidance of doubt is not the commencement date of the Company's Talent Community).

**Authorised Users** has the meaning in clause 8.1.

**Applicant** means, with respect to a Company, job applicants who have applied for a position with the Company, or individuals the Company has identified that it would like to apply for a position with the Company through the Platform.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Melbourne, Victoria, Australia.

**Company** means the company specified in the Specific Terms and Conditions or any client of Humanforce Talent (formerly LiveHire) (as the case requires).

**Company Data** means, with respect to a Company, data that is entered into the Solution or Platform by or on behalf of the Company or its Authorised Users, where that data is specific to the Company's Talent Community, excluding Member Data and Humanforce Talent (formerly LiveHire) Data. Company Data includes communications between the Company, its Authorised Users and Members, details of job applications and interviews of the Member with the Company and any documentation and notes attached to the Member's profile by the Company or its Authorised Users in relation to the Member (e.g. interview and feedback notes, assessment results, ratings, highlights, actions), temporary profiles, closed applications via Seek and any information contained in the sections currently titled "activity" and "applications" appended to a Member's profile in the Company's Talent Community.

**Confidential Information** means all information (whether or not it is described as confidential) in any form or medium concerning any past, present or future business, operations or affairs of either party, including:

- a) all technical or non-technical data, formulae, patterns, programs, devices, methods, techniques, plans, drawings, models and processes, source and object code, software and computer records;
- b) all business and marketing plans and projections, details of agreements, pricing and pricing changes, and arrangements with third parties, and Company and supplier information and lists;
- c) all financial information, pricing schedules and structures, product margins, remuneration details and investment outlays;

- d) all information concerning any employee, Company, contractor, supplier or agent of the relevant party;
- e) the party's policies and procedures;
- f) all information contained in the Talent Community Agreement;
- g) with respect to a Company, all information in the Solution regarding the Company and its Talent Community including the Company Data; and
- h) with respect to Humanforce Talent (formerly LiveHire), all information and knowledge of the Solution and Humanforce Talent (formerly LiveHire)'s business, pricing and other clients,

but excludes information that the other party can establish:

- i. is known by or is in the other party's possession or control other than through a breach of the Talent Community Agreement and is not subject to any obligation of confidence; or
- ii. is in the public domain other than by a breach of the Talent Community Agreement or any obligations of confidence.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Data Breach** means any actual or suspected:

- a) misuse of, or damage to, Personal Information;
- b) accidental or unauthorised access to, disclosure, processing or destruction of, any Personal Information; or
- c) loss of any Personal Information,

contained in Company Data or Member Data within the Company's Talent Community and includes any data breach (or substantially similar term) as defined by the Privacy Act in relation to such Personal Information.

**Employee** means, with respect to a Company, an employee of the Company.

**Fees and Charges** means the fees and charges as set out in the Specific Terms and Conditions.

**Force Majeure** means an event or cause beyond the reasonable control of the party claiming force majeure. It includes each of the following, to the extent it is beyond the reasonable control of that party:

- a) act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, adverse weather conditions;
- b) act of public enemy, war (declared or undeclared), terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic;

- c) the effect of any change in applicable laws, orders, rules or regulations of any government or other competent authority; and
- d) embargo, inability to obtain necessary materials, equipment or facilities, or power or water shortage.

**GDPR** means the General Data Protection Regulation (EU) 2016/679 and the UK Data Protection Act 2018.

**GDPR Addendum** means, if applicable in accordance with clause 12.6, the specific set of data processing terms and conditions applicable to Humanforce Talent (formerly LiveHire)'s processing of personal data to which the GDPR applies (including any EU or UK individual's personal data forming part of Member Data), as provided to you by Humanforce Talent (formerly LiveHire) in connection with the Talent Community Agreement.

**General Terms and Conditions** means these 'Talent Community – General Terms and Conditions' as published on the Humanforce Talent (formerly LiveHire) website as updated from time to time.

**GST** has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Insolvency Event** means in relation to a party, where that party, except for the purposes of solvent reconstruction, merger, demerger, shareholders' scheme of arrangement or amalgamation, experiences any of the following:

- a) execution or distress being levied against any income or assets of the party;
- b) a resolution is passed or an order is made for the winding up of that party;
- c) the appointment to the party of a controller or administrator as defined in section 9 of the Corporations Act 2001 (Cth);
- d) the party entering into any type of agreement, composition or arrangement with, or assignment for the benefit of, all or any class of its creditors;
- e) the party being made subject to a deed of company arrangement;
- f) a step being taken to have a receiver, receiver and manager, liquidator or provisional liquidator appointed to the party or any of its assets or undertaking;  
or
- g) the party ceasing, or indicating that it is about to cease, carrying on business.

**Intellectual Property Rights** means all and any patents, trade marks, service marks, trade names, domain names, registered designs, unregistered design rights, copyright, know how, trade secrets and rights in confidential information, URLs 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.

**Humanforce Talent (formerly LiveHire) Data** means non-personal information in the Solution or Platform, including de-identified profiles, metadata, usage data, history of views and cookies, but does not include Company Data or Member Data.

**Losses** means all claims, legal proceedings, suits, actions, judgments, adjudications, damages, liabilities, losses (including loss of revenue), demands, fines imposed by a regulator, costs, and expenses (including attorneys' fees and all related costs and expenses on a full indemnity basis).

**Member** means Employees, Applicants, past and prospective employees and applicants of the Company and other people with a connection to the Company who are part of the Company's Talent Community.

**Member Data** means, with respect to a Talent Community Member, data entered into or confirmed within the Solution or Platform by or on behalf of the Member, and otherwise specific to, that Member, including the Member's profile summary, photography, name, contact details, latest curriculum vitae and attachments and data derived from this document, nationality, citizenship, right to work, gender, age, notice period, availability, job searching status, preferences for salary, contract, hours and location, work history, education and qualifications, skills, achievements and awards, languages, references and referees, social links, specialities, connections and other information about the Member.

**Personal Information** means Personal Information as defined under the Privacy Act 1988 (Cth).

**Platform** means the online recruitment platform known as 'Humanforce Talent (formerly LiveHire)' as made available through [www.Humanforce Talent \(formerly LiveHire\).com](http://www.HumanforceTalent.com) and any associated URL.

**Privacy Act** means the Privacy Act 1988 (Cth).

**Privacy Policy** means Humanforce Talent (formerly LiveHire)'s privacy policy available on [www.Humanforce Talent \(formerly LiveHire\).com](http://www.HumanforceTalent.com), and as amended from time to time.

**Security Statement** means the Security Statement applicable to the Platform and the Solution as published on the Humanforce Talent (formerly LiveHire) website at

www.Humanforce Talent (formerly LiveHire).com/security and amended from time to time.

**Service Level Agreement** means the Service Level Agreement applicable to the Solution as published on Humanforce Talent (formerly LiveHire) website at www.Humanforce Talent (formerly LiveHire).com/service-level-agreement or otherwise notified to the Company from time to time.

**Solution** means the live talent marketplace and Talent Community software application provided in connection with the Platform which facilitates interaction between the Company, the Company's Talent Community Members and other individuals.

**Specific Terms and Conditions** means, with respect to a Company, the most recent document entitled 'Talent Community – Specific Terms and Conditions' between the Company and Humanforce Talent (formerly LiveHire), which together with these General Terms and Conditions constitute the relevant Talent Community Agreement with respect to the Company from time to time.

**Talent Community** means the marketplace that forms when the Company connects with Members via the Solution.

**Tax Invoice** has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Term** means the subscription term stated in the most recent Specific Terms and Conditions (or if no term is stated, the period of 12 months commencing on the Agreement Date), which term shall automatically renew for additional periods of 12 months (unless otherwise stated in the Specific Terms and Conditions) on the same terms as exist at the expiration of each subscription term (subject to any changes to Fees & Charges notified to the Company under clause 13.6), unless terminated in accordance with the Talent Community Agreement.

**Website Terms of Service** means the terms of service applicable to users of the Platform and available at www.Humanforce Talent (formerly LiveHire).com/terms-of-service.

2.2. Headings are only for convenience and do not affect interpretation. The following rules apply unless the context requires otherwise:

- a) The singular includes the plural and the opposite also applies.

- b) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- c) A reference to a clause refers to clauses in these General Terms and Conditions.
- d) A reference to legislation is to that legislation as amended, re enacted or replaced, and includes any subordinate legislation issued under it.
- e) Mentioning anything after “includes”, “including”, or similar expressions, does not limit anything else that might be included.
- f) A reference to a “party” to the Talent Community Agreement or another Talent Community Agreement or document includes that party’s successors and permitted substitutes and assigns (and, where applicable, the party’s legal personal representatives).
- g) A reference to a “person”, “corporation”, “trust”, “partnership”, “unincorporated body” or other entity includes any of them.
- h) A reference to “information” includes information of any kind in any form or medium, whether formal or informal, written or unwritten, including computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.
- i) A reference to “dollars” or “\$” is to an amount in Australian currency.

### **3. USE OF THE SOLUTION**

- 3.1. The Talent Community Agreement applies to use of and access to the Solution.
- 3.2. Where the Company does not accept the terms and conditions of the Talent Community Agreement, the Company must immediately cease using the Solution.
- 3.3. Subject to clause 5.9, these General Terms and Conditions may be updated by Humanforce Talent (formerly LiveHire) at its absolute discretion from time to time, and unless stated otherwise by Humanforce Talent (formerly LiveHire) in writing, such updates shall come into effect for use of the Solution at the commencement of the Term following the update(s).

### **4. AGREEMENT**

- 4.1. By using the Solution, the Company acknowledges and agrees to:
  - a) the terms and conditions of the Talent Community Agreement;
  - b) any manual or instructions with regards to the Solution;
  - c) the Website Terms of Service; and



- d) the policies of Humanforce Talent (formerly LiveHire) applicable to the Solution as notified in writing by Humanforce Talent (formerly LiveHire) from time to time, including any client support policy.

4.2. The Company agrees that:

- a) it will comply with the Website Terms of Service applicable to the Platform from time to time, and that any breach of any those terms by the Company or its Authorised Users shall also constitute a breach of the Talent Community Agreement;
- b) any relationship between Humanforce Talent (formerly LiveHire) and any Talent Community Member will be governed by the terms and conditions applicable to the Platform from time to time, including the Website Terms of Service;
- c) registration by each Talent Community Member with the Company's Talent Community will constitute registration with the Platform by that Talent Community Member; and
- d) once a Talent Community Member registers with the Platform, they may use the Platform for purposes other than the Company's Talent Community and Humanforce Talent (formerly LiveHire) may contact them for the purposes set out in Humanforce Talent (formerly LiveHire)'s Privacy Policy.

## **5. SOLUTION AND ADDITIONAL SERVICES**

- 5.1. The Company wishes to access the Solution and Humanforce Talent (formerly LiveHire) agrees to grant the Company access to the Solution on the terms of the Talent Community Agreement.
- 5.2. The Solution will be made available via the Platform (including as may be accessible through smart phones, tablet computers and other internet-enabled devices), to facilitate the following outcomes for the Company and its Talent Community Members, as applicable:
  - a) Talent Community engagement: digitising the process of Talent Community Member registration and engagement with the Company and inviting potential Talent Community Members to participate in the Talent Community;
  - b) Talent Community database management: management, coordination, export, report and administration of the Talent Community database;
  - c) Communications: digitising day-to-day activities, communications and workflows for the Company's business and amongst Talent Community Members. Providing email, SMS and messaging services to enable the

- Company and Talent Community Members to communicate effectively with each other via the Platform; and
- d) Analytics: reporting and analytics with respect to the use of the Solution by the Talent Community Members and/or the Company.
- 5.3. The Solution is only accessible to the Company for the Term, and subject always to the Company's compliance with the terms of the Talent Community Agreement.
- 5.4. The Solution may be available in various modules, packages and combinations, which the Company may upgrade, downgrade or otherwise access or subscribe separately or together from time to time as indicated by Humanforce Talent (formerly LiveHire) in its absolute discretion.
- 5.5. The Company agrees and accepts that the Solution is:
- a) hosted by Humanforce Talent (formerly LiveHire) and shall only be installed, accessed and maintained by the Company, accessed using the internet or other connection to Humanforce Talent (formerly LiveHire)'s servers and is not available 'locally' from the Company's systems; and
  - b) managed and supported exclusively by Humanforce Talent (formerly LiveHire) from Humanforce Talent (formerly LiveHire) servers and that no 'back-end' access to the Solution is available to the Company unless expressly agreed in writing.
- 5.6. The Company must:
- a) only access the Solution for its own specific business purposes and must not allow anyone other than Authorised Users to access the Solution without the prior written consent of Humanforce Talent (formerly LiveHire); and
  - b) use all reasonable endeavours to ensure that all information entered into the Solution by or on behalf of the Company is accurate and will take all reasonable steps to ensure that no incorrect, untruthful or fraudulent information is entered into the Solution.
- 5.7. The Solution and all features of Humanforce Talent (formerly LiveHire)'s subscriptions are subject to change, development and discontinuation and Humanforce Talent (formerly LiveHire) reserves the right to upgrade, maintain, tune, backup, amend, add or remove features, redesign, improve or otherwise alter the Solution and the Platform in its absolute discretion at any time.
- 5.8. Humanforce Talent (formerly LiveHire) shall not exercise its rights under clause 5.7 in a manner that it knows or would reasonably suspect would cause the Company

to lose access to Company Data, other than in accordance with the terms of the Talent Community Agreement.

- 5.9. Humanforce Talent (formerly LiveHire) will notify the Company in writing of any changes to these General Terms and Conditions, the Solution or the Company's subscriptions that, in the reasonable opinion of Humanforce Talent (formerly LiveHire), could result in a material detriment to the Company, at least thirty days prior to the change taking effect. The Company's sole option is to terminate the Talent Community Agreement during this thirty day notice period if it does not approve of the change.
- 5.10. In connection with the Solution, Humanforce Talent (formerly LiveHire) may provide the Company a branded unique URL with specific campaign codes to allow for reporting and conversion tracking purposes that can be used to proactively build the Company's Talent Community and to manage the estimated churn and growth within the business' employee base.
- 5.11. The Solution will be made available in a commercially reasonable manner in accordance with the Service Level Agreement.
- 5.12. Where the Company requires additional services in relation to the Solution, the parties will prepare an addendum which will set out:
  - a) the specifications for the additional services;
  - b) an outline of a project plan for the additional services;
  - c) the resources and facilities to be committed by the parties;
  - d) details relating to the ownership of the Intellectual Property Rights in the additional services, if the rights will not be owned by Humanforce Talent (formerly LiveHire); and
  - e) the fees and costs, if any, of the required additional services.
- 5.13. Upon execution of the agreed addendum (**Addendum**) in relation to agreed additional services (**Additional Services**):
  - a) the Talent Community Agreement will apply to the Additional Services unless, and then only to the extent, stated otherwise in the Addendum; and
  - b) Humanforce Talent (formerly LiveHire) must perform the Additional Services in accordance with the Talent Community Agreement and the Addendum.

## 6. LICENCE

- 6.1. By accepting the terms and conditions of the Talent Community Agreement, the Company is granted a limited, non-exclusive, and revocable license to access the

Solution for the Term, in accordance with, and subject to, the terms and conditions of the Talent Community Agreement.

6.2. Humanforce Talent (formerly LiveHire) may suspend the Company's access to the Solution if:

- a) Humanforce Talent (formerly LiveHire) considers that the Solution or Platform is under attack or may otherwise be damaged; or
- b) there has been a material breach of the Talent Community Agreement or the Website Terms of Service by the Company or its Authorised Users,

provided that Humanforce Talent (formerly LiveHire) notifies the Company of the suspension as soon as practicable and the suspension continues for no longer than the event giving rise to Humanforce Talent (formerly LiveHire)'s right to suspend the Solution.

6.3. Humanforce Talent (formerly LiveHire) warrants that it has the right to grant the licence to the Company to use the Solution and the Platform in accordance with the Talent Community Agreement and that neither the Solution nor the Platform infringes the Intellectual Property Rights of any third party.

## **7. USE**

7.1. The Company agrees and warrants that:

- a) it shall only use the Solution for legal purposes and shall not use it to engage in any conduct that is unlawful, discriminatory, immoral, threatening or, abusive or in a way that Humanforce Talent (formerly LiveHire) (acting reasonably) notifies the Company is unreasonable;
- b) it will use best endeavours to ensure that all the information it provides to Humanforce Talent (formerly LiveHire) and/or in connection with the Solution will be complete, accurate and not misleading;
- c) it or its Authorised Users own or have a licence or permission to use and transfer to Humanforce Talent (formerly LiveHire) all Company Data, Member Data and other information provided to Humanforce Talent (formerly LiveHire) under or in connection with the Talent Community Agreement (including all Intellectual Property rights therein) and that no such data or other information infringes the Intellectual Property rights of any third party; and
- d) it has obtained the consent of individuals to disclose their personal information to its service providers (including Humanforce Talent (formerly LiveHire)) for recruitment, talent pooling and employment related purposes and they have

consented to receive electronic communications (including SMS and email) related to these purposes.

- 7.2. If the Company has any queries in relation to use or access to the Solution, the Company must contact Humanforce Talent (formerly LiveHire) in the manner advised by Humanforce Talent (formerly LiveHire) from time to time.
- 7.3. Where the Company or its Authorised Users have provided Humanforce Talent (formerly LiveHire) with an individual's contact details (verbally or in writing, including by the provision of a business card to our employees), the Company agrees that Humanforce Talent (formerly LiveHire) may contact the individual from time to time in relation to the Platform, Solution or products and services offered by Humanforce Talent (formerly LiveHire) or its business partners:
  - a) via phone, email, text message, push notifications and other electronic media, unless the recipient explicitly requests Humanforce Talent (formerly LiveHire) not to contact them via these media; and
  - b) via any of these methods without including an unsubscribe facility, to the extent permitted by law.

## **8. AUTHORISED USERS**

- 8.1. The Company shall authorise users to access the Solution for internal recruitment, talent pooling and employment related purposes in its absolute discretion, including related bodies corporate, subsidiaries, affiliates, recruitment service providers, employees, contractors and agents (Authorised Users). Humanforce Talent (formerly LiveHire) accepts no liability in respect of access to, or use of, Company Data by Authorised Users, or the use of an Authorised Users' login details. The Company must not allow any other person or company or business to access the Solution for any other purpose.
- 8.2. The Company is solely responsible for the security of its usernames and passwords for access to the Solution including restricting access due to change of the Company's staff.
- 8.3. The Company is responsible for ensuring that Authorised Users comply with the Talent Community Agreement and any policies applicable to the Solution, as notified by Humanforce Talent (formerly LiveHire) to the Company from time to time.
- 8.4. A breach of the Talent Community Agreement by any Authorised Users will be considered a breach by the Company.

## **9. TALENT COMMUNITY MEMBERS**

9.1. Each Talent Community Member:

- a) will be uniquely identifiable by their email address or unique identifier; and
- b) must accept an invitation from the Company via the Platform or Solution to register as part of the Company's Talent Community (which may be a public invitation (such as one which is open to anyone through the Company's website) or an invitation specific to that person) before becoming a Member.

9.2. Unless a Talent Community Member:

- a) is registered independently as a user of the Platform or Solution;
- b) is independently invited to another client's talent community; or
- c) has otherwise elected to receive such invitations,

that Talent Community Member will, for so long as they remain registered as part of the Company's Talent Community, not be permitted to receive any invitation(s) from other prospective employers via the Platform.

## **10. COMPANY DATA**

10.1. Humanforce Talent (formerly LiveHire) acknowledges that the Company Data and all Intellectual Property Rights in the Company Data remain owned by the Company and is Confidential Information.

10.2. The Company is responsible for the accuracy, quality and legality of Company Data and the Company's acquisition of it, and the users that create, access and/or use Company Data. Humanforce Talent (formerly LiveHire) accepts no liability for the content of Company Data, except to the extent that Humanforce Talent (formerly LiveHire) has modified or manipulated the Company Data in a manner that renders it inaccurate.

10.3. In consideration for Humanforce Talent (formerly LiveHire) granting the Company the right to use the Platform and Solution and the other services Humanforce Talent (formerly LiveHire) provides, the Company grants Humanforce Talent (formerly LiveHire) a non-exclusive, limited, royalty-free licence to access and use the Company Data (including any Intellectual Property Rights therein) in accordance with the Talent Community Agreement for the purpose of providing the Platform and the Solution to the Company for the Term.

10.4. Humanforce Talent (formerly LiveHire) may access, use, modify or otherwise deal with Company Data for the purposes of providing the Solution, the Platform and related services and otherwise as required by law or with the Company's implied or express authority (such as to provide support for the Solution).

- 10.5. Notwithstanding the termination of the licence in clause 10.3 at the end of the Term, the Company grants Humanforce Talent (formerly LiveHire) a royalty-free, perpetual licence during and after the Term to aggregate and use anonymous Company Data from the Company's use of the Solution for its own purposes, including reporting and marketing, provided that the Talent Community, the Company, its Authorised Users and Members are not referenced or reasonably identifiable and only in accordance with all applicable law. The Company accepts no liability or responsibility or otherwise for Humanforce Talent (formerly LiveHire)'s use of such data.
- 10.6. Humanforce Talent (formerly LiveHire) gives no warranty as to the accuracy of any analytical data and reserves the right to remove any analytical data at any time without notice.
- 10.7. Humanforce Talent (formerly LiveHire) shall perform backups of its entire system, including Company Data, in as reasonable manner and at such times and intervals as is reasonable for its business purposes, as further set out in the Security Statement.
- 10.8. Humanforce Talent (formerly LiveHire) does not warrant that it is able to backup or recover specific Company Data from any period of time following termination or expiry of the Talent Community Agreement.
- 10.9. Humanforce Talent (formerly LiveHire) shall be liable for any loss of or corruption to Company Data arising due to its wilful or negligent acts or omissions, including any failure to comply with its data backup obligations.
- 10.10. Upon request during the Term and on expiry or termination of the Talent Community Agreement, Humanforce Talent (formerly LiveHire) agrees it will act reasonably, promptly and in good faith in relation to any request by the Company to extract Company Data from the Solution and shall provide this to the Company within 30 days, in a format agreed by the parties.
- 10.11. The Company may request Humanforce Talent (formerly LiveHire) to export core Member Data (excluding attached documents and images and application history) from the Solution and provided the Company has the consent of the Member to do so and they have not requested that Humanforce Talent (formerly LiveHire) discontinue sharing that information by deactivating their connection with the Company, Humanforce Talent (formerly LiveHire) will export this to the Company upon 30 days written notice.

10.12. Humanforce Talent (formerly LiveHire) reserves the right to charge the Company for any reasonable expenses incurred in exporting such data and will provide the Company with a quote in advance with supporting evidence for the costs that must be accepted by the Company in writing prior to Humanforce Talent (formerly LiveHire) carrying out the export. Humanforce Talent (formerly LiveHire)'s reasonable expenses for a standard single export request for a Company are up to \$5,000 (plus GST).

10.13. By accepting the terms of the Talent Community Agreement the Company agrees that Humanforce Talent (formerly LiveHire) shall provide access to the Solution to the best of its abilities, however it accepts no responsibility for ongoing, uninterrupted or fault-free access to the Solution for any reason whatsoever.

## 11. MEMBER DATA

11.1. Humanforce Talent (formerly LiveHire) accepts no liability for the content of Member Data.

11.2. The Company acknowledges that the relevant Talent Community Member, subject to the Website Terms of Service, owns Member Data.

11.3. In consideration for Humanforce Talent (formerly LiveHire) granting the Company the right to use the Platform and Solution and the other services Humanforce Talent (formerly LiveHire) provides, the Company grants Humanforce Talent (formerly LiveHire) a limited, non-exclusive, royalty-free licence to access and use any Member Data it provides to Humanforce Talent (formerly LiveHire) (including any Intellectual Property Rights therein) for the Term for purposes related to Humanforce Talent (formerly LiveHire)'s business, the Platform or the Solution.

11.4. Humanforce Talent (formerly LiveHire) grants the Company a limited and non-exclusive licence to use the Member Data it accesses in the Solution (including any Intellectual Property Rights therein) solely for the recruitment, talent pooling and employment related purposes of the Company and its Authorised Users in accordance with the Talent Community Agreement and subject to the rights of the relevant Talent Community Member, for such period that the Member has consented to be connected to the Company via the Solution or until they otherwise withdraw their consent to Humanforce Talent (formerly LiveHire) or the Company holding or using their Personal Information (e.g. by requesting deletion of their profile on the Platform).

11.5. Notwithstanding the export of Member Data under clause 10.11, the Company acknowledges that any usage of the Member Data that goes beyond the Term or



scope of the licence in clause 11.4 is entirely at the Company's risk and Humanforce Talent (formerly LiveHire) will not be liable for any Losses arising as a result of this, including Losses arising from an alleged failure to comply with the Privacy Act.

## **12. PRIVACY AND SECURITY**

12.1. To the extent any Company Data or Member Data contains Personal Information, including as a result of re-identification, Humanforce Talent (formerly LiveHire) must comply with its Privacy Policy, the Privacy Act and all applicable laws and regulations relating to data privacy or to the collection, use, disclosure or handling of Personal Information, any recommendations, directives or orders made or issued under such legislation, as amended from time to time, and any codes of conduct or practice by which Humanforce Talent (formerly LiveHire) is bound.

12.2. To the extent any Company Data or Member Data contains Personal Information, including as a result of re-identification, the Company must:

- a) comply with the Privacy Act and any other law that applies to it that relates to privacy or to the collection, use, disclosure or handling of Personal Information, any recommendations, directives or orders made or issued under such legislation as amended from time to time, and any codes of conduct or practice by which the Company is bound;
- b) use, access, retain and disclose the Personal Information only for internal purposes related to recruitment, talent pooling and employment;
- c) not, through act or omission, do anything that would cause Humanforce Talent (formerly LiveHire) to fail to comply with the Privacy Act;
- d) co-operate with Humanforce Talent (formerly LiveHire), and comply with any requests or directions from Humanforce Talent (formerly LiveHire), in relation to individual access, correction, deletion and marketing opt-out requests;
- e) notify Humanforce Talent (formerly LiveHire) immediately upon becoming aware of:
  - i. a breach or possible breach of any of its obligations under this clause 12; or
  - ii. a complaint or request made by an individual in relation to Personal Information; and
- f) protect all Personal Information from misuse, interference, loss or unauthorised access, modification or disclosure; and

g) provide Personal Information Collection Statements to all individuals with profiles (including temporary profiles) in the Company's Talent Community and obtain consent for all of the purposes for which the Company uses the Personal Information, including disclosure to Humanforce Talent (formerly LiveHire) for current and future recruitment purposes.

12.3. The Company agrees to comply with any reasonable data privacy and security policies and standards of Humanforce Talent (formerly LiveHire) that are applicable to the Company's use of the Solution and the Platform and that may be communicated to the Company in writing.

12.4. The Company must meet the requirements of the Privacy Act, including by implementing a privacy policy and Personal Information collection statements disclosing how the Company handles Personal Information in connection with the Company's Talent Community and use of the Platform and the Solution.

12.5. The Company agrees that:

- a) it shall not do anything to prejudice the security of Humanforce Talent (formerly LiveHire)'s systems or the information on them; and
- b) Humanforce Talent (formerly LiveHire) is in no way liable for any breach of its systems that results in unauthorised access to or corruption of Company Data introduced by viruses, hack patches, crawlers, robots etc, except where this is the direct result of Humanforce Talent (formerly LiveHire)'s wilful or negligent acts or omissions, including its failure to comply with this clause 12.

12.6. If the Company is based in and/or targets individuals based in or resident in the EU or UK the GDPR Addendum will apply to and form part of the Talent Community Agreement. The Company agrees that, unless otherwise agreed by the parties in writing, the Platform is intended for use in the Australian recruitment market only and that Humanforce Talent (formerly LiveHire) does not accept any liability if the Company uses the Platform other than intended, in breach of this clause 12.6.

12.7. Humanforce Talent (formerly LiveHire) will take reasonable steps to protect Personal Information contained in the Company Data and Member Data from misuse, interference and loss and unauthorised access, modification or disclosure.

12.8. Humanforce Talent (formerly LiveHire) must ensure the Solution at all times complies with the Security Statement.

12.9. Humanforce Talent (formerly LiveHire) must maintain an up-to-date Business Continuity Plan and Data Breach Response Plan.

- 12.10. Humanforce Talent (formerly LiveHire) will provide at least 2 months' notice to the Company prior to procuring hosting services outside of Australia. The Company will have a one-off right to terminate the Talent Community Agreement during that time if the Company is not satisfied with location of the hosting services.
- 12.11. Where Humanforce Talent (formerly LiveHire) proposes to transfer (or give access) to Company Data containing Personal Information to a new third party located outside of Australia, it must obtain contractual commitments to comply with the Privacy Act or a substantially similar law or regime, such as the GDPR. Humanforce Talent (formerly LiveHire) will notify the Company if it wishes to proceed with a third party located outside of Australia where it has not been able to obtain these contractual commitments and the Company's sole option will be to terminate the Talent Community Agreement and this right will be available for thirty days only following Humanforce Talent (formerly LiveHire)'s notification.
- 12.12. In the event that there are reasonable grounds to believe there may have been a Data Breach impacting the Company's Talent Community, the Company must as soon as possible, and in any event within 48 hours notify Humanforce Talent (formerly LiveHire) of the Data Breach, providing complete disclosure of all relevant details.
- 12.13. If a Data Breach occurs, the Company:
- a) must fully cooperate with Humanforce Talent (formerly LiveHire) in efforts to investigate and remediate the situation and prevent serious harm being caused to individuals using the Platform or Solution and each party shall bear its own costs of the remediation work;
  - b) agrees that Humanforce Talent (formerly LiveHire) has absolute discretion and is solely responsible for:
    - i. assessing whether individuals utilising the Platform or Solution could suffer serious harm;
    - ii. determining whether notification is required to affected individuals and any regulators;
    - iii. all correspondence and dealings with regulators and affected individuals, including the form, content and timing of any notices, preparation, lodgement and sending of notices;
    - iv. determining the remediation strategy; and
    - v. the costs of the above activities; and

c) will not notify any regulator, individual or third party without Humanforce Talent (formerly LiveHire)'s prior written consent, unless required by law.

12.14. The Solution may support integrations with the Company's service providers (**Integration Partners**) on request. The Company is fully responsible for acquiring the services of Integration Partners, including all costs, due diligence and ensuring their software, practices and services do not cause the Company or Humanforce Talent (formerly LiveHire) to breach any applicable laws (including the Spam Act 2003 (Cth) and the Privacy Act). The Company warrants that each Integration Partner is contractually authorised to deal with any data transferred to it by or on behalf of the Company (including by Humanforce Talent (formerly LiveHire) as its agent) in accordance with the Privacy Act and maintain the confidentiality and security of such data. The Company acknowledges that any arrangements with Integrations Partners are entirely at the Company's own risk and releases and forever discharges Humanforce Talent (formerly LiveHire) and its related bodies corporate, affiliates, successors and assigns, officers, employees, agents and partners in respect of any liability for any Losses or other causes of action which the Company has or may in future have against Humanforce Talent (formerly LiveHire) arising out of relating to such arrangements with Integrations Partners.

### **13. FEES AND CHARGES**

13.1. The Company agrees to pay all Fees and Charges as and when they fall due. Except where stated otherwise in the Talent Community Agreement, and to the extent permissible by law, Fees and Charges are non-cancellable or refundable once ordered or paid. All Fees and Charges are payable via EFT within 14 days after the date of the relevant Tax Invoice.

13.2. Unless otherwise specified in the Specific Terms and Conditions, the Company agrees to pay Humanforce Talent (formerly LiveHire) the Upfront Fees and Charges upfront and these will be invoiced on or around the Agreement Date.

13.3. Unless otherwise specified in the Specific Terms and Conditions, the Company agrees to pay Humanforce Talent (formerly LiveHire) the Ongoing Fees and Charges as follows:

- a) where annual payments are specified, the Ongoing Fees and Charges will be invoiced upfront on or around the Agreement Date; and
- b) where monthly payments are specified, the Ongoing Fees and Charges will be payable from the Agreement Date and will be invoiced on the last Business Day of the month, monthly in arrears.

- 13.4. Unless otherwise specified in the Specific Terms and Conditions, the Company agrees to pay Humanforce Talent (formerly LiveHire) the Other Fees and Charges monthly in arrears and these will be invoiced on the last Business Day of the relevant month.
- 13.5. Humanforce Talent (formerly LiveHire) may introduce new services that can be purchased by giving the Company written notice of their availability and applicability and the associated Fees and Charges.
- 13.6. Unless otherwise specified in the Specific Terms and Conditions, the prices set out in such Specific Terms and Conditions shall apply for the initial subscription term only. Humanforce Talent (formerly LiveHire) reserves the right to change the Fees and Charges at any time at its absolute discretion. Humanforce Talent (formerly LiveHire) may vary its Fees and Charges within a 5% variance per annum at any time and the Company will pay such varied Fees and Charges on renewal of the term. For variations greater than 5% per annum, prior to renewal, Humanforce Talent (formerly LiveHire) shall provide at least 90 days' notice of the price change and the Company may elect to accept or refuse the variation by exercising its termination rights. To avoid service disruption to the Solution, if a response is not received, acceptance of the variation shall be assumed, and the Company shall be obliged to pay Tax Invoices raised for the Solution at the varied Fees and Charges.
- 13.7. Fees and Charges for calendar periods shall be adjusted pro-rata for initial charges, and then charged for the full calendar period in advance.
- 13.8. In addition to any of its other rights under the Talent Community Agreement, Humanforce Talent (formerly LiveHire) reserves the right to suspend the Company's access to the Solution and not perform any further services for the Company where any amount owing by the Company to Humanforce Talent (formerly LiveHire) under this or any other agreement for Humanforce Talent (formerly LiveHire)'s services remains unpaid for 30 days after the date of a payment reminder from Humanforce Talent (formerly LiveHire) issued after the due date for the payment of the amount.
- 13.9. Where Humanforce Talent (formerly LiveHire) is required to perform additional work or services for the Company
- a) outside the scope of what is set out in the Talent Community Agreement (e.g. professional services);

- b) as a result of delays, changes or complexities caused by the Company when Humanforce Talent (formerly LiveHire) is performing professional services (e.g. implementation, customisation or integration work or any work incurring Other Fees and Charges),

then the Company agrees that Humanforce Talent (formerly LiveHire) shall be entitled to issue a Tax Invoice to the Company for additional Fees and Charges that are reasonable having regard to the additional work required, provided that the Company has accepted a quote for such Fees and Charges. Humanforce Talent (formerly LiveHire) reserves the right not to perform any services until the quote has been accepted or the Tax Invoice for those Fees and Charges has been paid as per any agreed milestones.

13.10. Fees and Charges are inclusive or exclusive of GST as set out in the Specific Terms and Conditions (however if not specified, are exclusive of GST).

13.11. Unless otherwise specified in the Specific Terms and Conditions, the following will be deemed to be Upfront Fees and Charges:

- a) the fees for new product implementations; and
- b) cost disbursements to third party providers.

13.12. The Company must pay all amounts owing with respect to any Tax Invoice issued at any time other than at the end of a month within the time period stated in the Tax Invoice (and if no period is stated, within 14 days).

13.13. Humanforce Talent (formerly LiveHire) will use commercially reasonable endeavours to perform its implementation / integration activities promptly and efficiently so as to meet the "go-live" date agreed in writing by the parties, having regard to delays that are caused by factors outside of Humanforce Talent (formerly LiveHire)'s control or changes or complexities not communicated by the Company to Humanforce Talent (formerly LiveHire) prior to the Agreement Date.

#### **14. INVOICING AND PAYMENTS**

14.1. Humanforce Talent (formerly LiveHire) shall issue the Company a Tax Invoice for all Fees and Charges. The terms of payment set out in the Specific Terms and Conditions shall apply (if no terms are specified, payment terms shall be payment via EFT within 14 days after the date of the relevant Tax Invoice).

14.2. Where Fees and Charges are payable:

- a) in advance, the Solution will not be accessible and no services shall be commenced or provided unless a Tax Invoice has been issued and paid in full;

b) in arrears, Humanforce Talent (formerly LiveHire) reserves the right to suspend the Solution in accordance with clause 13.8.

14.3. Should the Company dispute a Tax Invoice, the Company must notify Humanforce Talent (formerly LiveHire) of the disputed item within thirty days of the date of the Tax Invoice. The Company must pay the amount of the Tax Invoice not in dispute within the prescribed payment period.

14.4. The Company authorises Humanforce Talent (formerly LiveHire) to use the Company's information for the purposes of obtaining a credit assessment or to otherwise make investigations as to the Company's payment history.

14.5. Once any Fees & Charges have been paid for, no refunds shall be issued, except where:

- a) required by law;
- b) there have been erroneous charges;
- c) as set out in clause 19.3.

## **15. INTELLECTUAL PROPERTY RIGHTS**

15.1. The Company acknowledges that Humanforce Talent (formerly LiveHire) is the sole owner of the Platform and the Solution. To the extent permitted by law, all Intellectual Property Rights in the Platform and the Solution, including any copies, modifications, updates or new releases of the Platform or Solution, are vested in and retained by Humanforce Talent (formerly LiveHire) or its licensors. Nothing in these General Terms and Conditions gives rise to any assignment, acquisition, transfer or conveyance of any kind whatsoever of any Intellectual Property Rights.

15.2. Humanforce Talent (formerly LiveHire) has both registered and unregistered Intellectual Property Rights and the Company shall not use, copy, alter or otherwise deal with Humanforce Talent (formerly LiveHire)'s Intellectual Property Rights without the prior written consent of Humanforce Talent (formerly LiveHire).

15.3. The Company warrants that by using the Solution and the Platform, the Company will not:

- a) copy the Solution or Platform or the services that it provides (or any part thereof) for the Company's own commercial purposes; and/or
- b) directly or indirectly copy, recreate, decompile, reverse engineer or otherwise obtain, modify or use any source or object code, architecture, algorithms contained in the Solution or Platform or any documentation associated with it.

## **16. CONFIDENTIALITY**

- 16.1. Subject to the terms of the relevant Talent Community Agreement, any information given by one party to another under or in connection with a Talent Community Agreement is Confidential Information.
- 16.2. Each party must keep all Confidential Information of the other party confidential.
- 16.3. Each party acknowledges and agrees that:
- a) the Confidential Information is secret, confidential and valuable to the disclosing party (**Discloser**);
  - b) it owes an obligation of confidence to the Discloser concerning the Confidential Information;
  - c) it must not disclose the Confidential Information to a third party (other than its affiliates or related bodies corporate) except as permitted in the Talent Community Agreement; and
  - d) any breach or threatened breach by the receiving party of its obligations in relation to Confidential Information under the Talent Community Agreement may cause the Discloser immediate and irreparable harm for which damages alone may not be an adequate remedy. The Discloser has the right, in addition to other remedies available at law or in equity, to seek injunctive relief against the receiving party (and its agents, assigns, employees, officers and directors, personally) or to compel specific performance of this clause 16.
- 16.4. A party must notify the Discloser in writing, giving full details known to it as soon as practicable, when it becomes aware of:
- a) any actual, suspected, likely or threatened breach by it of clause 16;
  - b) any actual, suspected, likely or threatened breach by any person of any obligation in relation to the Confidential Information; or
  - c) any actual, suspected, likely or threatened theft, loss, damage, or unauthorised access, use or disclosure of or to any Confidential Information.
- 16.5. The receiving party must promptly take all steps that the Discloser may reasonably require and must co-operate with any investigation, litigation or other action of the Discloser or of a related body corporate if any of the circumstances in clause 16.4 occurs.

## **17. LIABILITY AND INDEMNITY**

- 17.1. To the extent permitted by law, Humanforce Talent (formerly LiveHire) shall not be cumulatively liable for any Losses in excess of five times the Ongoing Fees and Charges paid or payable by the Company to Humanforce Talent (formerly LiveHire) in respect of the month that such liability to you accrued. 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:

- a) 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;
- b) not apply to any damage that we may cause you intentionally or knowingly in violation of the Talent Community Agreement or applicable law, or as otherwise mandated by applicable law that cannot be disclaimed from in the Talent Community Agreement; and
- c) 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.

17.2. The Company agrees that the Solution and Platform are provided on an “as-is” and “as-available” basis and agrees that it uses the Solution and Platform at its own risk.

17.3. The Company acknowledges that, to the extent permitted by law, Humanforce Talent (formerly LiveHire) is not responsible for the communications, conduct or activities of any Talent Community Member or other user of the Platform or Solution and that Humanforce Talent (formerly LiveHire) is not liable for such under any circumstances.

17.4. The Company agrees to indemnify and keep indemnified Humanforce Talent (formerly LiveHire) for any third party claims for Losses to the extent arising from:

- a) any malicious act, negligence or wilful default by the Company in connection with the Solution;
- b) any breach by the Company or its Authorised Users of the Talent Community Agreement (including its privacy obligations) or any applicable laws; or
- c) the Company Data infringing the Intellectual Property Rights of a third party, except to the extent caused or contributed by a wilful, unlawful or negligent act or omission of Humanforce Talent (formerly LiveHire).

17.5. Humanforce Talent (formerly LiveHire) agrees to indemnify and keep indemnified the Company for all third party claims for Losses against the Company to the extent arising from:

- a) any malicious act, negligence or wilful default by Humanforce Talent (formerly LiveHire) in connection with the Solution; or
- b) the Solution, or its possession and use by the Company or its sub licensees, infringing any third party's Intellectual Property Rights, except to the extent caused or contributed to by the Company or its Authorised Users:
  - i. modifying the Platform or Solution without Humanforce Talent (formerly LiveHire)'s consent;
  - ii. using the Platform or Solution in breach of the Talent Community Agreement; or
  - iii. engaging in a wilful default or an unlawful or negligent act or omission.

17.6. An indemnified party must:

- a) promptly notify the indemnifying party of the claim;
- b) give the indemnifying party the option to conduct the defence of such a claim, including negotiations for settlement or compromise prior to the institution of legal proceedings (provided that any settlement that requires the other party to do or refrain from doing something or that exposes the other party to additional or continued liability requires the other party's consent);
- c) provide the indemnifying party with reasonable assistance in conducting the defence of such a claim (at the indemnifying party's cost); and
- d) permit Humanforce Talent (formerly LiveHire) to modify, alter or substitute any infringing part of the Solution at its own expense in order to avoid continuing infringement, or authorise Humanforce Talent (formerly LiveHire) to procure for the Company the authority to continue the use and possession of the infringing Solution without further cost to the Company (other than costs payable under the Talent Community Agreement).

17.7. To the maximum extent permitted by applicable law and notwithstanding any other provision of the Talent Community Agreement, neither party will be liable for any indirect, incidental or consequential damages, loss of profits or revenues, goodwill, bargain, opportunity, anticipated savings or any other similar or analogous loss resulting from the Company's access to, or use of, or inability to use the Solution or any content, or in any way relating to an experience itself (or the provision or non-provision of an experience), whether based on warranty, contract, tort, negligence, in equity or any other legal theory, and whether or not the other party knew or should have known of the possibility of such damage or loss or business interruption of any type, whether in tort, contract or otherwise.

17.8. Certain rights and remedies may be available under the Competition and Consumer Act 2010 (Cth) or similar legislation of other States or Territories and may not be permitted to be excluded, restricted or modified. Apart from those that cannot be excluded, Humanforce Talent (formerly LiveHire) and Humanforce Talent (formerly LiveHire)'s related entities exclude all conditions and warranties that may be implied by law. To the extent permitted by law, Humanforce Talent (formerly LiveHire)'s liability for breach of any implied warranty or condition that cannot be excluded is restricted, at Humanforce Talent (formerly LiveHire)'s option to:

- a) the re-supply of services or payment of the cost of re-supply of services; or
- b) the replacement or repair of the Solution or payment of the cost of replacement or repair of the Solution.

## **18. BREACH**

18.1. Where a party is in breach of the Talent Community Agreement, the other party may issue a written notice (Breach Notice) to the party in breach that must set out:

- a) the nature of the breach;
- b) the provisions of the Talent Community Agreement that are alleged to have been breached;
- c) a reasonable timeframe to remedy the breach in not less than 10 Business Days; and
- d) the action required to remedy the breach.

18.2. Where a party issues a compliant Breach Notice in accordance with clause 18.1, the receiving party shall be required to respond and/or remedy the breach as so set out in the Breach Notice. Failure to respond in writing setting out:

- a) the steps taken to remedy the breach; or
- b) why the party believes it is not in breach as put forward in the Breach Notice,

shall not in itself confirm the alleged breach but shall be in itself a breach of the Talent Community Agreement.

## **19. TERMINATION**

19.1. Humanforce Talent (formerly LiveHire) may terminate the Talent Community Agreement immediately by notifying the Company in the event that:

- a) the Company commits a breach of the Talent Community Agreement (including clause 12) and fails to remedy that breach within the time specified in a Breach Notice;

- b) the Company breaches any provision of the Talent Community Agreement that is not capable of remedy;
- c) the Company suffers from an Insolvency Event (and Humanforce Talent (formerly LiveHire)'s ability to terminate is not restricted by law);
- d) the Company commits any act or does anything that gives rise to an infringement of a third party's Intellectual Property Rights in connection with the Platform or Solution; or
- e) a Force Majeure event continues for more than 30 days.

19.2. The Company may terminate the Talent Community Agreement immediately by notifying the Humanforce Talent (formerly LiveHire) in the event that:

- a) Humanforce Talent (formerly LiveHire) commits a breach of the Talent Community Agreement (including clause 12) and fails to remedy that breach within the time specified in a Breach Notice;
- b) Humanforce Talent (formerly LiveHire) breaches any provision of the Talent Community Agreement that is not capable of remedy;
- c) Humanforce Talent (formerly LiveHire) suffers from an Insolvency Event (and the Company's ability to terminate is not restricted by law);
- d) Humanforce Talent (formerly LiveHire) commits any act or does anything that gives rise to an infringement of a third party's Intellectual Property Rights that has or might reasonably be likely to have a material impact on the Company;
- e) a Force Majeure event continues for more than 30 days.

19.3. Where the Company terminates the Talent Community Agreement pursuant to clause 19.2(a), 19.2(b), 19.2(c), 19.2(d) or the Talent Community Agreement is terminated pursuant to clause 19.5(b), Humanforce Talent (formerly LiveHire) will refund any portion of the Ongoing Fees and Charges prepaid by the Company as relates to any portion of the subscription term remaining after the date of termination.

19.4. Subject to the terms of the relevant Talent Community Agreement, the Company may terminate the Talent Community Agreement at the end of the Term by providing Humanforce Talent (formerly LiveHire) with written notice of non-renewal no less than 60 days prior to the end of the current Term.

19.5. Humanforce Talent (formerly LiveHire) may terminate the Talent Community Agreement by giving no less than 90 days' written notice of termination:

- a) prior to the end of the current Term if it does not wish to renew; or
- b) in the event that it ceases to provide the Platform or Solution.

- 19.6. Expiry or termination of the Talent Community Agreement is without prejudice to and does not affect the accrued rights or remedies of any of the parties arising in any way out of the Talent Community Agreement up to the date of expiry or termination.
- 19.7. The rights and obligations under the relevant provisions of clauses 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, and 24 survive termination or expiry of the Talent Community Agreement.
- 19.8. Upon expiry or termination of the Talent Community Agreement, Humanforce Talent (formerly LiveHire) must destroy, or procure the destruction of Company Data on request as soon as possible and provide the Company with written confirmation upon reasonable request. All Personal Information contained within Company Data will be destroyed (via deletion or de-identification at Humanforce Talent (formerly LiveHire)'s option) as required by the Privacy Act.

## 20. DISPUTES

- 20.1. **Negotiation.** If there is a dispute between the parties relating to or arising out of the Talent Community Agreement, then within ten Business Days of a party notifying the other party of a dispute, senior representatives from each party must meet and use all reasonable endeavours acting in good faith to resolve the dispute by joint discussions.
- 20.2. **Mediation.** If the dispute between the parties relating to or arising out of the Talent Community Agreement is not resolved within 20 Business Days of notification of the dispute under clause 20.1, the parties must agree to submit the dispute to mediation, administered by the Resolution Institute.
- 20.3. **Arbitration.** If the dispute between the parties relating to or arising out of the Talent Community Agreement is not settled by mediation under clause 20.2, either party may by written notice to the other refer the dispute to arbitration administered by the Resolution Institute. The arbitrator will be agreed between the parties from a panel suggested by the Resolution Institute or failing agreement, an arbitrator will be appointed by the Resolution Institute.
- 20.4. **Court proceedings.** A party may not commence court proceedings in relation to a dispute relating to or arising out of the Talent Community Agreement until it has exhausted the procedures in this clause 20 unless the party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

## 21. FORCE MAJEURE

- 21.1. If a party is prevented in whole or in part from carrying out its obligations under the Talent Community Agreement as a result of Force Majeure, it will promptly notify the other party accordingly. The notice must:
- a) specify the obligations and the extent to which it cannot perform those obligations;
  - b) fully describe the event of Force Majeure;
  - c) estimate the time during which the Force Majeure will continue; and
  - d) specify the measures proposed to be adopted to remedy or abate the Force Majeure.
- 21.2. Following a notice of Force Majeure in accordance with clause 21.1 and while the Force Majeure continues, the obligations which cannot be performed because of the Force Majeure will be suspended, other than obligations to pay money that is due and payable.
- 21.3. The party that is prevented from carrying out its obligations under the Talent Community Agreement as a result of Force Majeure must remedy the Force Majeure to the extent reasonably practicable and resume performance of its obligations as soon as reasonably possible.
- 21.4. The term of the Talent Community Agreement will not be extended by the period of Force Majeure.

## **22. ELECTRONIC EXECUTION, COMMUNICATION AND AMENDMENT**

- 22.1. The words in this clause 22 that are defined in the Electronic Transactions Act 1999 (Cth) have the same meaning.
- 22.2. The parties agree that the Talent Community Agreement may be executed by way of the parties signing the Specific Terms and Conditions electronically and that any signature required directly or incidental to the Talent Community Agreement or Specific Terms and Conditions (as applicable) may be made electronically except where required to be physically made under law.
- 22.3. The Company can direct notices, enquiries, complaints and so forth to Humanforce Talent (formerly LiveHire) as set out in the Talent Community Agreement. Humanforce Talent (formerly LiveHire) will notify the Company of a change of details from time to time.
- 22.4. Humanforce Talent (formerly LiveHire) will send the Company notices and other correspondence to the details that the Company submits to Humanforce Talent (formerly LiveHire), or that the Company notifies to Humanforce Talent (formerly

LiveHire) from time to time. It is the Company's responsibility to update its contact details as they change.

- 22.5. A consent, notice or communication under the Talent Community Agreement is effective if it is sent as an electronic communication unless required to be physically delivered under law. An electronic communication will be deemed to have been received 24 hours after the communication was sent, unless the sender receives an automated message that the electronic communication was not received by the recipient.
- 22.6. Notices must be sent to the parties' contact details as specified in the Specific Terms and Conditions with respect to each party.
- 22.7. Any amendment to the Talent Community Agreement proposed by the Company will only be effective if it is in writing and signed or otherwise expressly accepted in writing by Humanforce Talent (formerly LiveHire).

### **23. ASSIGNMENT**

- 23.1. Humanforce Talent (formerly LiveHire) may assign the benefit of any part of the Talent Community Agreement to any third-party by giving the Company written notice, and the Company agrees to do all things reasonably necessary to effect such assignment.
- 23.2. The Company must obtain the written approval of Humanforce Talent (formerly LiveHire) (which must not be unreasonably withheld) before assigning its rights under the Talent Community Agreement, and any purported assignment without such consent shall be deemed a material breach of the Talent Community Agreement.
- 23.3. In the event of a corporate restructure, disposal or acquisition the party proposing to assign the Talent Community Agreement is not required to obtain the consent of the other party, where the corporate restructure, disposal or acquisition is to a related body corporate of such party, but must give the other party prior written notice, and the other party agrees to do all things reasonably necessary to effect such assignment.

### **24. GENERAL**

- 24.1. **Priority.** To the extent of any inconsistency between the:
- a) Specific Terms and Conditions;
  - b) General Terms and Conditions; and
  - c) Website Terms of Service,

the terms will apply in the order of priority set out above, to the extent of the inconsistency.

24.2. **Disclaimer.** Each party acknowledges that it has not relied on any representation, warranty or statement made by any other party, other than as set out in the Talent Community Agreement.

24.3. **Relationship.** The relationship of the parties to the Talent Community Agreement does not form a joint venture or partnership.

24.4. **Waiver.** No clause of the Talent Community Agreement will be deemed waived and no breach excused unless such waiver or consent is provided in writing.

24.5. **Further Assurances.** Each party must do anything necessary (including executing agreements and documents) to give full effect to the Talent Community Agreement and the transactions facilitated by it.

24.6. **Third parties.** Humanforce Talent (formerly LiveHire) may outsource the delivery of certain parts of the Solution or any services in connection therewith to third parties at any time. Where this outsourcing impacts Company Data, there must be a contract in place with the third party committing to maintain the confidentiality and security of the Company Data.

24.7. **Governing Law.** The Talent Community Agreement is governed by the laws of Victoria, Australia. Each of the parties hereby submits to the non-exclusive jurisdiction of courts with jurisdiction there.

24.8. **Liability for Expenses.** Each party must pay its own expenses incurred in negotiating, executing, stamping and registering the Talent Community Agreement.

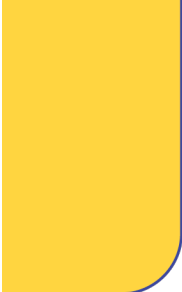
24.9. **Inconsistency.** If the Talent Community Agreement is inconsistent with any other previous document or agreement between the parties, the terms of the Talent Community Agreement prevail to the extent of the inconsistency.

24.10. **Counterparts.** The Specific Terms and Conditions may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

24.11. **Time.** Time is of the essence in the Talent Community Agreement.

24.12. **Publicity.** The Company grants Humanforce Talent (formerly LiveHire) a perpetual, world-wide, royalty-free licence to use, publish and copy the Company's name, logo or trademarks for the purpose of providing the Solution and promoting and advertising its clients, including via press releases, the Humanforce Talent (formerly LiveHire) website, ASX announcements, sales and





marketing collateral in print, online and social media and presentations to current and potential clients, candidates and investors. The Company acknowledges that any reference to the Company, the Talent Community Agreement (or any information in the Talent Community Agreement) or any other relevant agreement in an ASX announcement will not require the prior consent of the Company and such disclosure will not breach any provision of the Talent Community Agreement or any other relevant agreement.

24.13. **Severability.** Any clause of the Talent Community Agreement, which is invalid or unenforceable is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of the Talent Community Agreement.