

## Wagestream Platform Agreement for Humanforce clients

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### Recitals

- 1 Wagestream provides an online integrated solution to employers that:
  - a) enables their approved Personnel earlier access to accrued salary and wages, which are repaid by the borrower through a salary deduction, or if unsuccessful, a direct debit arrangement;
  - b) allows their approved Personnel to automate a part of their salary or wages to an approved bank account for the purpose of generating savings; and
  - c) provides their approved Personnel with access to financial wellbeing content and financial coaching,  
(the **Wagestream Program**).
- 2 The Employer wishes to access the Wagestream Program to support the convenience and financial wellness of its Personnel and, where set out in an Order, the Personnel of its Related Companies.
- 3 Wagestream has agreed to grant to the Employer and, where set out in an Order, its Related Companies, and the Employer, in its own capacity and, where set out in an Order, on behalf its Related Companies has agreed to acquire from Wagestream, a licence to participate in the Wagestream Program under the terms of this Platform Facility Agreement (**Agreement**).
- 4 Where agreed, the Employer acknowledges its obligation, and warrants the payment of the Employee Loans should an Employee Loan remain outstanding after a Payment Cycle.
- 5 TimeTarget Pty Limited (**Humanforce**) (as agent for Wagestream) and the Employer have entered into an Order for the provision of the Wagestream Program and, pursuant to that Order, agree that the terms of this Agreement are incorporated into that Order.

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### Operative provisions

The parties agree as follows:

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## 1 Licence

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### 1.1 Scope of licence

- (a) Wagestream grants to the Employer a non-exclusive licence to:
  - (1) access and participate in the Wagestream Program during the Licence Term for the Permitted Purpose;
  - (2) use Wagestream's logo and branding that has been supplied to it by Wagestream to promote Wagestream both to its Personnel and publicly;
  - (3) integrate its Systems with the Wagestream Platform in accordance with clause 3; and

- (4) make the Wagestream Program available to the Employer's Eligible Employees, subject to:
  - (A) Eligible Employees accepting and complying with all applicable terms and conditions of the Wagestream Platform;
  - (B) Wagestream's rights to decline or suspend in clause 2.1(c); and
  - (C) any access restrictions imposed by the Employer.
- (b) The Employer grants to Wagestream a non-exclusive licence to use the Employer's logo and branding that has been supplied to it by the Employer to promote Wagestream both to the Employer's Personnel and, with the consent of the Employer, publicly.
- (c) The Employer acknowledges that it has no right, title or interest in the Wagestream Program except as set out in this clause 1.1.
- (d) The licence created by this Agreement does not create a fiduciary duty between the parties, nor does it permit a party to bind the other party.

## 2 Wagestream flexible pay and other services

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### 2.1 Granting and permitting access to Eligible Employees

- (a) The Employer may elect to enrol, and grant access to its approved Personnel, and, where set out in an Order, approved Personnel of its Related Companies (**Eligible Employees**) to use the Wagestream Program.
- (b) The Employer acknowledges that the Wagestream Program is a credit service and not a payroll service, and that the Employer is at all times liable for the payment of employee superannuation, income, tax and other employment related payments.
- (c) Wagestream may decline or suspend access at any time without giving a reason if an Eligible Employee:
  - (1) fails Know Your Customer (**KYC**) or Anti-Money Laundering checking, or other due diligence;
  - (2) declines to accept or breaches the Employee Terms;
  - (3) declines to accept or withdraws their privacy consent;
  - (4) is required to provide Wagestream with a direct debit authority, and declines to give, revokes or breaches their direct debit authority;
  - (5) is required to provide Wagestream and the Employer with a salary deduction authority, and declines to give, revokes or breaches their salary deduction authority; or
  - (6) fails to repay any credit on the scheduled repayment date; or
  - (7) is considered by Wagestream, acting reasonably, to be an unsuitable loan candidate.
- (d) It is the Employer's responsibility to suspend access immediately if a person ceases to be an Eligible Employee or revokes its salary deduction authority. Wagestream is entitled to rely on the active status of an Eligible Employee at the time of advancing credit.

### 2.2 Duty to disclose accurate Accrued Income information

- (a) The Employer must, on a daily basis unless agreed in writing otherwise (which may be specified in the Order), accurately notify Wagestream of each Eligible Employee's:

- (1) net accrued unpaid salary or wage; or if unavailable,
- (2) approved hours and pay rate; or if unavailable,
- (3) worked hours and pay rate,

as applicable, through a data feed facilitated by the integration of the Wagestream Platform with its Systems, or otherwise if no such data feed is available (**Accrued Income**). The Accrued Income must exclude any known or suspected deductions and any salary or wages which is yet to be accrued. Wagestream is entitled to rely on the data supplied by the Employer.

- (b) Unless otherwise agreed in writing, Wagestream imposes a 50% limit on the Accrued Income that an Eligible Employee is able to borrow.
- (c) Wagestream may impose other buffers and caps on the Accrued Income at its discretion, and display such commensurate amounts on the Eligible Employee's Wagestream App.
- (d) Wagestream retains the full discretion in deciding whether to accept or decline an Eligible Employee's request to borrow.
- (e) The Employer must notify Wagestream immediately of:
  - (1) any change to the duration or dates of the Employer's Payment Cycle;
  - (2) any change to an Eligible Employee's employment status, including whether any Eligible Employees have been terminated;
  - (3) any Eligible Employee revoking its salary deduction authority;
  - (4) unpaid leave dates; and
  - (5) any other matter impacting an Eligible Employee's current or future Accrued Income.

### 2.3 The Employer authorises Wagestream to lend, and honours repayment

- (a) By submitting Eligible Employee and Accrued Income details, the Employer:
  - (1) authorises Wagestream to provide Employee Loans to Eligible Employees up to an amount equal to 50% (unless otherwise agreed in writing) of their Accrued Income at the time of the request;
  - (2) agrees to honour the Eligible Employee's Authority to Deduct; and
  - (3) acknowledges, agrees to, and warrants that it becomes liable for, and will pay the aggregate balance of all outstanding Employee Loans in full at the end of each Payment Cycle.
- (b) Wagestream may, acting reasonably, agree to or decline an Eligible Employee's request to borrow.
- (c) The Employer's obligation under this clause 2.3 survives termination of this Agreement to the extent that all Employee Loans are repaid in full to Wagestream.

## 3 Wagestream Platform integration and use

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### 3.1 Integration with Wagestream Platform

- (a) The Employer agrees to prepare its technical environment for integration with the Wagestream Platform in accordance with Wagestream's reasonable recommendations, and as appropriate:

- (1) the Employer agrees to give and/or assist Wagestream and Humanforce with reasonable access to the Employer's Systems to integrate via an API, Secure File Transfer Protocol (**SFTP**), flat-file transfer or otherwise; or
  - (2) Wagestream will give the Employer and Humanforce access to the Wagestream APIs, and provide adequate information to assist the Employer to integrate with the Wagestream Platform.
- (b) The Employer must give Wagestream such assistance as Wagestream reasonably requires to ensure satisfactory integration between the Employer's Systems and the Wagestream Platform.

### **3.2 Use of Wagestream Platform**

- (a) The Employer must comply with this Agreement in full at all times.
- (b) Except as otherwise permitted under this Agreement, the Employer must not:
- (1) distribute, sub-license or otherwise transfer all or any part of the Wagestream Platform to any other person;
  - (2) grant any security interest over the Wagestream Platform;
  - (3) attempt to disassemble, decompile or otherwise reverse engineer the Wagestream Platform, except as permitted by the *Copyright Act 1968* (Cth);
  - (4) alter, customise, modify or create derivative works of the Wagestream Platform;
  - (5) expose the Wagestream Platform, Wagestream APIs or Wagestream data to reasonably avoidable cyber risks;
  - (6) remove, obliterate or alter any proprietary notice on the Wagestream Platform;
  - (7) charge its Personnel in connection with their use of, or access to any part of the Wagestream Platform or for any credit facility provided under the Wagestream Program;
  - (8) supply inaccurate data to Wagestream through the Wagestream Platform; or
  - (9) supply data in relation to a person who is not a current and active Personnel of the Employer.

### **3.3 Employee communications**

The Employer agrees to work with Wagestream to ensure that the Wagestream Program is effectively communicated to Eligible Employees via any relevant channels of internal or external communication.

## **4 Fees and payments**

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### **4.1 Fees**

- (a) The Employer will pay the Fees as set out in the Order.
- (b) All Fees must be paid in the manner specified in the Order.

### **4.2 Invoices**

- (a) Wagestream (or Humanforce, if applicable) must, at the times specified in the Order, prepare and deliver to the Employer, Tax Invoices setting out the Fees properly due to Wagestream.
- (b) Each Tax Invoice must:

- (1) be calculated in accordance with this Agreement;
- (2) contain sufficient detail to enable the Employer to verify its accuracy; and
- (3) be addressed and delivered in accordance with the Employer's requirements.

### **4.3 Payments, Fees and Charges**

- (a) The Employer must ensure that all Employee Loan repayments are repaid to Wagestream in full, through an integration with the Employer's Systems or otherwise, on or by the first Business Day following the end of each Payment Cycle to which the Employee Loan relates.
- (b) If any payment or fee due under this Agreement is due on a day that is not a Business Day, the payment must be made on or before the next Business Day.
- (c) Wagestream will treat a payment as being made when it (or Humanforce, if applicable) actually receives the payment. If any direct debit or cheque used for repayment is dishonoured, the repayment will be treated as outstanding.
- (d) Wagestream can apply any payment or other credit to any amount that the Employer owes Wagestream in any reasonable order that Wagestream determines.
- (e) If the Employer fails to pay fees as and when they become due, Wagestream may do one or more of the following:
  - (1) immediately suspend the Employer's licence, and immediately suspend all Eligible Employees' access to the Wagestream Platform;
  - (2) take enforcement action against the Employer; or
  - (3) take any other action as suitable in the circumstances.
- (f) Enforcement expenses may become payable by the Employer.

### **4.4 Set-off**

All payments must be made in full on the repayment date. The Employer must not deduct from amounts due to Wagestream (including where such amounts are payable to Humanforce) any amounts invoiced by Wagestream (or Humanforce, as applicable) to the Employer whether under, or in connection with, this Agreement or otherwise.

### **4.5 Failure to pay**

- (a) If the Employer fails to pay:
  - (1) any Fees; or
  - (2) the aggregate balance of all outstanding Employee Loans in accordance with the Payment terms,

then the Employer will be in default of its credit repayment obligations to Wagestream, and of this Agreement. Where the default is not remedied within seven days, Wagestream may do one or more of the following:

  - (3) without further notice, suspend the Employer's licence, and all Eligible Employee's access to the Wagestream Platform;
  - (4) call up and demand full payment of all amounts the Employer owes Wagestream;
  - (5) take enforcement action against the Employer;
  - (6) in the case of an Employee Loan, separately take action against any defaulting Eligible Employee (as applicable); or
  - (7) take any other action as suitable in the circumstances.

- (b) Enforcement expenses may become payable by the Employer if it defaults.
- (c) The Employer must pay on demand, and Wagestream (or Humanforce, as applicable) may debit the Employer's account with any reasonable costs in connection with any exercise or non-exercise of rights arising from any default, including:
  - (1) legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is higher;
  - (2) Wagestream's reasonable cost of credit; and
  - (3) Wagestream's reasonable internal costs necessarily incurred.

#### **4.6 Goods and Services Tax (GST Exclusive Prices)**

- (a) To the extent that GST is payable in respect of any supply made by a party (**Supplier**) under or in connection with this Agreement, the Supplier must issue a Tax Invoice including GST, and the recipient must pay the GST to the Supplier at the same time as the Tax Invoice is due to be paid. Failure to include GST does not forfeit the Suppliers right to charge the GST component separately.
- (b) If a party to this Agreement is entitled to be reimbursed or indemnified for a loss, cost, expense or outgoing incurred in connection with this Agreement, then the amount of the reimbursement or indemnity payment must first be reduced by an amount equal to any input tax credit to which the party being reimbursed or indemnified (or its representative member) is entitled in relation to that loss, cost, expense or outgoing and then, if the amount of the payment is consideration or part consideration for a taxable supply, it must be increased on account of GST.

## **5 Termination**

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### **5.1 Termination for cause**

- (a) Either party may, acting reasonably, terminate this Agreement immediately by notice to the other party if:
  - (1) the other party breaches a material term of this Agreement and, in the terminating party's reasonable opinion, the breach:
    - (A) cannot be remedied;
    - (B) can be remedied, but the other party does not remedy it within 10 Business Days after the terminating party gives the other party notice of the breach; or
  - (2) an Insolvency Event occurs in relation to the other party.
- (b) Wagestream can terminate this Agreement immediately if (i) Wagestream becomes aware that the product offered through the Wagestream Platform may cease to be compliant with the Australian regulatory regime, or (ii) Wagestream's agreement with Humanforce terminates.

## **6 Consequences of termination and expiry**

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### **6.1 Return of Wagestream Platform and APIs**

Within 5 Business Days after termination of this Agreement the Employer must:

- (a) cease promoting and using the Wagestream Platform and, if applicable, the Wagestream APIs; and

- (b) return to Wagestream, or destroy (at the Employer's option), all copies of the Wagestream collateral or intellectual property in the Employer's possession, custody or control.

## 6.2 Return of Confidential Information

On termination of this Agreement, each party must promptly return, and must ensure that its Personnel promptly return, any Confidential Information of the other party in its possession, custody or control.

## 6.3 Fee refund

All Fees are non-refundable.

## 6.4 Rights and remedies after termination

The termination of this Agreement does not affect any of either parties other rights or remedies.

# 7 Warranties

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## 7.1 General representations and warranties

Each party represents and warrants that:

- (a) the execution of this Agreement has been properly authorised;
- (b) it is entitled to enter into this Agreement and perform its obligations under this Agreement;
- (c) it has full corporate power to execute, deliver and perform its obligations under this Agreement;
- (d) this Agreement constitutes a legal, valid and binding obligation on it enforceable in accordance with its terms by appropriate legal remedy;
- (e) this Agreement does not conflict with or result in the breach of or default under any provision of its constitution or any provision of any Law to which it is subject;
- (f) to its knowledge there are no actions, claims, proceedings or investigations pending or threatened against it, or by it, which may have a material effect on the subject matter of this Agreement;
- (g) it will comply with all Laws applicable to this Agreement and to the performance of their obligations under this Agreement;
- (h) with respect to Personal Information that it has accessed in connection with this Agreement (as that term is defined in the *Privacy Act 1988* (Cth)), it will:
  - (1) take reasonable steps to protect Personal Information from misuse, interference and loss and from unauthorised access, modification and disclosure;
  - (2) notify the other party immediately if it identifies that a suspected or actual unauthorised access, disclosure or loss of personal information that may constitute an "eligible data breach" of the party also applies to the other party; and
  - (3) co-operate and use its best endeavours to assist the other party and any auditor or regulator in relation to any privacy or data security breaches, incidents, audits, complaints or regulatory investigations; and
- (i) it will not represent that it is authorised to act on behalf of the other party, except where previously expressly authorised to do so in writing by the other party.

## 8 Liability limits

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### 8.1 Wagestream's liability cap

The aggregate liability of Wagestream for loss or damage sustained by the Employer and, where applicable, any and all Related Companies in connection with this Agreement whether under statute, in contract or in tort, including for negligence, or otherwise is limited to the aggregate of all Fees paid by the Employer over the 12 months preceding the date on which the relevant cause of action arises.

### 8.2 Employer's liability cap

The aggregate liability of the Employer for loss or damage sustained by Wagestream in connection with this Agreement (excluding liability for amounts due under clause 4 and any warranty to repay unpaid Employee Loans) whether under statute, in contract or in tort, including for negligence, or otherwise is limited to the aggregate of all Fees paid by the Employer over the 12 months preceding the date on which the relevant cause of action arises.

### 8.3 Not liable for Consequential Loss

Neither party is liable for any Consequential Loss suffered in connection with this Agreement whether under statute, in contract or in tort, including for negligence, or otherwise.

### 8.4 Exclusions to liability caps

Nothing herein excludes or limits any liability which cannot be excluded or limited by law.

## 9 Indemnities

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### 9.1 Indemnities

Each party is responsible for their own conduct and due diligence, and neither party indemnifies the other party.

## 10 Confidentiality

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### 10.1 Confidentiality

- (a) Each party agrees to take reasonable steps, and to do all things necessary to safeguard and keep confidential, and not to use or disclose, other than as permitted by this Agreement, any Confidential Information of the other party.
- (b) The obligation of confidence in clause 10.1(a) extends to Confidential Information provided to or obtained by a party before entering into this Agreement.
- (c) Each party acknowledges that the value of the other party's Confidential Information is such that an award of damages or an account of profits may not adequately compensate if this clause 10 is breached.

### 10.2 Exclusions

The obligation of confidence in clause 10.1 does not apply to Confidential Information that is:

- (a) required to be disclosed by applicable Law or the rules of any stock exchange upon which the recipient's securities are listed, provided that the recipient:
  - (1) discloses the minimum amount of Confidential Information required to satisfy the Law or rules; and

- (2) before disclosing any information, the recipient provides a reasonable amount of notice to the discloser and exhausts all reasonable steps to maintain the Confidential Information in confidence;
- (b) in the public domain otherwise than as a result of a breach of this Agreement or another obligation of confidence;
- (c) independently developed by the recipient;
- (d) already known by the recipient independently of its involvement in this Agreement or interaction with the other party and free of any obligation of confidence; or
- (e) disclosed on a 'need-to-know' and confidential basis to its Personnel, legal advisors or Related Companies for the exercise of rights or the performance of obligations under this Agreement.

## 11 Records and audit

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### 11.1 Proper records to be kept

Both parties must keep full and proper books of accounts and records showing clearly all transactions to which this Agreement relates, evidence relating to Personnel salary or wage payments and details about the payment of loan proceeds for a period of 7 years, or longer if required by Law.

### 11.2 Audit rights

- (a) Acting reasonably, either party may appoint an independent auditor to audit and inspect records, for the purpose of establishing:
  - (1) that the other party has complied with material requirements of this Agreement; or
  - (2) a fact relating to a disputed payment in connection with an Employee Loan, or under this Agreement.
- (b) Each party must permit and provide reasonable assistance with audits and inspections referred to in clause 11.2(a).

### 11.3 Costs of the audit

Each party will bear its own costs associated with audits and inspections, unless an audit or inspection reveals that one party has breached this Agreement. In the event of a breach, the offending party is responsible for reasonable audit and inspection costs.

## 12 Subcontracting, assignment and novation

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### 12.1 Assignment by Employer

- (a) The Employer must not assign, novate or otherwise deal with its rights under this Agreement without Wagestream's prior written consent, which must not be unreasonably withheld, but will take into account Wagestream's legitimate credit risk and reputational risk interests.
- (b) Wagestream may at any time assign, transfer or novate all or any part of its rights or liabilities under this Agreement to:
  - (1) the purchaser of any business or assets of Wagestream or its Related Companies, save where such purchaser is a competitor of the Employer or the Employer reasonably considers that an assignment, transfer or novation

to such purchaser would have a detrimental impact on the Employer's reputation; or

- (2) any contractor, agent or third party service provider of Wagestream for the purpose of providing services to Wagestream or its Related Companies; or
- (3) a lender or other credit provider to Wagestream or its Related Companies (or any agent or trustee on behalf of any such lender or credit provider).

## 13 Notices

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### 13.1 How and where Notices may be sent

A notice or other communication under this Agreement from the Employer must be given to Humanforce and Wagestream and from Wagestream must be given to the Employer and each must be in writing and delivered by hand or electronically to a party in accordance with its detail as set out in the Order or, in respect of Wagestream, to the Legal Department at Level 12, 3 Spring Street, Sydney NSW 2000, or as otherwise specified by a party by written notice (**Notice**).

### 13.2 When Notices are taken to have been given and received

- (a) A Notice sent by express post is regarded as given and received on the third Business Day following the date of postage.
- (b) An electronic notice is regarded as given after transmission by the machine from which the notice was sent, following evidence of transmission, and subject to any return emails, notice of failure to deliver or notice of failure.
- (c) A Notice delivered or received other than on a Business Day or after 4.00pm (recipient's time) is regarded as received at 9.00am on the following Business Day and a Notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

## 14 Dispute Resolution

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### 14.1 Notice of Dispute

In the event of a difference or issue between the parties concerning or arising out of or in connection with or relating to this Agreement (a **Dispute**), either party may deliver a written notice to the other party (**Notice of Dispute**) which clearly identifies the details of the Dispute, the facts relied on, and the terms on which the Dispute should be resolved.

### 14.2 Response

Within 10 Business Days after a Notice of Dispute has been delivered by a party, the other party must deliver a written response (**Response**) which attempts to clarify and resolve the Dispute, and to explain the position of the responding party.

### 14.3 Without prejudice meeting

If, within 20 Business Days after delivery of a Notice of Dispute, the relevant Dispute has not been wholly resolved, either party may terminate the Agreement for cause on the basis of a material breach that cannot be resolved under clause 0.

### 14.4 Continued performance of this Agreement

Despite the existence of a Dispute, the parties must continue to perform their respective obligations under this Agreement until the Agreement is terminated.

## 14.5 Urgent relief

Nothing in this clause 14 prevents a party issuing proceedings where the only relief sought is urgent injunctive or urgent declaratory relief.

## 15 General

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### 15.1 Governing law and jurisdiction

This Agreement is governed by the Law in force in New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement.

### 15.2 Invalidity and enforceability

- (a) If any provision of this Agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 15.2(a) does not apply where enforcement of the provision of this Agreement in accordance with clause 15.2(a) would materially affect the nature or effect of the parties' obligations under this Agreement.

### 15.3 Waiver

A party may not rely on the words or conduct (including the delay in exercising a right) of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

### 15.4 Variation

A variation of any term of this Agreement will only be valid if made in writing and signed by both parties unless the variation is essential for regulatory or legal purposes.

### 15.5 Further action to be taken at each party's own expense

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this Agreement and the transactions contemplated by it.

### 15.6 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument.

### 15.7 Entire Agreement

This Agreement, and any document referred to within, states all of the express terms of the agreement between the parties for the licencing of the Wagestream Program and supersedes all previous agreements, proposals, representations, correspondence and discussions in connection with the licencing of the Wagestream Program.

### 15.8 Survival of obligations

- (a) Clauses 1, 4.3, 6, 7, 8, 10, 11, 12 and 15 and any other obligations which are expressed to or, by their nature, survive expiry or termination of this Agreement, will survive expiry or termination of this Agreement and are enforceable at any time at law or in equity.
- (b) The provisions of this Agreement survive expiry or termination of this Agreement to the extent necessary to give effect to clause 15.8(a).

## 16 Definitions and interpretation

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### 16.1 Definitions

Words used in this Agreement have the following meanings.

**Agreement** means the Wagestream Platform Agreement for Humanforce clients and the relevant Order.

**API** means an application programming interface.

**Authority to Deduct** means the consent given by an Eligible Employee to repay any applicable Employee Loans by way of a deduction from their next salary or wage payment at the end of each Payment Cycle.

**Business Day** means a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday in that city. Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day unless expressly stated otherwise.

**Claim** means any claim, allegation of a claim, action, proceeding or investigation of any nature or kind.

**Confidential Information** of a party means any information: (1) regarding the business or affairs of that party or its Related Companies; (2) regarding the customers, employees or contractors of, or other persons doing business with, that party or its Related Companies; (3) regarding the Agreement terms, or the commercial arrangements between the parties; (4) which is by its nature confidential or which is designated as confidential by that party; or (5) which the other party knows, or ought to know, is confidential.

**Consequential Loss** means any loss, not arising naturally, that is according to the usual course of things, from the relevant breach, whether or not that loss may reasonably be supposed to have been in the contemplation of both parties, at the time they made the contract, as the probable result of the relevant breach.

**Commencement Date** means, unless otherwise agreed under the Order, the date on which the last party to execute the Order executes the Order.

**Employee Loan** means a low cost credit facility provided to an Eligible Employee through Wagestream.

**Employee Terms** means Wagestream's general terms and conditions provided to Eligible

Employees and hosted on Wagestream's website.

**Employer** means the employer whose details appear on the Order.

**Fees** means the fees for the Wagestream Program specified in the Order.

**Insolvency Event** means: (1) a material judgment is obtained against the party, or any material distress, attachment, execution or other process of a Government Agency is issued against, levied or enforced on any of the party's assets, and is not set aside or satisfied within 10 Business Days; (2) the party suspends payment of its debts generally, or is or becomes unable to pay its debts when they are due; (3) the party enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them; (4) the party ceases, or threatens to cease, to carry on business; (5) a receiver, receiver and manager, administrator, trustee or similar official is appointed over any of the party's assets or undertakings, an application or order is made for the winding up or dissolution of the party, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the party, except for the purpose of an amalgamation or reconstruction which has the party's prior consent.

**Intellectual Property Rights** means any industrial and intellectual property rights throughout the world and for the duration of the rights including: (1) any patents, copyright including future copyright, registered or unregistered trademarks or service marks, trade names, brand names, registered or unregistered designs, commercial names, circuit layouts, database rights; (2) any inventions, discoveries, processes, methods, trade secrets, know-how, confidential information and scientific, technical and product information; (3) the right to apply for any industrial and intellectual property rights; and any other similar or analogous rights and any intellectual or industrial rights whether now existing or which come into existence in the future.

**Law** means any statutory law, subordinate law, common law, regulatory requirements, writ, order, injunction, or judgment; or local

government legislation, including regional plans, district plans, regulations, by-laws, declarations, ministerial directions and other subordinate legislation.

**Licence Term** means, unless otherwise agreed under the Order, the date on which the Wagestream Program becomes technically available to Eligible Employees until the termination of this Agreement.

**Loss** means loss, damage, liability, charge, expense, outgoing or cost (including all legal and other professional costs on a full indemnity basis) of any nature or kind.

**Nominated Bank Account** a bank account nominated by Wagestream from time to time.

**Notice** has the meaning given to it in clause 13.1.

**Order** means the order form to the extent it relates to the Wagestream Program executed by the Employer and Humanforce (as Wagestream's agent) incorporating the terms of this Wagestream Platform Agreement for Humanforce clients and which sets out the particulars of this Agreement.

**Payment Cycle** means, as appropriate, the monthly, bi-monthly, fortnightly, weekly (or otherwise) payment cycle or cycles utilised by the Employer to pay its employees.

**Permitted Purpose** means enabling the Employer's Personnel and, where set out in an Order, the Personnel of its Related Companies the convenience of accessing the Wagestream Platform to request prepayment of their earned salary or wages from Wagestream in the form of an Employee Loan, which the Employee must agree to repay to Wagestream through a salary deduction, direct debit, or another form of Employer guaranteed arrangement

**Personnel** means in relation to a party, that party's employees, agents, consultants and subcontractors.

**Related Company** means a related body corporate as that expression is defined in section 50 of the *Corporations Act 2001* (Cth).

**Supplier** has the meaning given to it in clause 4.6(a).

**Systems** means the Employer's payroll and time and attendance systems (as appropriate), and any other relevant systems reasonably required to facilitate the implementation of the Wagestream Program.

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

**Wagestream** means Earnd Pty Ltd trading as Wagestream ACN 625 490 968 of Level 12, 3 Spring Street, Sydney NSW 2000.

**Wagestream API** means the APIs made available by Wagestream to facilitate the integration of the Employer's payroll and/or time and attendance systems.

**Wagestream App** means the mobile based application that allows an individual to use the Wagestream Platform.

**Wagestream Platform** means the applications supplied by Wagestream that enables the Employer and its Eligible Employees to administer and use Wagestream's flexible pay and Employee Loan service, Wagestream's savings service and Wagestream's learning service. The Wagestream Platform exclude access to Wagestream source code.

**Wagestream Program** means the Wagestream benefit program delivered through the Wagestream Platform, that integrates with the Employer's Systems, and enables an employer to offer its Personnel access to Wagestream's business to customer (**B2C**) service to obtain low cost loans to the value of up to 50% of earned and accrued income (unless otherwise agreed in writing), and are repaid on the next pay date. The Wagestream Program includes Wagestream B2B access for employers, Wagestream B2C access for Eligible Employees to all features of the Wagestream Program, Wagestream APIs to setup the B2B integration, and the Employee Loan flexible pay service.

## **16.2 Interpretation of Agreement**

- (a) Headings and bold type are for convenience only and do not affect the interpretation.
- (b) The singular includes the plural and the plural includes the singular.
- (c) A party to the Agreement includes that party's successors and permitted assignees.
- (d) No provision will be construed adversely to a party because that party was responsible for the preparation of this agreement or that provision.
- (e) A reference to a body, other than a party to this agreement, whether statutory or not which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (f) The Agreement includes any schedule.
- (g) All references to currency mean Australian dollars.

## **16.3 Precedence of documents**

In the event of a conflict, inconsistency or ambiguity relating to the Wagestream Program between any provisions or parts of the Wagestream Platform Agreement for Humanforce clients and an Order, the provisions will prevail in the following decreasing order of precedence:

- (a) Wagestream Platform Agreement for Humanforce clients; and
- (b) the Order.