



BoldHR® ONLINE SUBSCRIPTION AGREEMENT – GENERAL TERMS AND CONDITIONS

1 AGREEMENT

This Agreement is made between Bold HR Australia Pty Ltd ACN 628 513 155 124 trading as Bold HR Australia ABN 51 791 521 460 ("BoldHR®") and the Client on the following terms and conditions.

2 DEFINITIONS AND INTERPRETATION

2.1 In these General Terms & Conditions

- (a) **Authorised Use** means the use for which a Service is provided as stated in the Plan or as otherwise notified by BoldHR to the Client from time to time.
- (b) **Authorised Users** means the persons or entities who may use the Service as stated in the Plan or as otherwise notified by BoldHR to the Client from time to time.
- (c) **Commencement Date** means the first day of the Term.
- (d) **Content** means any text, data, images, graphics, animations or other information or material or content to be published on the Website from time to time.
- (e) **Client** means the Client identified in the Plan to which these General Terms & Conditions apply.
- (f) **Data** means information or data of any kind and includes Content.
- (g) **DDoS** means a distributed denial of service attack.
- (h) **Devices** means the plant, equipment and devices used by the Client or its Authorised Users to access and use the Services, including any and all software and source code installed thereon.
- (i) **Force Majeure Event** means any circumstance not within the reasonable control of BoldHR, to the extent that the circumstance, or its effect upon BoldHR, could not have been avoided, prevented or circumvented despite the exercise of reasonable diligence by BoldHR. Without limiting the foregoing, such circumstance shall include fire, sea accident, failure of machinery, or other accident, ice hindrance, flood, water shortage, or other natural disaster, vehicle or tonnage shortage or other traffic disturbance, strike, lockout, blockade, riot, revolution, mobilization or state of war, currency problems, import restrictions, or other government action.
- (j) **Good Industry Practice** means, in relation to any work or task required to be performed by a party, the practices, methods, specifications and standards of safety, design and performance which are generally expected of competent and experienced professionals who perform the same or similar work or tasks in the same or similar industry or profession.



- (k) **Intellectual Property** means circuit layout rights, copyrights, patent rights, trademark rights, design rights, get up, know-how, trade secrets, source code, software and any and all other forms of Intellectual Property, wheresoever and howsoever arising, whether registered or unregistered, anywhere in the world.
- (l) **Legislative Requirement** includes a requirement imposed by law, including to obtain any governmental or judicial approval or consent, to give a notice, to pay a fee charge or penalty, and to perform and act or omissions.
- (m) **Login Codes** means login codes and authentication created by the Client to access the Services.
- (n) **Program Materials** means workbooks, reports, audio, literature, written documents, questionnaires, videos, specifications or other material which may be provided to the Client.
- (o) **Plan** means the Services plan agreed between BoldHR and the Client from time to time via the Website or otherwise in writing.
- (p) **Privacy Policy** means BoldHR's Privacy Policy published on the Website from time to time.
- (q) **Services** means BoldHR's subscription services published on and provided via the Website under the Plan.
- (r) **Service Fees** means the fees described in the Plan.
- (s) **Term** means the period specified in or covered by the Plan during which the Client is bound by this Agreement.
- (t) **Website** means BoldHR's website at BoldHR.com.au, b-suiteleader.com or such other address notified by BoldHR to the Client from time to time.

2.2 In these General Terms & Conditions, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes other genders;
- (c) another grammatical form of a defined term has a corresponding meaning;
- (d) a reference to 'writing' or 'in writing' includes electronically via email, website or other digital communication.
- (e) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, these General Terms & Conditions, and a reference to these General Terms & Conditions includes any schedule or annexure;
- (f) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (g) a reference to a party is to a party to these General Terms & Conditions, and a reference



to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;

- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (j) headings are for ease of reference only and do not affect interpretation.

3 PLAN

- 3.1 The Client subscribes to the Plan and in so doing agrees upon and accepts these General Terms & Conditions.
- 3.2 These General Terms & Conditions prevail over the Plan to the extent of any inconsistency.
- 3.3 The Client warrants the Plan meets the Client's needs at the Commencement Date and for the duration of the Term.
- 3.4 This Agreement comprises these General Terms & Conditions and the Plan.

4 SERVICES

- 4.1 BoldHR shall provide the Services to the Client in accordance with the Plan.
- 4.2 BoldHR shall deliver the Services in accordance with Good Industry Practice.
- 4.3 The Client uses the Services and the Website solely at its own risk.
- 4.4 The Client warrants that it has obtained its own independent professional and technical advice, or has decided not to do so, prior to entering these General Terms & Conditions and that it shall use the Services hereunder freely and voluntarily without duress or pressure to do so from BoldHR.

5 ACCESS

- 5.1 The Client shall access the Services via the Website.
- 5.2 The Client shall use the Login Codes on the Website.
- 5.3 The Client shall configure the Services to its requirements using the features and functionality made available through the Website. BoldHR may assist with but is not responsible for configuration of the Services for the Client.
- 5.4 The Client shall keep the Login Codes strictly confidential and secure from third parties.
- 5.5 BoldHR may access the Client's Data and Login Codes any time for any reason without the prior consent of the Client and without giving prior notice to any person for doing so.



6 USE

- 6.1 The Client is licensed to use, and shall use, the Services and the Website only for the Authorised Use.
- 6.2 The Client shall only permit its officers and employees who are Authorised Users to use the Services and the Website.
- 6.3 The Client acknowledges and accepts BoldHR's Privacy Policy.
- 6.4 The Client shall comply with BoldHR's Website terms of use.

7 DATA AND CONTENT

- 7.1 The Client is solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership all Data and Content uploaded, collected or otherwise hosted and/or processed on the Website for the Services.
- 7.2 The Client authorises BoldHR and warrants that BoldHR is authorised (including by any relevant third parties) to access and manipulate Data if in BoldHR's sole opinion that is reasonably necessary to provide the Services.

8 INTELLECTUAL PROPERTY

- 8.1 BoldHR owns or is licensed to use all Intellectual Property in the Services and the Website.
- 8.2 The Client licenses, and warrants that BoldHR is authorised, to use, copy, modify, configure and integrate the Data and Content supplied by the Client for the purposes of these General Terms & Conditions.
- 8.3 BoldHR licenses the Client to use the Services and the Website for the Authorised Use in accordance with these General Terms & Conditions.
- 8.4 Program Materials and Content may be provided to the Client from time to time during and to enable the provision of the Services. All Program Materials and Content is provided without warranties of any kind, both express and implied. Any designs, materials, analyses, processes, discussions and other intellectual property, both tangible and intangible, which is provided or may be developed as a result of or during the Services is and will remain the property of BoldHR at all times.
- 8.5 No Program Materials or Content may be reproduced or used for any purpose other than the personal private use of the Client. At no time may it be reproduced and provided to third parties without the express written permission of BoldHR.
- 8.6 Nothing herein disclaims, abrogates, alienates or affects BoldHR's subsisting and continuing moral rights in the Services and the Website.
- 8.7 The Client shall not copy, hack, alter or disseminate the Services or Website in any way, nor allow any third party to do so.



- 8.8 The Client agrees BoldHR may suspend or terminate the Services and access to the Website if any infringement of a third party's Intellectual Property occurs or is alleged in connection with the Website.

9 BACK UP AND DISASTER MANAGEMENT

- 9.1 The Client shall regularly and independently store and back up all of its Content and Data submitted or uploaded to the Website in accordance with Good Industry Practice.
- 9.2 The Client shall implement and maintain a disaster management plan for its activities and/or enterprise and shall be solely responsible for rectifying any events which interrupt the Client's ability to access and use the Services and the Website pursuant to the General Terms & Conditions.

10 DDOS

- 10.1 If the Services or the Website are the target of a DDoS or any other electronic attack or threat, BoldHR may, at any time and without giving prior notice to any person, take such protection and/or mitigation measures as it in its sole discretion considers reasonably necessary, including:
- (a) suspending the Services and the Website;
 - (b) moving the Services, the Website and/or any Content or Data to a quarantine server;
 - (c) implementing access control lists; and/or
 - (d) applying IP address filtering and/or blocking software or algorithms.
- 10.2 If BoldHR takes any such measures, it may continue them until such time as the attack or threat is considered by BoldHR (in its absolute discretion) to be eliminated, avoided or otherwise dealt with.

11 SERVICE FEES

- 11.1 The Client shall pay the Service Fees set out in the Plan and as otherwise agreed in writing between the parties.
- 11.2 BoldHR may vary the Service Fees at any time by serving not less than 7 days' prior written notice of the same upon the Client and giving the Client an opportunity to terminate this agreement prior to the expiry of that notice period if the Client does not accept the varied Service Fees. The Client shall not be entitled to any compensation or other remedy in the event of termination hereunder. Upon the expiry of the notice period, if the Client has not terminated, the Client shall be deemed to have accepted the varied Service Fees as notified by BoldHR.
- 11.3 BoldHR may block and/or suspend the provision of or access to the Services and Services if any Service Fees are unpaid or become overdue (whether in whole or in part).



- 11.4 BoldHR may at its sole discretion recommence or restore the provision of or access to the Services if any overdue invoice for Service Fees is paid.
- 11.5 The Client acknowledges and agrees that it may take up to 48 hours for any Service to be recommenced or restored.
- 11.6 All payment and personal information will be kept in a secure manner in accordance with Australian privacy requirements. Please refer to BoldHR's Privacy Policy for details on how Client information will be kept secure.
- 11.7 By providing BoldHR with your payment and credit card details, the Client authorizes payment for Services. In the event the Client has chosen payments to be made on a recurring basis, the Client hereby authorizes such payments to be deducted by BoldHR until the full payment has been made under the Plan and in accordance with this Agreement.
- 11.8 Failure to make a required payment when due under this Agreement shall constitute a material default under this Agreement.
- 11.9 The Client shall pay Service Fees by credit card, electronic funds transfer, direct debit, or in any other manner agreed by BoldHR. Where payment is made or taken by credit card, BoldHR shall be entitled to add a reasonable surcharge of up to 2.5% of the total amount due under any invoice.
- 11.10 BoldHR may pass on and charge the Client any fees, levies or charges it incurs as a result of any credit card, direct debit, cheque or similar payment transaction failing or being declined.
- 11.11 Unless otherwise stated, Service Fees are exclusive of GST. The Client shall, in addition to Service Fees, pay BoldHR the amount of the GST. The Client shall be entitled to access a tax invoice for its payments for Services if required.
- 11.12 The Client must not deduct or set-off any money owing to it or any money which the Client reasonably anticipates will become owing to it by BoldHR from any money due to BoldHR under these General Terms & Conditions.

12 ERRORS AND OMISSIONS

- 12.1 BoldHR shall use its best endeavours to rectify at its cost any material errors or omissions in the Services provided hereunder promptly whenever such an error or omission is found in the course of execution of the Services. An error or omission is material if BoldHR determines in its absolute discretion (acting reasonably) that it is not minor and prevents the Services from satisfying the Client's specifications, any Legislative Requirements and/or the standards of Good Industry Practice.
- 12.2 Notwithstanding the foregoing, BoldHR shall not be liable to rectify any errors or omissions caused or partly caused directly or indirectly by or arising from:



- (a) any misinformation provided by the Client;
- (b) any direction given by the Client;
- (c) any conduct of the Client or any third party;
- (d) any undue duress, pressure or influence exerted by the Client upon BoldHR or its officers, employees, agents or subcontractors; or
- (e) any accident, act of God, fire, flood, war, act of violence, terrorism or similar occurrence beyond BoldHR's reasonable control.

12.3 The Client shall submit all claims for rectification to BoldHR in writing promptly upon discovering them.

13 LIMITATION OF LIABILITY

13.1 To the extent permitted by law, and without limiting the foregoing subject always to the Competition and Consumer Act, the Australian Consumer Law, and the Fair Trading Acts of each State and Territory in Australia, BoldHR does not warrant either the quality or standard of the Services provided hereunder, or the design, performance, use, utility, fitness for purposes or merchantable or acceptable quality of any software, service, product or thing for any particular purpose or at all, other than to the extent expressly represented in these General Terms & Conditions or in any documentation prepared and supplied by BoldHR to the Client hereunder and to the extent implied or required by law.

13.2 BoldHR may, at its option, choose to satisfy any claim for rectification of any defect or omission in the Services by either:

- (a) resupplying the Services at BoldHR's cost; or
- (b) paying a third party approved by BoldHR to resupply the Services or to supply replacement Services hereunder, upon which BoldHR shall be fully and effectually released and discharged from any further obligations in relation to such claim.

13.3 In no case shall the value of a claim by the Client for rectification of any defect or omission (as assessed and determined by BoldHR, acting reasonably) exceed the total value of the Services Fees paid by the Client under these General Terms & Conditions up to the date the claim is made, and all damage or expense over and above such amount shall be the responsibility of the Client.

13.4 BoldHR shall not be liable to the Client for any delay or delays in the provision of the Services.

13.5 BoldHR shall not be liable to compensate the Client for any delay in either replacing or remedying an actual or alleged defect or omission or in properly assessing or responding to a claim.

13.6 BoldHR shall be under no liability whatsoever to the Client for any indirect, special or



consequential loss and/or damage (including loss of profit, loss of revenue or other economic loss) suffered by the Client arising out of or in connection with any Services or any defect or omission arising under these General Terms & Conditions.

- 13.7 The Client shall give BoldHR reasonable access to any premises or property (including to Devices via screen sharing) required for BoldHR to fully and properly investigate and assess any and all claims hereunder.
- 13.8 BoldHR may decline any claim which does not comply with these General Terms & Conditions, or which is not covered by these General Terms & Conditions, or which is made for Services that are found not to be defective by BoldHR, in which case BoldHR may give notice to the Client that the claim is declined and the Client shall be responsible for BoldHR's reasonable costs of receiving, processing, assessing and declining the Client's claim. BoldHR may invoice the Client any such costs incurred by it and the Client shall promptly pay the invoice within seven (7) days of the date of the invoice.

14 DEFAULT & CONSEQUENCES OF DEFAULT

- 14.1 Without prejudice to BoldHR's other remedies at law or in equity, BoldHR shall be entitled to immediately suspend or terminate the supply of the Services in the event that:
- (a) any Service Fees are not paid when due; or
 - (b) the Client breaches these General Terms & Conditions; or
 - (c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a trustee in bankruptcy, receiver, manager, administrator, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 14.2 BoldHR will not be liable for any loss or damage the Client suffers because BoldHR has exercised its rights under this clause.
- 14.3 If BoldHR terminates these General Terms & Conditions under clause 14.1, BoldHR may pursue the Client for damages for breach or specific performance or both.
- 14.4 BoldHR's rights and entitlements hereunder are in addition to the rights which BoldHR may have at law or in equity.
- 14.5 If the Client defaults in payment of any Service Fees, the Client shall indemnify BoldHR from and against all costs and disbursements incurred by BoldHR in pursuing the debt including legal costs on a solicitor and own Client basis and BoldHR's collection agency costs.

15 TERMINATION AND CANCELLATION

- 15.1 The Client may cancel their subscription at any time by going into their account settings



and disabling their account. BoldHR will not reimburse the Client for Services Fees paid prior to cancellation.

- 15.2 BoldHR may terminate your account if you breach this Agreement or for any other reason. We may suspend your use of the Service or the Service at any time for any reason, without any notice.
- 15.3 The termination of these General Terms & Conditions by either party is without prejudice to any other right or remedy which they may have against each other at law or in equity.

16 GENERAL INDEMNITY

- 16.1 To the fullest extent permitted by law, the Client shall indemnify and keep indemnified BoldHR from and against any and all losses, loss of profits, claims, damages, actions, suits, demand, costs (including reasonable legal costs and disbursements on a full indemnity basis), interest, charges and expenses of any kind whatsoever, which BoldHR shall or may suffer or incur or be called upon to suffer or incur by virtue of:
 - (a) any default or breach hereunder by the Client;
 - (b) any unlawful, negligent, fraudulent or indictable act or omission of the Client or any of its officers, employees or agents;
 - (c) the use or misuse of any Services by the Client; or
 - (d) any Content or Data uploaded, processed or posted by the Client using the Services or otherwise on the Client Website or any other website of the Client, except to the extent of any contributory negligence by BoldHR.
 - (e) The Client shall pay any and all indemnified amounts to BoldHR within 7 days of receiving a written demand for the same.

17 REPRESENTATIONS

- 17.1 The Client represents and warrants that at the date of acceptance of these General Terms & Conditions by the Client and at all times until these General Terms & Conditions are fully performed and completed:
 - (a) all corporate authorisations and approvals necessary to enable it to enter into these General Terms & Conditions have been obtained and remain in full force and effect; and
 - (b) all governmental requirements, authorisations, approvals and licenses necessary to enable it to enter into these General Terms & Conditions have been obtained and remain in full force and effect,
- 17.2 The Client must immediately notify BoldHR if any of the aforementioned representations, warranties and covenants cease to be true and correct.



18 FORCE MAJEURE

- 18.1 BoldHR will not be liable for any failure or delay in the performance of its obligations under these General Terms & Conditions to the extent such failure or delay is caused by a Force Majeure Event.
- 18.2 If a Force Majeure Event arises, BoldHR shall use reasonable endeavours to promptly advise the Client of the details of the Force Majeure Event and its likely effect on the performance of BoldHR's its obligations hereunder, and BoldHR shall BoldHR shall take all steps reasonably necessary to recommence performance of the affected Services and minimise any delay caused by the Force Majeure Event.

19 DISPUTE RESOLUTION

- 19.1 If a dispute arises out of or relates to these General Terms & Conditions, the breach, termination, validity or subject matter of these General Terms & Conditions, or any claim in tort, in equity or pursuant to any domestic or international statute or law, then subject always to clause 19.6 the parties to the Agreement and to the dispute expressly agree to endeavour in good faith to settle the dispute by mediation administered by a mediator appointed under the Mediation Rules of the Resolution Institute as in existence at the time written notice is received by the parties.
- 19.2 A party claiming that a dispute has arisen must give written notice to the other parties to the dispute specifying the nature of the dispute.
- 19.3 On receipt of the notice specified in clause 19.2, the parties to the dispute must within seven (7) days of receipt of notice seek to resolve the dispute.
- 19.4 If the dispute is not resolved within the said seven (7) days or within such further period as the parties agree, then the parties must mediate the dispute and adopt the provisions of, and the procedures noted in, the Mediation Rules of the Resolution Institute, being the Rules in existence at the date of the notice specified in clause 19.2.
- 19.5 The terms of the Mediation Rules of the Resolution Institute, being the Rules in existence at the date of the notice specified in clause 19.2, are hereby deemed incorporated into these General Terms & Conditions.
- 19.6 Notwithstanding the foregoing, BoldHR shall always have the right to institute legal proceedings in any court of competent jurisdiction in order to collect payments due to BoldHR by the Client whether under these General Terms & Conditions or any other agreement, without first being required to undergo mediation or any other form of alternate dispute resolution.
- 19.7 This clause 19 survives termination or expiration of these General Terms & Conditions.

20 GENERAL

- 20.1 These General Terms & Conditions prevail over any terms of trade or terms and conditions



of supply or of acquisition of goods or services provided or submitted by the Client or agreed to by BoldHR to the extent of any inconsistency between them.

- 20.2 The parties contract hereunder independently and at arm's length. Nothing herein constitutes either party a partner, joint venturer, agent or employee of the other party.
- 20.3 Each party warrants, states and represents that the party has entered these General Terms & Conditions with full knowledge of the responsibilities of the party under it, with full knowledge of the effect of these General Terms & Conditions on the party's financial position, after either obtaining or electing not to obtain independent legal and accounting and taxation advice on the terms and subject matter of these General Terms & Conditions, and without any reliance on any other party in respect thereof.
- 20.4 If any provision of these General Terms & Conditions shall be invalid, illegal or unenforceable, that provision shall be severed from these General Terms & Conditions and the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired in any way.
- 20.5 All notices required to be given by the Client under these General Terms & Conditions must be given in writing (whether electronically or in hard copy), addressed to BoldHR at its registered office (or other address published on the Website), in the English language, signed (whether digitally or in hard copy) by the Client (or its duly authorised attorney or representative), and dated the date on which it was signed. BoldHR may give notices to the Client in any form BoldHR thinks fit and, without limiting the foregoing, if BoldHR publishes a notice or any content on the Website then the Client is deemed to have received that notice and notice of that content on and from the date of publication. The Client shall check and monitor and keep updated with all notices and content published on the Website.
- 20.6 BoldHR may license or sub-contract all or any part of its rights and obligations without the Client's consent. BoldHR may also at its sole discretion transfer or assign all or any part of its rights and obligations hereunder to any third party without the Client's consent.
- 20.7 The Client shall not transfer or assign all or any part of its rights and obligations hereunder without first obtaining the prior written consent of BoldHR.
- 20.8 The Client shall give BoldHR not less than fourteen (14) days prior written notice of any proposed change of ownership or control of the Client, or any change in the Client's name, or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by BoldHR as a result of the Client's failure to comply with this requirement. In addition, any such change in ownership or control of the Client shall be deemed hereunder to constitute a transfer or assignment of the Client's rights and obligations hereunder to the person or entity take on or taking over such ownership or control, which change shall not be undertaken without first obtaining the prior written



consent of BoldHR.

- 20.9 BoldHR shall not be required to notify the Client of, or obtain the Client's consent to, any change or proposed change of ownership or control in BoldHR.
- 20.10 BoldHR reserves the right to review these General Terms & Conditions at any time. If, following any such review, there is to be any change to these General Terms & Conditions, then that change will take effect from 7 days after the date on which BoldHR notifies the Client of such change. The Client may not change or amend these General Terms & Conditions without BoldHR's prior written agreement.
- 20.11 Personal information about the Client may be used and retained by BoldHR for the provision of products or services, the marketing of products or services, maintenance of the Client's account/s with BoldHR, processing any payment instructions or direct debit or credit facility, and debt collection, as well as for any other purposes as may be agreed between the parties or required by law from time to time.
- 20.12 The failure by BoldHR to enforce any provision of these General Terms & Conditions shall not be treated as a waiver of that provision, nor shall it affect BoldHR's right to subsequently enforce that provision.
- 20.13 Any party signing or executing or otherwise accepting these General Terms & Conditions on behalf of the Client as the Client's director, officer, attorney or representative hereby warrants, states and represents in his or her personal capacity that he or she is duly authorised and permitted to do so by the Client and by law.
- 20.14 Subject to any written agreement to amend the terms hereof, these General Terms & Conditions constitute the sole and entire agreement between the parties with respect to its subject matter. No warranties, representations, guarantees or other terms or conditions of any kind not contained and recorded in these General Terms & Conditions are of any force or effect.
- 20.15 These General Terms & Conditions and any contract to which they apply shall be governed by the laws applicable in Victoria and are subject to the jurisdiction of the courts of Victoria. All legal proceedings in relation to these General Terms & Conditions shall be instituted and held in Melbourne in the State of Victoria, Australia.