

# ASX: LVH MARKET RELEASE

## LIVEHIRE BOARD UNANIMOUSLY RECOMMENDS ALL CASH TAKEOVER OFFER FROM HUMANFORCE

14 August 2024 | Melbourne, Victoria

LiveHire Limited (**ASX:LVH**) ("**LiveHire**" or the "**Company**"), is pleased to advise that it has entered into a Bid Implementation Agreement (**BIA**) relating to an all cash, on-market takeover bid by Humanforce Holdings Pty Ltd (**Humanforce**), an Accel-KKR portfolio company, to acquire all of the ordinary shares (**Shares**) in LiveHire for \$0.045 per Share (**Offer**). Humanforce currently has a Relevant Interest in 73,882,619 of the Shares representing 19.99% of all LiveHire Shares on issue.

LiveHire's Board unanimously recommends that holders of LiveHire Shares (**Shareholders**) accept the Offer, in the absence of a superior proposal, and sell their LiveHire Shares on market before the Offer closes on 30 September 2024.

### Background to the Offer

As previously advised to the market, the Company has been actively reviewing capital structure and ownership options. LiveHire's Board began a concerted and intensive effort to find a strategic new investor or owner for the business some months ago. On 14 August 2024, following a global search for alternative buyers and investors, LiveHire and Humanforce entered into the Bid Implementation Agreement under which Humanforce agreed to make its Offer.

### Overview of the Offer

Under the Offer, Humanforce will pay LiveHire Shareholders cash consideration of \$0.045 cash per Share (**Offer Price**).

The Offer Price of \$0.045 cash per Share provides represents a:

- 87.5% premium to the undisturbed closing share price of \$0.024 on 13 August 2024 (being the last Trading Day prior to the date of this announcement);
- 75.8% premium to undisturbed 30-day volume weighted average price (**VWAP**) of \$0.026<sup>1</sup>;
- 137.7% premium to undisturbed 60-day VWAP of \$0.019;
- 156.0% premium to the undisturbed 90-day VWAP of \$0.018; and
- 158.1% premium to the undisturbed 120-day VWAP of \$0.017.

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<sup>1</sup> The VWAP of LiveHire Shares is calculated for the period up to and including 13 August 2024.

The Offer is unconditional and Shareholders may sell their Shares to Humanforce on market from today until the close of the Offer at 4pm on 30 September 2024 (**Offer Period**) unless otherwise extended by Humanforce.

The Offer extends to Shares that come to exist between the date of this announcement and the end of the Offer Period as a result of the conversion of other rights or securities (including rights under the LiveHire Employee Incentive Plan (**EIP**)<sup>2</sup> which have vested).

Further details of the Offer are set out in section 5 of the attached Target's Statement and in the BIA, which governs the implementation of the Offer.

### **Acceptance – on market**

Humanforce has advised that it intends to immediately commence buying LiveHire Shares on market through its appointed broker, MA Moelis Australia Securities Pty Ltd. LiveHire Shareholders wishing to accept the Offer simply need to sell their LiveHire Shares on market before the Offer closes on 30 September 2024.

### **LiveHire Board's recommendation and commentary**

The LiveHire Board unanimously recommends that LiveHire Shareholders accept the Offer, in the absence of a superior proposal, and sell their LiveHire Shares on market to Humanforce before the Offer closes on 30 September 2024.

The LiveHire Board considers the Offer to be an attractive offer for LiveHire Shareholders as it provides them an opportunity to receive certain cash value at a compelling premium to the recent trading price of their Shares. Further reasons for the LiveHire Board's unanimous recommendation are set out below and in section 1 of the Target's Statement which was lodged with ASX and ASIC today and will be sent to LiveHire Shareholders.

LiveHire Chair, Andrew Rutherford, commented:

*"Humanforce's Offer provides certainty of value for LiveHire Shareholders and enables them to realise value for their investment at a significant premium to LiveHire's recent trading price."*

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<sup>2</sup> The EIP was adopted by the Board of Directors of LiveHire on 17 December 2015 (as amended from time to time).

## LiveHire Directors support for the Offer

Each of the LiveHire Directors have agreed to sell all of the LiveHire Shares which they hold or control as at the date of this announcement (representing 43,403,072 LiveHire Shares or 11.74% of all LiveHire Shares on issue) for the Offer Price under pre-bid share purchase agreements entered into with Humanforce on 14 August 2024.

As disclosed in the Bidder's Statement, certain other LiveHire Shareholders have also agreed to sell, in aggregate, 30,479,547 LiveHire Shares to Humanforce for the Offer Price representing 8.25% of LiveHire Shares.

As a result, Humanforce holds a relevant interest in 73,882,619 LiveHire Shares representing 19.99% of all LiveHire Shares on issue.

In addition, each LiveHire Director intends to accept the Offer (in the absence of a superior proposal) in respect of any LiveHire Shares which they will hold or control following the exercise of any rights they hold under the EIP which have vested between the date of this announcement and the end of the Offer Period (representing up to a further 8,717,230 LiveHire Shares).

## Reasons to accept the Offer

The LiveHire Directors' reasons for recommending that LiveHire Shareholders **ACCEPT** the Offer in the absence of a superior proposal, are:

- (a) the Offer Price is at a compelling premium to recent trading prices of LiveHire Shares;
- (b) the Offer is unconditional, and provides certain cash consideration on a T+2 basis;
- (c) the Offer provides an important liquidity opportunity for LiveHire Shareholders;
- (d) there are ongoing risks associated with the business, in particular, its near-term capital requirements;
- (e) no superior proposal has emerged and, as at the date of this announcement, the Bidder holds a Relevant Interest in 73,882,619 LiveHire Shares<sup>3</sup>, and the Board considers it unlikely that a superior proposal will emerge; and
- (f) by not accepting the Offer, LiveHire Shareholders risk becoming minority shareholders in an entity controlled by Humanforce.

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<sup>3</sup> Pursuant to share purchase agreements entered into between each LiveHire Director and certain LiveHire Shareholders, as further described in Section 10.2 of the Target's Statement.

## Bid Implementation Agreement

The BIA between LiveHire and Humanforce (which is attached to this announcement at **Annexure 1**) contains certain terms customary for a transaction of this nature. These terms include deal protection mechanisms including no shop, no talk and no due diligence restrictions as well as notification and matching rights in the event of a competing proposal.

As mentioned above, the Offer is unconditional.

## Impact on holders of LiveHire Rights

Under the BIA, the parties have agreed that upon Humanforce acquiring relevant interests in at least 50.1% of LiveHire Shares:

- the vesting of all "FY23 Go the extra mile" and "Retention Equity Plan" performance rights issued under the EIP be accelerated (equal to 1,793,709 rights as at the date of this announcement); and
- all remaining unvested performance rights issued under the EIP will lapse (equal to 7,780,340 rights as at the date of this announcement).

All service rights (equal to 4,575,698 rights as at the date of this announcement) have vested.

Holders of vested performance rights or service rights may elect to exercise those rights by sending an exercise notice to LiveHire following which they will be issued LiveHire Shares in accordance with the terms of the EIP. Holders of newly issued LiveHire Shares may then accept the Offer and will receive cash for their LiveHire Shares on a T+2 basis.

## Overview of LiveHire

LiveHire is a disruptive award-winning talent acquisition & engagement platform that revolutionises the candidate experience and enables businesses to thrive with talent on demand.

Our Talent Acquisition & Engagement platform delivers a proactive sourcing and talent mobility solution called Live Talent Communities. The platform makes managing the flow of talent into and through businesses seamless, delivering value through detailed visibility of talent, shifting recruitment from reactive to proactive, improving fit, significantly reducing time and cost to hire, with an unrivalled candidate experience.

Founded in 2011, LiveHire is an Australian company headquartered in Melbourne.

## Overview of Humanforce

Humanforce is an Australian proprietary company which operates a SaaS platform providing workforce management solutions. Humanforce was incorporated in 2017, though the business has been operating since 2004, with subsidiaries in Australia, New Zealand, Singapore and the United Kingdom. Humanforce is a portfolio company of Accel-KKR Growth Capital Partners IV, LP, which is advised by AKKR Fund II Management Company, LP (**AKKR**). The AKKR Funds indirectly hold approximately 95% of the issued share capital of Humanforce, with the remaining interests held by minority investors.

AKKR is a private equity firm headquartered in Menlo Park, California, which invests in middle-market software and tech-enabled businesses. AKKR has over US\$19 billion in cumulative capital commitments and provides a broad range of capital solutions, including buyout capital, minority-growth investments, and credit alternatives.

Further information regarding AKKR can be found on its website: <https://www.accel-kkr.com/>

## Advisors

Johnson Winter Slattery is acting as legal adviser to LiveHire.

DLA Piper is acting as legal adviser to Humanforce in relation to the Offer.

## For more information:

Christy Forest – CEO and Executive Director

[investors@livehire.com](mailto:investors@livehire.com)

Subscribe to LiveHire's newsletter at: [https://www.livehire.com/investors/directors/  
www.livehire.com/investor](https://www.livehire.com/investors/directors/www.livehire.com/investor)

The Board of Directors of LiveHire authorised the release of this announcement to the ASX.



## **Annexure 1 – Bid Implementation Agreement**

**Humanforce Holdings Pty Ltd**

**LiveHire Ltd**

# **Bid Implementation Agreement**

**JOHNSON | WINTER | SLATTERY**

Quay Quarter Tower (QQT)  
Level 14, 50 Bridge Street  
SYDNEY NSW 2000  
T +61 2 8274 9555 | F +61 2 8274 9500  
[www.jws.com.au](http://www.jws.com.au)

Liability limited by a scheme approved under Professional Standards Legislation

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## Bid Implementation Agreement

**Date** 14 August 2024

### Parties

- 1 Humanforce Holdings Pty Ltd** (ACN 618 020 401) (**Bidder**)  
Address: Level 14, 90 Arthur Street, North Sydney NSW 2060  
Email: [REDACTED]  
Contact: David Pullini and Joe Porten
- 2 LiveHire Ltd** (ACN 153 266 605) (**Company**)  
Address: Level 19, 15 William Street, Melbourne VIC 3000  
Email: [REDACTED]  
Contact: Ben Brooks, Chief Financial Officer

### Recitals

- A** Bidder is proposing to make a takeover bid to acquire all of the Shares on the terms set out in this agreement.
- B** The Company Directors have informed the Company that they will recommend the Offer in the absence of a Superior Proposal.
- C** The parties have agreed to implement the Proposed Transaction on, and subject to, the terms and conditions set out in this agreement.

### Operative part

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## 1 Definitions and interpretation

### 1.1 Definitions

The following definitions apply in this agreement, unless the context requires otherwise.

**Accounting Standards** means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

**Adviser** means, in relation to an entity, its legal, financial and other expert and professional advisers and agents.

**Agreed Terms** means the terms set out in Schedule 1.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning given to that term in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) included a reference to this agreement and the Company was the designated body.

**ASX** means the Australian Securities Exchange, trading as ASX Limited ABN 98 008 624 691, or the stock exchange operated by it, as the context requires.

**ASX Listing Rules** means the official listing rules of ASX, as they may be waived or modified by ASX from time to time.

**ASX Settlement** means ASX Settlement Pty Ltd ABN 49 008 504 532.

**ASX Settlement Operating Rules** means the operating rules of the clearing and settlement facility operated by ASX Settlement.

**Beneficiary** means a present or former director or officer of the Company in respect of whom the Insurance Policy applies.

**Bidder Announcement** means the announcement set out in Schedule 2

**Bidder Group** means Bidder and each of its Related Entities.

**Bidder Indemnified Party** means Bidder, its Subsidiaries, its investors and their respective directors, officers and employees.

**Bidder Information** means the information relating to Bidder Group provided by or on behalf of Bidder to the Company that is included in the Target's Statement.

**Bidder's Statement** means the bidder's statement to be issued by Bidder in relation to the Offer in accordance with the Corporations Act.

**Bid Period** means the period from the date the Bidder's Announcement is lodged with ASX to the end of the Offer Period.

**Break Fee** means \$150,000.

**Business Day** means a day that is not a Saturday, Sunday, bank holiday or public holiday in Sydney, New South Wales or Melbourne, Victoria.

**Company Announcement** means the announcement set out in Schedule 3.

**Company Board** means the board of directors of the Company.

**Company Director** means a director of the Company.

**Company Group** means the Company and each of its Related Entities.

**Company Indemnified Party** means the Company, its Subsidiaries and their respective directors, officers and employees.

**Company Information** means the information relating to the Company Group, including the Company Group's assets and liabilities, financial or trading position, profitability and prospects.

**Company Prescribed Occurrence** means any of the events set out in sections 652C(1) and 652C(2) of the Corporations Act.

**Competing Bidder** means a person other than Bidder, any other member of the Bidder Group and their respective Associates.

**Competing Transaction** means any proposal, offer or transaction which, if completed substantially in accordance with its terms, would mean:

- (a) a person (other than Bidder or its Related Bodies Corporate) would, directly or indirectly acquire an interest (including an economic interest) or Relevant Interest in, or become the holder of:
  - (i) 20% or more of all Shares;
  - (ii) voting power of 20% or more in the Company; or
  - (iii) all (or a substantial part) of the business conducted by the Company Group;
- (b) a person (other than Bidder or its Related Bodies Corporate) would, directly or indirectly acquire Control of the Company or the Company Group; or
- (c) a person (other than Bidder or its Related Bodies Corporate) would, directly or indirectly acquire or merge with the Company Group; or
- (d) a person (other than Bidder or its Related Bodies Corporate) would, directly or indirectly acquire or obtain an interest (including an economic interest) in the whole (or a substantial part) of the Company Group or the businesses or assets or property of the Company Group,

in each case, whether by takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, sale of assets, sale of securities, strategic alliance, joint venture, partnership, debt for equity arrangement, reverse takeover bid or other transaction or arrangement.

**Confidentiality Deed** means the Confidentiality Deed dated on or around 20 June 2024 between Bidder and the Company.

**Confidential Information** has the meaning given to it in the Confidentiality Deed.

**Control** has the meaning given to it in section 50AA of the Corporations Act.

**Corporations Act** means the *Corporations Act 2001* (Cth), as it may be modified by ASIC, including in respect of Bidder, the Company or the Offer.

**Counterproposal** has the meaning given to that term in clause 8.5.

**Costs** means any costs, fees, charges, expenses or disbursements.

**Data Room** means the online data room located at <https://services.intralinks.com/> established and maintained by or on behalf of the Company under the name "Project Golden Eagle".

**Data Room Materials** means the information and documents (including written responses to requests for further information made by or on behalf of Bidder) contained in the Data Room as at 5:00pm on 13 August 2024, as set out in the index agreed in writing between the parties on or prior to the date of this agreement and subject to such additions or exclusions of documents as the parties agree in writing.

**Employee Incentive Plan** means the LiveHire Employee Incentive Plan adopted by the Company Board on 17 December 2015 and as amended with the approval of Shareholders on 23 November 2017, 30 November 2020 and 17 November 2022.

**Employee Rights** means Service Rights and Performance Rights.

**End Date** means the earlier of the:

- (a) end of the Offer Period; and

- (b) termination of this agreement in accordance with its terms.

**Exclusivity Period** means the period from and including the date of this agreement until and including the earlier of the:

- (a) date of termination of this agreement in accordance with its terms; and  
 (b) end of the Offer Period.

**Fairly Disclosed** means sufficient information has been disclosed so as to enable a sophisticated investor with experience in transactions of the nature of the Proposed Transaction and familiar with a business similar to that of the business carried on by the Company and Bidder (as applicable), would be aware of the substance and significance of the relevant information.

**Financial Indebtedness** means any debt or other monetary liability (whether actual or contingent) together with all interest, fees and penalties accrued thereon, in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:

- (a) interest or non-interest bearing loan or other financing liability or obligation, including an overdraft or any other liability in the nature of borrowed money (whether secured or unsecured);  
 (b) bill, bond, debenture, note or similar instrument;  
 (c) acceptance, endorsement or discounting arrangement;  
 (d) Guarantee;  
 (e) finance or capital lease;  
 (f) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service;  
 (g) redeemable share or security;  
 (h) obligation to deliver goods or provide services paid for in advance by any financier or debt factoring or receivables financing arrangement; or  
 (i) Guarantee in respect of any of the above.

**FY24 Bonus Payments** means the aggregate amount of \$280,000 to be paid in cash to certain employees and consultants of the Company (as identified by the Company to the Bidder).

**Government Agency** means any government or any governmental, semi-governmental, administrative, monetary, fiscal, statutory or judicial entity (including a court), commission, tribunal, agency or authority, or any minister, department, office or delegate of any government, whether in Australia or elsewhere, including any federal, state, provincial or local government, and including any self-regulating organisation established under statute or otherwise discharging substantially public or regulatory functions, and ASX or any other stock exchange and the Takeovers Panel, the Foreign Investment Review Board, ASIC and any other securities regulator, or any other person or entity under a law which has a right to impose a requirement on, or whose consent is required to carry out, operations.

**Guarantee** means a guarantee, indemnity, letter of credit, performance bond, acceptance or endorsement, or legally enforceable undertaking or obligation:

- (a) to pay or to provide funds (including by the purchase of any property) in respect of;
- (b) to enable payment or discharge of;
- (c) to indemnify against the consequences of default in the payment of; or
- (d) to be otherwise responsible for,
- (e) an obligation of another person (whether or not it involves the payment of money), or otherwise to be responsible for the solvency or financial condition of another person.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it or its Subsidiaries is in liquidation, in provisional liquidation, under administration or wound up or has had a controller, receiver or receiver and manager appointed to any part of its property;
- (c) it or its Subsidiaries enters into a deed of company arrangement;
- (d) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this agreement);
- (e) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above;
- (f) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (g) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the other party to this agreement reasonably deduces it is so subject);
- (h) it is otherwise unable to pay its debts when they fall due; or
- (i) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

**Insurance Policy** means the Company's directors and officers insurance policy in effect as at the date of this agreement.

**Insurance Run Off Period** means the period expiring on the date 7 years after the Retirement Date.

**Intellectual Property Rights** means all intellectual property rights, which may subsist anywhere in the world, now or in the future, including the following rights:

- (a) patents, copyright (including future copyright), moral rights, rights in circuit layouts, designs, trade marks, logos, know-how, inventions, and any right to have confidential information kept confidential; and
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a),

whether or not such rights are registered or capable of being registered.

**LCA** means Lighter Capital Australia Pty Limited (ACN 642 087 483).

**LCA Loan Agreements** mean the LNSA and the LSA.

**Liabilities** means claims, debts, obligations, Losses, liabilities, costs and damages of any kind and however arising, including penalties, fines and interest charges and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

**LNSA** means the Loan Note Subscription and Security Agreement dated 22 December 2023 between LCA, as lender, and the Company, as borrower.

**Loss** means any damage, claim, action, liability, cost, expense, outgoing, payment, fine or penalty or other loss of whatever nature.

**LSA** means the Loan and Security Agreement dated 22 December 2023 between Lighter Capital, Inc., as lender, and LiveHire US, Inc., as borrower.

**LVH Convertibles** means all rights or securities that may vest or be exercised with the result that Shares are issued, including Employee Rights, SRG Rights and Warrants.

**Material Contract** means a contract agreed by the parties on or before the date of this agreement to be a material contract (if any).

**Offer** means the offer by Bidder to acquire all of the Shares that exist or will exist during the Offer Period (including Shares issued after the date of this agreement as a result of the exercise of any Employee Rights on issue as at the date of this agreement) by way of the Proposed Transaction.

**Offer Period** means the period during which the Offer will remain open for acceptance as specified in the Bidder's Statement, as extended in accordance with the Corporations Act.

**Officer** has the meaning given to that term in the Corporations Act.

**Performance Right** means a right granted under the Employee Incentive Plan which is subject to performance based vesting conditions and is designated as a "Performance Right" (whether vested or unvested) in Schedule 4.

**Proposed Transaction** means a market takeover bid by Bidder under Chapter 6 of the Corporations Act to acquire all of the issued Shares that it does not already own on terms no less favourable than the Agreed Terms.

**Register** means the official register of Shares maintained by the Registry on the Company's behalf.

**Registry** means Automic Pty Limited or any other registry that the Company appoints to maintain the Register.

**Related Body Corporate** has the meaning given to that term in the Corporations Act.

**Related Entity** means, in respect of an entity (the **first entity**), an entity which:

- (a) is a Related Body Corporate of the first entity;
- (b) is any consolidated entity (as defined in section 9 of the Corporations Act) which contains the entity; or
- (c) is Controlled by the first entity.



**Related Person** means in respect of a party, each Related Entity and each Representative of that party.

**Relevant Interest** has the meaning given to that term in sections 608 and 609 of the Corporations Act.

**Representative** means, in relation to a party:

- (a) each of the party's Related Entities; and
- (b) each of the Officers, employees and Advisers of the party or of any of its Related Entities.

**Restriction Period** means the period commencing on the date of this agreement and ending on the End Date (inclusive of those dates).

**Retirement Date** in relation to a Company Director as at the date of this agreement means the date on which the Company Director ceases to be a Company Director.

**Run Off Cover** has the meaning given to that term in clause 6.3.

**Service Right** means a right granted under the Employee Incentive Plan which is subject to service based vesting conditions and is designated as a "Service Right" (whether vested or unvested) in Schedule 4.

**Share** means a fully paid ordinary share in the capital of the Company.

**Shareholder** means a holder of Shares as recorded on the Register.

**Shareholder Director** means a Company Director that holds, or has the power to exercise or control the exercise of a power to dispose of or a right to vote attached to, Shares.

**Share Purchase Agreement** means each share purchase agreement between the Bidder and a Shareholder Director or an Associate of the Shareholder Director dated on or around the date of this agreement.

**SRG** means SRG Partners Pty Ltd (ACN 603 753 671).

**SRG Agreement** means the corporate development role mandate letter between SRG and the Company dated 15 July 2022.

**SRG Right** means a performance right granted to SRG under the SRG Agreement.

**Subsidiary** has the meaning given in the Corporations Act.

**Superior Proposal** means a bona fide written Competing Transaction of the kind referred to in paragraphs (b), (c) or (d) of the definition of Competing Transaction received by the Company Board which has not resulted from a breach by the Company of any of its obligations under clause 7 of this agreement (it being understood that any Company authorised actions by Related Persons of the Company not permitted by clause 7 will be deemed to be a breach by the Company for these purposes) and, in the determination of the Company Board in order to satisfy what the Company Board consider to be its fiduciary and statutory duties (after obtaining written advice from its external legal advisers):

- (a) is reasonably capable of being completed in a reasonable timeframe in accordance with its terms, taking into account all aspects of the Competing Transaction; and
- (b) would, if completed substantially in accordance with its terms, be or be reasonably likely to be more favourable to Shareholders as a whole than the Offer,

in each case, taking into account all terms and conditions and other aspects of the Competing Transaction and the Offer (including the value and type of consideration, funding (and the level of certainty in respect of the funding required), any timing considerations, any conditions precedent (and the likelihood and timing of those conditions precedent being satisfied), the identity, reputation and financial condition of the proponent, the ability of the proponent to complete the transactions contemplated by the Competing Transaction, the probability of the Competing Transaction being completed compared to the Proposed Transaction and relevant legal, financial, regulatory and other matters).

**Takeovers Panel** means the body of that name continued in existence under section 261 of the *Australian Securities and Investments Commission Act 2001* (Cth) as the primary forum for resolving disputes about takeovers.

**Target's Statement** means the target's statement issued or to be issued by the Company under Chapter 6 of the Corporations Act in response to the Offer.

**Third Party** means a person other than the Company, Bidder or any of their respective Related Bodies Corporate or Associates.

**Timetable** means the indicative timetable for the Proposed Transaction in the form set out in Schedule 5.

**Transaction Bonus** means the transaction bonus to be paid by the Company to the Chief Financial Officer of the Company, on the terms that have been separately agreed between the Bidder and the Company.

**Unacceptable Circumstances** has the meaning set out in section 657A of the Corporations Act.

**Unvested Performance Rights** means Performance Rights in respect of which the relevant vesting criteria have not yet been satisfied, designated as "Unvested Performance Rights" in Schedule 4.

**Unvested Service Rights** means Service Rights in respect of which the relevant vesting criteria have not yet been satisfied, rights designated as "Unvested Service Rights" in Schedule 4.

**Vested Employee Rights** means Performance Rights and Service Rights in respect of which the relevant vesting criteria have been satisfied, designated as "Vested Performance Rights" and "Vested Service Rights" in Schedule 4.

**Warrant** means a warrant to purchase a Share issued by the Company to LCA on 31 January 2024 in connection with the LNSA, on the terms set out in the document titled Warrant to Purchase Shares between the Company and LCA dated on or about 31 January 2024.

## 1.2 Interpretation

In this agreement, the following rules of interpretation apply unless a contrary intention appears.

- (a) Any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this agreement.
- (b) The singular includes the plural and vice versa and a reference to a gender includes all other genders.

- (c) A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Government Agency.
- (d) A reference to:
  - (i) a person includes that person's successors, permitted substitutes and permitted assigns;
  - (ii) a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this agreement;
  - (iii) this agreement or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;
  - (iv) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;
  - (v) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
  - (vi) "include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
  - (vii) dollars or \$ is to Australian dollars;
  - (viii) time is to the time in Sydney, New South Wales;
  - (ix) "asset" includes any real or personal, present or future, tangible or intangible property or right and any right, interest, revenue or benefit in, under or derived from it;
  - (x) a day, month, quarter or year means a calendar day, month, quarter or year respectively;
  - (xi) writing includes any mode of representing or reproducing words in tangible and permanently visible form;
  - (xii) "in the ordinary course of business", or similar expressions, means the ordinary and usual course of business of the Company Group substantially consistent with the practice and customs of the Company Group in the 12 months preceding the date of this agreement (including with regard to nature and scope);
  - (xiii) "so far as the Company is aware" or such similar words or expressions to that effect, in relation to a matter, is deemed to be the actual knowledge of each of Andrew Rutherford, Christy Forest, Ben Brooks, Jennifer Byrne and Zac Beeten; and
  - (xiv) "applicable law" means all laws and regulations of jurisdictions applicable to the Offer, Bidder or the Company Group within or outside Australia including the ASX Listing Rules and policies, guidelines, official directives or requests of, or by, any Government Agency, whether or not having the

force of law, except to the extent compliance is duly modified, waived or exempted in favour of a person in the relevant circumstances.

- (e) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.
- (f) A provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this agreement or the inclusion of the provision in this agreement.
- (g) A period of time expressed to commence:
  - (i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
  - (ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

## **2 The Offer**

### **2.1 Bidder agrees to make Offer**

Bidder agrees to:

- (a) publicly announce a proposal to make offers under the Proposed Transaction, in accordance with clause 3, immediately after both parties have executed this agreement in accordance with the Bidder Announcement;
- (b) stand in the market to acquire securities at \$0.045 per Share from the date of this agreement; and
- (c) make the Offer.

### **2.2 Share Purchase Agreement holding locks**

The Company will procure that, as soon as practicable after execution of the Share Purchase Agreements (and in any event within 3 Business Days), all Shares the subject of the relevant Share Purchase Agreements will be released from any restrictions or holding locks.

### **2.3 LVH Convertibles**

- (a) The Company will procure that:
  - (i) the vesting of all Unvested Performance Rights designated in Schedule 4 as “Go the extra mile award – FY23” and “Retention Equity Plan” be accelerated;
  - (ii) all remaining Unvested Performance Rights are forfeited or will otherwise lapse;
  - (iii) all Unvested Service Rights will vest; and
  - (iv) all Shares issued or to be issued following the vesting and exercise of any Employee Rights will be released from any restrictions or holding locks,

in each case as soon as reasonably practicable after the Bidder acquires a Relevant Interest in at least 50.1% of the Shares.

- (b) The Company will also procure that:
  - (i) any Vested Employee Rights that have not been exercised by the end of the Offer Period lapse, in accordance with clause 31.1.4 of the Employee Incentive Plan; and
  - (ii) as soon as reasonably practicable after the date of this agreement a notice is issued to SRG terminating the SRG Agreement with the result that all SRG Rights lapse.
- (c) During the Restriction Period the Company will not deal with the LVH Convertibles other than as set out in clauses 2.3(a) and 2.3(b).

## **2.4 No withdrawal**

Bidder must not exercise any right to withdraw unaccepted offers that arises under sections 652C(1) or 652C(2) of the Corporations Act as a result of the issuing by the Company of Shares following the exercise of the Employee Rights referred to in clause 2.3.

## **2.5 Variation and extension**

Subject to the Corporations Act, Bidder may in its sole discretion vary the terms of the Offer in any manner permitted by the Corporations Act (including by extending the Offer) at any time.

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# **3 Launch of Proposed Transaction**

Immediately after the execution and exchange of this agreement:

- (a) the Bidder will announce the Proposed Transaction by issuing the Bidder Announcement in the form set out in Schedule 2;
- (b) the Bidder will lodge its Bidder's Statement with the ASX and ASIC and will send a copy to the Company;
- (c) the Company will release the Company Announcement in the form set out in Schedule 3 to ASX; and
- (d) the Company will lodge its Target's Statement with the ASX and ASIC and will send a copy to the Bidder.

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# **4 Facilitating the Offer**

## **4.1 General obligations**

The Company and Bidder must each:

- (a) use all reasonable endeavours and commit the necessary resources; and
- (b) procure that its Representatives work in a timely and co-operative fashion with the other party and its Representatives (including by attending meetings and by providing such records and information as the other party reasonably requires),

to implement the Proposed Transaction in accordance with the terms of the Offer and as otherwise set out in this agreement.

## **4.2 Promoting the Offer**

The Company must:

- (a) include in all public statements relating to the Offer following the date of this agreement (including the Target's Statement), a statement to the effect that:
  - (i) the Company Directors unanimously recommend that Shareholders accept the Offer made to them in the absence of a Superior Proposal;
  - (ii) the Company Directors will each accept the Offer for all Shares that they come to hold or control as a result of the exercise of Employee Rights during the Bid Period in the absence of a Superior Proposal; and
  - (iii) the relevant Company Directors have sold all Shares that they hold or control to the Bidder (including the number of Shares sold and the percentage those Shares bear to the total number of Shares).
- (b) not make any public statement or take any other public action which would suggest that the Offer is not unanimously recommended by the Company Directors unless a Superior Proposal emerges;
- (c) procure that no Company Director subsequently withdraws, revokes, revises, or qualifies, or makes any public statement inconsistent with their recommendation unless a Superior Proposal emerges;
- (d) support the Offer and participate in efforts reasonably required by Bidder to promote the merits of the Offer, including meeting with key shareholders and key management and engaging in reasonable media engagement (such as media interviews), unless a Superior Proposal emerges; and
- (e) issue such disclosure notices under section 672A of the Corporations Act as Bidder may reasonably request and provide Bidder with copies of all responses it receives.

## **4.3 Implementation obligations of Company**

Subject to the ASX Settlement Operating Rules, the Company must:

- (a) provide all necessary information about the Register and the holders of LVH Convertibles to Bidder which Bidder reasonably requires; and
- (b) provide all necessary directions to the Registry to promptly provide any information that Bidder reasonably requests in relation to the Register, including any sub-register and holders of LVH Convertibles and, where requested by Bidder, procure such information is provided to Bidder in such electronic form as is reasonably requested by Bidder,

in each case in order to assist Bidder to solicit acceptances under the Offer.

## **4.4 Company Board recommendation and acceptances**

The Company represents and warrants to Bidder that all of the Company Directors have informed the Company that, if Bidder makes the Bidder Announcement, they:

- (a) will each recommend that all Shareholders accept the Offer, subject to there being no Superior Proposal;

- (b) will each accept, or procure the acceptance of, the Offer in respect of all Shares that they come to hold or control as a result of the exercise of Employee Rights during the Bid Period, subject to there being no Superior Proposal; and
- (c) will not withdraw, revise, revoke or qualify, or make any public statement inconsistent with, the recommendation in clause 4.4(a), unless a Superior Proposal emerges.

#### **4.5 Indicative timetable**

- (a) Without prejudice to the remainder of the obligations contained in this clause 4 and subject to clause 2.5, each party agrees to act in good faith and use reasonable endeavours to implement the Proposed Transaction in accordance with the Timetable.
- (b) If the dates in the Timetable become unachievable, the parties will consult in good faith to agree necessary amendments to the Timetable.
- (c) Despite clause 4.5(a), the Bidder agrees to ensure that the Offer Period will end no earlier than 2 weeks after the despatch of the Target's Statement to Shareholders.

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## **5 Offer documentation**

### **5.1 Bidder's Statement**

- (a) Bidder must prepare a Bidder's Statement and Offer that are consistent with this agreement and the Agreed Terms and which comply with the Corporations Act and relevant ASIC regulatory guides.
- (b) Bidder agrees to do, and to procure its Officers to do, such things as are reasonably necessary to facilitate the lodgement of the Bidder's Statement with ASIC and despatch to Shareholders as soon as reasonably practicable after lodging the Bidder's Statement with ASIC.
- (c) The Company must provide any assistance or information reasonably requested by Bidder in connection with the preparation of the Bidder's Statement and any other document to be sent by the Bidder to Shareholders in connection with the Offer.

### **5.2 Target's Statement**

- (a) The Company must prepare a Target's Statement in response to the Offer in accordance with the Corporations Act and relevant ASIC regulatory guides.
- (b) The Company agrees to do, and to procure its Officers to do, such things as are reasonably necessary to facilitate the lodgement of the Target's Statement with ASIC and their despatch to Shareholders in accordance with the Timetable.
- (c) The Company must, to the extent reasonably practicable, give Bidder a reasonable opportunity to review an advanced draft of the Target's Statement and consult with Bidder with respect to any comments Bidder or its Representatives have on the Target's Statement.
- (d) The Company must ensure that the Target's Statement includes:
  - (i) a recommendation from the Company Directors unanimously recommending that Shareholders accept the Offer made to them in the absence of a Superior Proposal;



- (ii) a statement by each Company Director that they will accept the Offer for all Shares that they come to hold or control as a result of the exercise of Employee Rights during the Bid Period in the absence of a superior proposal; and
  - (iii) the relevant Company Directors have sold all Shares that they hold or control to the Bidder (including the number of Shares sold and the percentage those Shares bear to the total number of Shares).
- (e) Bidder must provide any assistance or information reasonably requested by Company in connection with the preparation of the Target's Statement and any other document to be sent by the Company to Shareholders in connection with the Offer.

### **5.3 Despatch of documents**

- (a) Each party agrees to use reasonable endeavours to implement the Proposed Transaction in accordance with the Timetable.
- (b) The Company undertakes to direct its Registry to:
  - (i) co-operate with Bidder for the purposes of satisfying its obligations under the Corporations Act and allowing it to despatch the Bidder's Statement in accordance with the Timetable; and
  - (ii) provide Bidder (at Bidder's cost) with:
    - (A) all information about the register of Shareholders of the Company including a copy of the register and details regarding the holders of LVH Convertibles as at the date nominated by Bidder in the electronic form requested by Bidder within two Business Days after each such request; and
    - (B) during the Bid Period, all information about the register of Shareholders, including any sub-register, in the electronic form requested by Bidder within two Business Days after receipt of a written request by Bidder to provide a copy of such register,

subject to Bidder complying with any applicable requirements of the ASX Settlement Operating Rules.
- (c) The Company undertakes to:
  - (i) lodge the Target's Statement with ASX and ASIC on the same day that the Bidder's Statement is lodged with ASX and ASIC and given to the Company in accordance with the Timetable; and
  - (ii) despatch the Target's Statement to Shareholders as soon as reasonably practicable after lodging the Target's Statement with ASX and ASIC in accordance with clause 5.3(c)(i), or if the Bidder so requests, to despatch the Target's Statement contemporaneously with the Bidder's despatch of the Bidder's Statement under clause 5.1(b).



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## **6 Conduct of business**

### **6.1 Overview**

- (a) During the Restriction Period, the Company must, and must procure that each member of the Company Group does:
  - (i) conduct its business in the ordinary course of business or, to the extent inconsistent with that, as may be required in order to satisfy a specific requirement of a Government Agency;
  - (ii) comply with all agreements and contractual arrangements to which a member of the Company Group is party;
  - (iii) comply with all applicable laws; and
  - (iv) preserve and maintain the value of its business and assets, and its relationships with customers, suppliers, employees and others with whom it has business dealings.
- (b) For the purpose of clause 6.1(a) and subject to the terms of this agreement, the Company responding to the Offer and responding to any potential Competing Transaction (together with all associated activity and expenditure) in accordance with this agreement, is deemed to be the Company conducting its business in the ordinary course of business.
- (c) Nothing in clause 6.1(a) restricts the ability of the Company to take any action which:
  - (i) is required, expressly permitted or expressly contemplated by this agreement;
  - (ii) has been Fairly Disclosed in public filings to ASX in the two years before the date of this agreement or in the Data Room Materials;
  - (iii) is required by any applicable law or Government Agency;
  - (iv) is required by any legal or contractual obligation arising before the date of this agreement and which has been Fairly Disclosed in writing to Bidder prior to the date of this agreement;
  - (v) is required to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property, but excluding any incident or event which relates to an actual or suspected cyber attack, data breach or disruption of the Company's technology systems, or similar event); or
  - (vi) has been agreed to in writing by Bidder,

provided that, in the case of clause 6.1(c)(v), the Company must, only to the extent reasonably practicable to do so, notify and consult with Bidder in good faith in respect of the proposal to take such action or not take such action and consider any reasonable comments or requests of Bidder in relation to such proposal in good faith.

## 6.2 **Prohibited actions - Company Group**

Other than with Bidder's prior written approval (which approval must not be unreasonably withheld or delayed), the Company must not, and must procure that each member of the Company Group does not, during the Restriction Period:

- (a) **(issue of Shares)** in the case of the Company, issue any Shares, securities or LVH Convertibles, other than as a result of the exercise of Employee Rights on issue prior to the date of this agreement, and in the case of a member of the Company Group (other than the Company), issue any securities other than to the Company or to any other member of the Company Group that is directly or indirectly wholly-owned by the Company;
- (b) **(dividends and distributions)** in the case of the Company, announce, determine as payable, declare or pay any dividend or distribution, and in the case of a member of the Company Group (other than the Company), announce, determine as payable, declare or pay any dividend or distribution other than to the Company or to another member of the Company Group that is directly or indirectly wholly-owned by the Company;
- (c) **(Financial Indebtedness)** other than as has been Fairly Disclosed in public filings to ASX in the two years before the date of this agreement or in the Data Room Materials, incur any Financial Indebtedness in excess of \$25,000 (excluding GST) or forgive any Financial Indebtedness;
- (d) **(Material Contracts)** other than as has been Fairly Disclosed in public filings to ASX in the two years before the date of this agreement or in the Data Room Materials, enter into, terminate or vary, amend or modify a Material Contract other than the entry into, or renewal of, a contract in the ordinary course of business;
- (e) **(employment agreements)** other than in the ordinary course of business (and excluding the FY24 Bonus Payments and the Transaction Bonus) enter into a new employment agreement or terminate an existing employment agreement, increase the remuneration of, or benefits of or pay any bonus (including under any existing or proposed employee performance bonus policy or retention bonus policy) or issue or agree to issue any securities or options or vary the redundancy terms of, or otherwise vary or amend the employment, services or consultancy agreements with, any of its directors or employees;
- (f) **(amendments to incentive plan)** amend or vary the terms of the Employee Incentive Plan or any other employee incentive arrangements (or exercise any discretion in a way that has the effect of amending or varying the application of any such incentive arrangements) other than as expressly contemplated or expressly permitted under this agreement or as a result of the accelerated vesting of Employee Rights on issue prior to the date of this agreement in accordance with this agreement;
- (g) **(termination payments)** pay a director or an employee a termination payment, other than as provided for in an existing employment contract that has been Fairly Disclosed to Bidder in the Data Room Materials and is in place as at the date of this agreement and entered into in the ordinary course of business;
- (h) **(transaction costs)** enter into any new agreements or arrangements or amend any agreement or arrangement existing at the date of this agreement under which the Company Group will incur costs and expenses payable to advisers or other third party service providers in connection with the Transaction;

- (i) **(Company Prescribed Occurrence)** take any action which would be reasonably expected to give rise to a Company Prescribed Occurrence other than as expressly contemplated or permitted under this agreement;
- (j) **(directors)** appoint any person as a director of the Company (other than as expressly contemplated by this agreement);
- (k) **(related parties)** enter into, or resolve to enter into, a transaction (including an agreement to forego or extinguish any rights) with any related party of the Company (other than a related party which is a member of the Company Group), as defined in section 228 of the Corporations Act (other than as expressly contemplated by this agreement);
- (l) **(Intellectual Property)** other than as has been Fairly Disclosed in public filings to ASX in the two years before the date of this agreement or in the Data Room Materials, sell, license, transfer, assign, abandon, dedicate to the public, permit to lapse or otherwise dispose of any of its Intellectual Property assets that are material to its business, except for non-exclusive licenses of its intellectual property in the ordinary course of business;
- (m) **(security interests)** grant, or agree to grant, a security interest (within the meaning of section 9 of the Corporations Act) in the whole, or a substantial part of, its business or property;
- (n) **(insurance)** other than as has been Fairly Disclosed in the Data Room Materials, cancel any insurance policy unless a replacement policy (on no less favourable terms to the relevant member of the Company Group, if available) has been put in place;
- (o) **(material commitments)** enter into or agree to enter into or announce any transaction which would, or would be likely to, involve the Company or any other member of the Company Group incurring a commitment, whether capital or expense in nature, that would through a single transaction or a series of related transactions be in excess of \$150,000;
- (p) **(outside ordinary course matters)** enter into or agree to enter into or announce any action that would in the ordinary course of business have been referred to the Company Board for approval, other than relating to the Proposed Transaction or a Competing Transaction in accordance with this agreement; or
- (q) **(agreement)** agree to do any of the matters set out above.

### 6.3 **Trading Halt**

The Company must not seek a trading halt or do anything to cause Company Shares to cease being quoted on ASX or to become suspended from trading prior to implementation of the Proposed Transaction (including throughout the Bid Period) unless it has first sought and obtained the Bidder's consent in writing (to the extent practicable in the circumstances having regard to the Company's obligations under the ASX Listing Rules). If the Company reasonably determines it is required by the ASX or the ASX Listing Rules to do any of the foregoing or that any of the foregoing may otherwise occur, the Company must as soon as reasonably practicable (and in any event within 24 hours) notify the Bidder in writing. This

notification must include the reasons for that determination, and all material information supporting that determination.

#### **6.4 Directors and officers insurance**

- (a) Bidder must ensure that, subject to the Bidder acquiring a Relevant Interest in 50.1% of all the Shares, each Beneficiary is at all times during the Insurance Run Off Period covered under run off directors' and officers' liability insurance cover (**Run Off Cover**) on terms not less favourable than the terms of the Insurance Policy and must provide any Beneficiary with such evidence as the party may, from time to time, require to satisfy itself that the Run Off Cover has been maintained.
- (b) The Company receives and holds the benefit of this clause 6.3 as it relates to each Beneficiary as trustee for each of them such that each of them may enforce this clause and claim against Bidder and the parties must not agree to this clause being amended without the consent of each Beneficiary.
- (c) The Run Off Cover will cover claims for the Insurance Run Off Period.
- (d) The undertakings contained in this clause 6.3 are subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.

#### **6.5 Access to the Company**

During the Restriction Period, the Company must to the extent reasonably requested:

- (a) provide Bidder and its Representatives as soon as is reasonably practicable with any documents, records and other information (subject to any existing confidentiality obligations owed to third parties or applicable privacy laws) reasonably requested by them; and
- (b) provide Bidder and its Representatives with reasonable access within normal business hours to the Company's senior management (provided that this does not impose an unreasonable burden on the Company or result in unreasonable disruptions to, or interference with, the Company Group's business),

for the purposes of:

- (c) further understanding the Company's financial position and keeping the Bidder informed of monthly operational and financial performance of the Company Group;
- (d) keeping the Bidder informed of any material correspondence and notices it receives and other developments relating to the Company Group (including any material correspondence received from or provided to a Government Agency or a counterparty to a Material Contract);
- (e) performing its obligations under this agreement in respect of the Offer;
- (f) preparing for and carrying on the business of the Company following close of the Offer; and
- (g) any other purpose agreed in writing between the parties,
- (h) provided that:
- (i) Bidder must:
  - (i) except to the extent that it is needed to implement the Proposed Transaction, keep all information obtained by it under this clause 6.5

- confidential as Confidential Information subject to the Confidentiality Deed;
  - (ii) provide the Company with reasonable notice of any request for information or access; and
  - (iii) comply with the reasonable requirements of the Company in relation to any access granted;
- (j) nothing in this clause 6.5 will require the Company to provide, or procure the provision of, information:
  - (i) concerning the Company Group's business that is, in the reasonable opinion of the Company, commercially sensitive, including any specific pricing and margin information or information about acquisition or disposal opportunities;
  - (ii) concerning clients of the Company;
  - (iii) concerning its directors' and management's consideration of, or advice received in relation to, the Proposed Transaction or a Competing Transaction; or
  - (iv) if to do so would or would be reasonably likely to result in a waiver of legal professional privilege;
- (k) information need not be provided if that would result in a breach of any applicable law (including the ASX Listing Rules); and
- (l) the Company's obligations under this clause cease to operate upon a majority of the Company Board changing or withdrawing their recommendation where permitted by this agreement.

## **6.6 Appointment of directors**

- (a) As soon as reasonably practicable after Bidder has acquired a Relevant Interest in 50.1% of all the Shares, if requested in writing to do so by Bidder, the Company must use its best endeavours to procure the resignation of Mr Henry Ludski and Mr Cris Buningham as Company Directors and the appointment of up to three Bidder nominee directors (or such other number such that Bidder nominees comprise a majority of the Company Board) to the Company Board (subject to those persons having provided a consent to act as directors and having been issued a director identification number by the Australian Business Registry Services).
- (b) As soon as reasonably practicable after the Offer Period has ended and Bidder has paid the consideration payable under the Offer to the Company's Shareholders who accepted the Offer, and for so long as Bidder and its Associates together have relevant interests in more than 90% of all of the Shares, the Company must use reasonable endeavours to:
  - (i) procure that each director of the Company designated by Bidder in writing and each director of any member of the Company Group designated by Bidder in writing resigns; and
  - (ii) cause the appointment to the Company Board, and to the boards of each member of the Company Group, of such persons as nominated by Bidder in writing (subject to those persons having provided a consent to act as directors of the relevant company or companies and having been issued

a director identification number by the Australian Business Registry Services).

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## **7 Payment of costs**

### **7.1 Background**

- (a) The Bidder and the Company each acknowledge that, if they enter into this agreement and the Proposed Transaction is subsequently not implemented, the Bidder will incur significant costs, including those set out in clause 7.3.
- (b) In the circumstances referred to in clause 7.1(a), the Company has agreed that provision be made for the payments outlined in clause 7.2, without which the Bidder would not have entered into this agreement or have otherwise agreed to implement the Proposed Transaction.
- (c) The Company represents and warrants that:
  - (i) it has received legal advice in relation to this agreement and the operation of this clause 7; and
  - (ii) it believes that implementation of the Proposed Transaction will provide benefits to the Company and Shareholders and that it is appropriate for the Company to agree to the payments referred to in clause 7.2 in order to secure the Bidder's participation in the Proposed Transaction.

### **7.2 Payment of costs incurred by Bidder**

The Company must pay the Break Fee to the Bidder if at any time after the Bidder makes the Bidder Announcement:

- (a) a Competing Transaction is announced or made before the end of the Offer Period and within 12 months of the third party announcing or making the Competing Transaction, the third party (either alone or together with any Associate(s)):
  - (i) directly or indirectly acquires a relevant interest or an economic interest in 50% or more of the Company's Shares or the share capital of any of its Related Bodies Corporate;
  - (ii) directly or indirectly acquires control of the Company or a member of the Company Group;
  - (iii) directly or indirectly acquires or becomes the holder of any interest in all or a substantial part of the business or assets of the Company Group or a member of the Company Group; or
  - (iv) otherwise acquires or merges with the Company Group;
- (b) any member of the Company Board fails to recommend that Shareholders accept the Proposed Transaction in accordance with the Company Announcement in the absence of a Superior Proposal or, having made such a recommendation, makes a public statement which withdraws, revises or qualifies that recommendation;
- (c) any member of the Company Board recommends that Shareholders accept or support a Competing Proposal; or
- (d) the Bidder terminates this agreement in accordance with clause 12.1(a) or clause 12.2 of this agreement.

### **7.3 Basis of Break Fee**

The Break Fee has been calculated to reimburse the Bidder for:

- (a) fees for legal and financial advice in planning and implementing the Proposed Transaction;
- (b) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
- (c) costs of its management and directors' time in planning and implementing the Proposed Transaction;
- (d) out of pocket expenses incurred by the Bidder's employees, advisers and agents in planning and implementing the Proposed Transaction;
- (e) any damage to the Bidder's reputation associated with a failed transaction and the implications of that damage if the Bidder seeks to execute alternative acquisitions in the future; and
- (f) losses associated with any damage to the Bidder's goodwill with its customers, suppliers or employees,
- (g) incurred by the Bidder directly or indirectly as a result of pursuing the Proposed Transaction.

### **7.4 Calculation of Break Fee**

The parties acknowledge and agree that:

- (a) the loss actually incurred by the Bidder under clause 7.3 will be of such nature that it cannot accurately be ascertained; and
- (b) the Break Fee is a genuine and reasonable pre-estimate of those fees, costs and losses.

### **7.5 Refund**

Despite anything contrary in this agreement, the Break Fee will not be payable to the Bidder if the Bidder becomes the holder of more than 50.1% of the Company's Shares as a result of the Proposed Transaction, notwithstanding the occurrence of any event referred to in clause 7.2, and if the Break Fee or any part of the Break Fee has already been paid to the Bidder it must be refunded.

### **7.6 Payment**

- (a) The Bidder may demand payment under this clause 7 by written notice to the Company after the occurrence of an event referred to in clause 7.2 giving rise to the right to payment which sets out:
  - (i) the circumstances giving rise to payment; and
  - (ii) the nominated account into which the Company must pay the Break Fee.
- (b) If the Company is obliged under the terms of this clause 7 to pay an amount to the Bidder, the Company must pay that amount to the Bidder within 5 Business Days of receiving a valid demand for payment in accordance with clause 7.6(a).



**7.7 Compliance with law**

If:

- (a) it is found by the Takeovers Panel or a court that all or any part of the payment required to be made under this clause 7 is unlawful, involves a breach of director's duties or constitutes Unacceptable Circumstances and the period for lodging an application for review or a notice of appeal (as applicable) has expired without the application or notice having been lodged; or
- (b) following lodgement of an application for review or a notice of appeal with the Takeovers Panel or a court within the prescribed period, it is found by the relevant review panel or appeal court that all or any part of the payment required to be made under this clause 7 is unlawful, involves a breach of directors' duties or constitutes Unacceptable Circumstances,

(Challenged Amount), then:

- (c) the parties' undertakings under this clause 7 do not apply to the extent of the Challenged Amount; and
- (d) any party that has already received an amount under this clause 7 must refund any Challenged Amount.

**7.8 Break Fee payable only once**

Notwithstanding any other provision of this agreement, where the Break Fee becomes payable to the Bidder under this clause 7 and is actually paid to the Bidder, the Bidder cannot make any claim against the Company for payment of any subsequent Break Fee.

**7.9 Other claims**

The maximum liability of the Company to the Bidder and the Bidder's sole and exclusive remedy under or in connection with this agreement including in respect of any breach of this agreement will be the Break Fee and no further damages, fees, expenses or reimbursements of any kind will be payable by the Company in connection with this agreement.

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**8 Exclusivity****8.1 No existing discussions**

The Company represents and warrants to Bidder that:

- (a) other than the discussions with Bidder in respect of the Proposed Transaction, no member of the Company Group is as at the date of this agreement participating in any negotiations or discussions relating to any actual, proposed or potential Competing Transaction with any person; and
- (b) no person proposing any Competing Transaction to the Company's knowledge has access to the Company Group's confidential information.

**8.2 No-shop and no talk**

During the Exclusivity Period, the Company must not, and must ensure that each of its Related Persons do not, directly or indirectly:

- (a) **(no shop)** solicit, invite, encourage or initiate (including by the provision of non-public information to any Third Party) any inquiry, expression of interest, offer,



proposal, negotiations or discussion by any person in relation to, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Transaction; or

- (b) **(no talk and no due diligence)** subject to clause 8.3:
  - (i) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Transaction or participate in or continue any negotiations or discussions with respect to any actual, proposed or potential Competing Transaction;
  - (ii) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Transaction; or
  - (iii) disclose or otherwise provide any non-public information about the business or affairs of the Company Group to a Third Party (other than a Government Agency that has the right to obtain that information and has sought it) in connection with, with a view to obtaining, or which would reasonably be expected to encourage or lead to the formulation, receipt or announcement of, an actual, proposed or potential Competing Transaction (including providing such information for the purposes of the conduct of due diligence investigations in respect of the Company Group) whether by that Third Party or another person; or
- (c) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 8.2,
- (d) provided that nothing in this clause 8.2 prevents the Company from:
- (e) making normal presentations to brokers, portfolio managers and analysts in the ordinary course of business, or promoting the merits of the Proposed Transaction and the Offer;
- (f) providing information as required by any applicable law or the ASX Listing Rules or to any Government Agency;
- (g) providing information to its auditors, Advisers, customers, suppliers in the ordinary course of business; or
- (h) communicating with Shareholders in accordance with its ordinary investor communications practices.

### **8.3 *Fiduciary exception***

Clauses 8.2(b) and 8.4 (only to the extent it requires disclosure of information referred to in clause 8.4(b)(i)) do not prohibit any action or inaction by the Company or any of its Related Persons in relation to any actual, proposed or potential Competing Transaction, provided that the Competing Transaction was not directly or indirectly brought about by, or facilitated by, a breach of clause 8.2(b) and which the Company Board, acting in good faith, determines based on and having regard to advice from its external legal Advisers:

- (a) is a Superior Proposal (or which may reasonably be expected to result in the Competing Transaction becoming a Superior Proposal); and

the failure to take or not take such action would constitute, or would be reasonably likely to constitute, a breach of the fiduciary or statutory duties of the directors of the Company.

#### **8.4 Notice of approach**

(a) During the Exclusivity Period, the Company must promptly (and in any event within 24 hours) notify Bidder in writing if it or any of its Related Persons becomes aware of:

- (i) any negotiations or discussions, approach or attempt to initiate any negotiations or discussions, or intention to make such an approach or attempt to initiate any negotiations or discussions in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to an actual, proposed or potential Competing Transaction;
- (ii) any written proposal made to the Company or any of its Related Persons in connection with or in respect of any exploration or completion of, an actual, proposed or potential Competing Transaction; or
- (iii) any request for, or provision by the Company or any of its Related Persons of, any non-public information concerning the business or operations of the Company or the Company Group to any Third Party (other than a Government Agency) in connection with an actual, proposed or potential Competing Transaction,

whether direct or indirect, solicited or unsolicited, and in writing or otherwise.

(b) A notification given under clause 8.4(a) must, subject to clause 8.3, include:

- (i) the identity of the relevant person making or proposing the relevant actual, proposed or potential Competing Transaction;
- (ii) all terms and conditions of the actual, proposed or potential Competing Transaction.

(c) Commencing upon the provision of any notice referred to in clause 8.4(a), Company must as soon as possible:

- (i) advise Bidder of any material developments in relation to an actual, proposed or potential Competing Transaction, including material amendments or proposed amendments to the terms of such actual, proposed or potential Competing Transaction; and
- (ii) advise Bidder of the timing of any Company Board meeting to consider that proposal unless (and only to the extent that) the Company Board, acting in good faith and having regard to external legal advice, determines that it would be likely to be a breach of their fiduciary or statutory duties to notify Bidder.

(d) For the purpose of this clause 8.4, each successive material modification or variation of any proposal, agreement, arrangement or transaction in relation to a Competing Transaction will constitute a new Competing Transaction.

#### **8.5 Matching right**

(a) Without limiting clause 8.2, during the Exclusivity Period, the Company:

- (i) must not, and must procure that each member of the Company Group does not, enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which one or more of a Third Party, the Company or any member of the Company Group proposes or propose to undertake or give effect to an actual, proposed or potential Competing Transaction; and
- (ii) must use reasonable endeavours to procure that none of its directors change their recommendation in favour of the Offer, publicly recommend an actual, proposed or potential Competing Transaction (or recommend against the Offer) or make any public statement to the effect that they may do so at a future point (provided that a statement that no action should be taken by Shareholders pending the assessment of a Competing Transaction by the Company Board and its Advisers shall not contravene this clause),

unless all of the following apply:

- (iii) the Company Board in order to satisfy what the members of the Company Board consider to be their statutory or fiduciary duties (having received advice from its external legal Adviser) determines that the Competing Transaction would be or would be reasonably likely to be an actual, proposed or potential Superior Proposal;
  - (iv) the Company has provided Bidder with a notice confirming the Company Board has made the determination in clause 8.5(a)(iii), along with all material terms and conditions of the actual, proposed or potential Competing Transaction (including price and the identity of the Third Party making the actual, proposed or potential Competing Transaction, the form of consideration and the source of any cash component, proposed deal protection provisions, any break or reimbursement fee, proposed timing and any conditions precedent) and has publicly confirmed that, subject to the operation of this clause 8.5, it intends to terminate this agreement and enter into an agreement to give effect to the Competing Transaction;
  - (v) the Company has given Bidder at least five Business Days after the date of the provision of the information referred to in clause 8.5(a)(iv) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction; and
  - (vi) Bidder has not announced or otherwise formally proposed to the Company a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction by the expiry of the five Business Day period in clause 8.5(a)(v) above.
- (b) If Bidder proposes to the Company, or announces, amendments to the terms of the Offer including increasing the amount of consideration offered under the Offer or a new proposal that constitutes a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction (Counterproposal) by the expiry of the five Business Day period in clause 8.5(a)(v) above, the Company must procure that the Company Board considers the Counterproposal and if the Company Board, acting reasonably and in good faith, determines that the Counterproposal (if completed) would provide an equivalent or superior outcome for Shareholders as a whole (other than Bidder and those who are Associates of Bidder) compared with the Competing Transaction, taking into account all of the

terms and conditions of the Counterproposal, then the Company and Bidder must use their reasonable endeavours to agree the amendments to this agreement and the Offer (as applicable) that are reasonably necessary to reflect the Counterproposal and to implement the Counterproposal, in each case as soon as reasonably practicable, and the Company must use reasonable endeavours to procure that each of the directors of Company continues to recommend the Offer and the Proposed Transaction (as modified by the Counterproposal) to Shareholders.

- (c) For the purpose of this clause 8.5, each successive material modification or variation of any proposal, agreement, arrangement or transaction in relation to a Competing Transaction notified to Bidder under clause 8.5(a)(iv) will constitute a new Competing Transaction in respect of which the Company must comply with its obligations under this clause 8.5 again.

#### **8.6 Compliance with law**

- (a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 7 or any part of it:
  - (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Company Board;
  - (ii) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
  - (iii) was, or is, or would be, unlawful for any other reason,
 then, to that extent (and only to that extent) the Company will not be obliged to comply with that provision of clause 7.
- (b) The parties must not make or cause to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 8.6.

#### **8.7 Provision of information**

Subject to clause 8.3, During the Exclusivity Period, the Company must as soon as possible (and, in any event, within two Business Days) give Bidder:

- (a) in the case of written materials, a copy of; and
- (b) in any other case, a written statement of,

any non-public information about the business or affairs of the Company or the Company Group disclosed or otherwise provided by the Company or any of its Related Persons to any Third Party in connection with a Competing Transaction that has not previously been provided to Bidder.

#### **8.8 Standstill arrangements with other parties**

- (a) The Company represents and warrants to Bidder that the execution of this agreement by the Company will not effect any waiver or amendment of any standstill agreement or arrangement between the Company and any person other than a member of the Bidder Group.
- (b) During the Exclusivity Period, except with the prior written consent of the Bidder, the Company must not amend or waive the terms of any standstill agreement or arrangement between the Company and any person other than a member of the Bidder Group.

**8.9 Return of confidential information**

If Company has at any time in the 12 months before the date of this agreement provided any confidential information to a person other than a member of the Bidder Group in connection with a Competing Proposal, the Company must, to the extent permitted to do so under a relevant confidentiality agreement, promptly request in writing the immediate return or destruction by that person of such confidential information, and must use reasonable endeavours to ensure compliance with that request.

**8.10 Legal advice**

The Company represents and warrants to Bidder that:

- (a) prior to entering into this agreement it has received legal advice on this agreement and the operation of this clause 7; and
- (b) it and the Company Board consider this clause 7 to be fair and reasonable and appropriate to agree in order to secure the significant benefits to it and Shareholders resulting from the transactions contemplated hereby.

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**9 Representations and warranties****9.1 Bidder warranties**

Bidder represents and warrants to the Company (in its own right and separately as trustee or nominee of each Company Indemnified Party) as at the date of this agreement and until the end of the Offer Period that:

- (a) Bidder has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) it has the power to enter into, and to comply with its obligations under, this agreement;
- (c) it has in full force and effect each authorisation necessary for it to enter into this agreement, to comply with its obligations and exercise its rights under this agreement, and to allow them to be enforced;
- (d) subject to the laws generally affecting creditors' rights and the principles of equity, its obligations under this agreement are valid and binding, and are enforceable against it in accordance with its terms;
- (e) the Bidder's Statement will:
  - (i) as at the date it is lodged with ASIC, and excluding any Company Information contained in the Bidder's Statement for which the Company takes responsibility, not be misleading or deceptive in any material respect (whether by omission or otherwise) and will comply with the requirements of the Corporations Act, the ASX Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC and the Takeovers Panel; and
  - (ii) be updated by all such further or new information which may arise after the Bidder's Statement has been lodged with ASIC until the end of the Offer Period which is necessary to ensure that the Bidder's Statement is not misleading or deceptive in any material respect (whether by omission or otherwise);

- (f) no resolutions have been passed or steps taken, and no application or other process has been made or threatened in writing against it for winding-up or deregistration, and no receiver, receiver and manager, liquidator, administrator or like official has been appointed, or is threatened or expected to be appointed, over the whole or any part of its assets;
- (g) no regulatory action of any nature has been taken that would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this agreement; and
- (h) no approvals are required to be obtained by Bidder under any applicable law, rule or regulation (including under the ASX Listing Rules) to perform and observe its obligations under this agreement and to consummate the transactions contemplated by this agreement.

## 9.2 ***Bidder's indemnity***

Bidder agrees with the Company (in its own right and separately as trustee or nominee for each of the Company Indemnified Parties) to indemnify the Company and each of the Company Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that the Company or any of the other Company Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Bidder Warranties set out in clause 9.1.

## 9.3 ***Company warranties***

The Company represents and warrants to Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Indemnified Parties) as at the date of this agreement and on each subsequent day until the end of the Offer Period (except where a warranty is given as of a particular date, in which case the Company gives that warranty as of that particular date) that:

- (a) each member of the Company Group has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) it has the power to enter into, and to comply with its obligations under, this agreement;
- (c) it has in full force and effect each authorisation necessary for it to enter into this agreement, to comply with its obligations and exercise its rights under this agreement, and to allow them to be enforced;
- (d) subject to the laws generally affecting creditors' rights and the principles of equity, its obligations under this agreement are valid and binding, and are enforceable against it in accordance with its terms;
- (e) no member of the Company Group is Insolvent;
- (f) as at the date of this agreement, the Company is in compliance with its continuous disclosure obligations under ASX Listing Rule 3.1 and the Corporations Act and, with the exception of the Proposed Transaction, is not relying on ASX Listing Rule 3.1A to withhold any information from disclosure;
- (g) the information contained in the Data Room Materials as at the date of this agreement has been prepared in good faith and with reasonable care and is, so far as the Company is aware, having made all reasonable enquiries, as at the date of this agreement, true and accurate and not incomplete, misleading or deceptive in a material respect (including by omission);

- (h) it has not knowingly withheld any information which would be material to the Bidder deciding whether to make the Offer;
- (i) as at the date of this agreement, no resolutions have been passed or steps taken, and no application or other process has been made or threatened in writing against it for winding-up or deregistration, and no receiver, receiver and manager, liquidator, administrator or like official has been appointed, or is threatened or expected to be appointed, over the whole or any part of its assets;
- (j) the Target's Statement will:
  - (i) as at the date it is lodged with ASIC and excluding any Bidder Information contained in the Target's Statement for which Bidder takes responsibility, not be misleading or deceptive in any material respect (whether by omission or otherwise) and will comply with the requirements of the Corporations Act, the ASX Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC and the Takeovers Panel; and
  - (ii) be updated by all such further or new information which may arise after the Target's Statement has been lodged with ASIC until the end of the Offer Period which is necessary to ensure that the Target's Statement is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (k) since 30 June 2023, each member of the Company Group has conducted its business in the ordinary and usual course of business;
- (l) each member of the Company Group has complied in all material respects with all applicable laws and orders of a Government Agency having jurisdiction over it and has all material licences, permits and authorisations necessary for it to conduct the business of the Company Group as it has been conducted in the 12 months prior to the date of this agreement;
- (m) as at the date of this agreement, so far as the Company is aware, neither it nor any member of the Company Group is in material default under any Material Contract, nor has anything occurred which is, or would with the giving of notice or lapse of time, constitute an event of default, prepayment event or similar event, or give another party a termination right under any such Material Contract which such an effect and implementation of the transactions contemplated by this agreement will not trigger any change of control, unilateral termination rights or similar provisions in any Material Contract issued to any member of the Company Group;
- (n) as at the date of this agreement, the Company is not aware of any facts or circumstances that will cause a Third Party, as a result of the entry into this agreement and the implementation of the Offer, to exercise a right to terminate a contract which is material to the business of the Company Group or vary the performance of any material obligation of the Company Group under such contract;
- (o) as at the date of this agreement, the Company has the Shares and LVH Convertibles set out in Schedule 4, and there are no other shares, options or other securities (including equity securities, debt securities or convertible securities) or performance rights or other instruments which are convertible into securities in the Company or the Subsidiary nor has the Company or the Subsidiary offered or agreed to issue any such shares, options or other securities or performance rights or other instruments to any Third Party;



- (p) there is no litigation, mediation or arbitration current or pending, nor is there any threatened litigation, mediation or arbitration, in each case which may materially affect the value of the Company or of the assets of the Company Group;
- (q) no member of the Company Group has agreed to any material additional capital expenditure other than as disclosed to the ASX prior to the date of this agreement; and
- (r) the Company's financial statements as disclosed to the ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice and there has not been any event, change, effect or development which would require the Company to restate its financial statements as disclosed to the ASX.

#### **9.4 Company's indemnity**

The Company agrees with the Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Indemnified Parties) to indemnify the Bidder and each of the Bidder Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that the Company or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Company Warranties set out in clause 9.3.

#### **9.5 Reliance by parties**

Each party acknowledges that:

- (a) in entering into this agreement the other party has relied on the representations and warranties provided by that party under this clause 9;
- (b) no party (nor any person acting on its behalf) has made any representation, warranty or other inducement to it to enter into this agreement except for the representations and warranties expressly set out in this agreement;
- (c) it does not enter into this agreement in reliance on any representation, warranty or other inducement by or on behalf of any other party except for any representation or warranty expressly set out in this agreement; and
- (d) nothing in this clause prejudices any party's rights in relation to information which has been filed by the other party with ASIC or ASX.

#### **9.6 Survival of representations**

The representations and warranties provided by each party under this clause 9:

- (a) are severable;
- (b) will survive the termination of this agreement; and
- (c) are given with the intent that liability under them will not be confined to breaches of them discovered prior to the date of termination of this agreement.

#### **9.7 Notification of breach**

Each of Bidder and the Company must promptly advise each other in writing as soon as they become aware of any fact, matter or circumstance that constitutes or may constitute:

- (a) a breach of any representation or warranty provided in this agreement by either party; or



- (b) a breach of this agreement by it.

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## 10 Confidentiality

- (a) Subject to clauses 10(c) and 11.2, each party acknowledges and agrees that:
- (i) the content and substance of any communications between the parties concerning the subject matter of this agreement, including the substance of any investigations, discussions or negotiations concerning that subject matter or the fact of and reasons for any termination of this agreement;
  - (ii) information provided by either party to the other, or obtained by either party from the other, in the course of proposing, negotiating or implementing the Proposed Transaction (including information provided before or after the date of this agreement); and
  - (iii) all copies of information, agreements and those parts of the notes and other records referred to above,
- (Confidential Information)** is strictly confidential and may not be disclosed to any Third Party (except as permitted by this agreement).
- (b) For the avoidance of doubt, information that is known by a party before the date of the Confidentiality Deed and that was not obtained on a confidential basis from another party in the course of proposing, negotiating or implementing the Proposed Transaction is not Confidential Information.
- (c) Confidential Information may only be used for the purposes of implementing the Proposed Transaction or disclosed by a party:
- (i) with prior written approval of the other party;
  - (ii) to the extent the Confidential Information has become public knowledge (except because of a breach of this agreement or any obligation of confidence);
  - (iii) to a Representative of that party or any of its Related Bodies Corporate for the purpose of implementing the Proposed Transaction, provided that the disclosing party ensures that the recipient only uses it for the purposes of implementing the Proposed Transaction and otherwise complies with these terms of confidentiality; and
  - (iv) subject to clause 11.2, if and to the extent disclosure is required by law, the rules of a financial market, or any requirement of a court or Government Agency.
- (d) Notwithstanding the foregoing provisions of this clause 10, the Company releases Bidder from its obligations under the foregoing provisions of this clause 10 and the Confidentiality Deed to the extent necessary for Bidder to make the Offer, promote the merits of the Offer, and otherwise perform its obligations under, and undertake the transactions contemplated by, this agreement.
- (e) The rights and obligations of the parties under this clause survive termination of this agreement.

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## **11 Public announcements**

### **11.1 *Public announcements***

Subject to clauses 10(c) and 11.2, no public announcement or disclosure (including any presentations or briefings to analysts, the media or Shareholders) in relation to the Offer or any other transaction the subject of this agreement may be made other than in a form approved by each party in writing (acting reasonably), but each party must use reasonable endeavours to provide such approval as soon as reasonably practicable.

### **11.2 *Required disclosure***

- (a) Where a party is required by law or the ASX Listing Rules to make any announcement or to make any disclosure in connection with the Offer or any other transaction the subject of this agreement, it may do so only after it has given at least one Business Days' notice, or such lesser period as may be required or permitted to comply with its legal or regulatory responsibilities, but in any event prior notice, to the other party and has taken all reasonable steps to consult with the other party and its legal advisers.
  - (b) Notwithstanding clause 11.2(a), a party does not require the other party's approval to issue any public disclosures if the content of those disclosures is limited to procedural matters (including any statutory notices under Chapters 6 and 6A of the Corporations Act).
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## **12 Termination**

### **12.1 *Termination by either party***

This agreement may be terminated with immediate effect at any time before the end of the Offer Period by either party giving notice in writing to the other if:

- (a) the other party is in material breach of its obligations under this agreement, or there is a material breach of any representation or warranty given by that other party, and (if capable of remedy) that party has failed to remedy the breach within five Business Days of receipt by it of written notice from the first party notifying the other party of the breach and its intention to terminate;
- (b) Bidder withdraws the Offer as permitted by the Corporations Act or the Offer lapses for any reason;
- (c) the other party becomes Insolvent;
- (d) any Government Agency has issued any order, decree or ruling or taken any other action permanently enjoining, restraining or otherwise prohibiting the Offer, or has refused to do anything necessary to permit the Offer, and the action is final and cannot be appealed or reviewed or the party reasonably believes (after receiving external legal advice) that there are no realistic prospects of any appeal or review succeeding; or
- (e) the Company Board or a majority of the Company Board changes its recommendation in respect of the Proposed Transaction as a result of the Company Board or a majority of the Company Board determining that a Competing Transaction (provided always that Company has complied with its obligations in clause 7) is a Superior Proposal.

**12.2 Termination by Bidder**

Bidder may, by notice in writing to the Company, terminate this agreement with immediate effect if at any time before the end of the Offer Period:

- (a) the Company accepts or enters into or offers to accept or enter into, any agreement arrangement or understanding regarding a Competing Transaction (other than the Company entering into a confidentiality agreement with a Third Party);
- (b) a Superior Proposal is made or publicly announced for the Company;
- (c) a Company Director fails to recommend that Shareholders accept the Offer in accordance with clause 4.4 or, having recommended that Shareholders accept the Offer, withdraws, revokes, qualifies or adversely changes his or her recommendation of the Offer; or
- (d) a Company Director withdraws, revokes, qualifies or adversely changes his or her intention to accept or procure the acceptance of the Offer in respect of all Shares that he or she holds or controls and comes to hold or control as a result of the exercise of Employee Rights during the Bid Period (as disclosed in public statements relating to the Offer in accordance with clause 4.2(a)).

**12.3 Effect of termination**

If this agreement is terminated by a party under this clause 12:

- (a) each party will be released from its obligations under this agreement except its obligations under clauses 9, 10, 12, 13, 14 and 15 which will survive termination;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement; and
- (c) in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect, including any further obligations in respect of the Offer.

**12.4 No other termination**

Neither party may terminate or rescind this agreement except as permitted under this clause 12.

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**13 Liability of Company Directors, officers and employees**

- (a) Bidder releases its rights against, and will not make any claim against any past or present director, officer or employee of the Company in relation to:
  - (i) information provided to it in relation to their execution of this agreement or the transactions contemplated by it;
  - (ii) any breach of any representations and warranties of the Company or any other member of the Company Group in this agreement; or
  - (iii) any disclosures made in connection with this agreement or the transactions contemplated by it, including the Proposed Transaction containing any statement which is false or misleading whether in context or by omission,

except to the extent the past or present director, officer or employee has not acted in good faith or has engaged in wilful misconduct or has acted fraudulently.

- (b) The Company holds the benefit of the releases in clause 13(a) as trustee for past and present directors, officers and employees of the Company.
- (c) The Company releases its rights against, and will not make any claim against any past or present director, officer or employee of Bidder in relation to:
  - (i) information provided to it in relation to their execution of this agreement or the transactions contemplated by it;
  - (ii) any breach of any representations and warranties of Bidder or any other Related Entity of Bidder in this agreement; or
  - (iii) any disclosures made in connection with this agreement or the transactions contemplated by it, including the Proposed Transaction containing any statement which is false or misleading whether in context or by omission,

except to the extent the past or present director, officer or employee has not acted in good faith or has engaged in wilful misconduct or has acted fraudulently.

- (d) Clause 13 is subject to any Corporations Act restriction and will be read down accordingly.
- (e) Bidder holds the benefit of the releases in clause 13(c) as trustee for past and present directors, officers and employees of Bidder.

## **14 Notices and other communications**

### **14.1 How to give notices**

Any notice or other communication of a party contemplated by this agreement (including any agreement, request, demand, direction, consent, waiver or approval) must be:

- (a) in writing in English, legible and signed by the party or its agent; and
- (b) sent by express or registered post (with delivery confirmation) or email, or delivered, to the recipient, attention the recipient's contact, in each case using the relevant details set out in the Parties section of this agreement or any new details later notified by the recipient and:
- (c) in respect of Bidder, with a copy to:
 

<i>With a copy to:</i>	DLA Piper Australia
<i>Address:</i>	Level 22 No.1 Martin Place Sydney NSW 2000
<i>Email:</i>	David.Ryan@dlapiper.com
<i>Attn:</i>	David Ryan, Partner
- (d) in respect of Company, with a copy to:
 

<i>With a copy to:</i>	Johnson Winter Slattery
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Address: Quay Quarter Tower  
Level 14/50 Bridge Street  
Sydney NSW 2000

Email: James.Rozsa@jws.com.au and  
Byron.Koster@jws.com.au

Attn: James Rozsa, Partner and  
Byron Koster, Partner

If a party sends a communication contemplated by this agreement other than by email, it must use all reasonable endeavours to send a copy of the communication promptly by email.

#### **14.2 Time of receipt**

A communication contemplated by this agreement is taken to be received:

- (a) if hand-delivered, at the time of delivery;
- (b) if sent by express or registered post (with delivery confirmation), on the last day of the delivery period published by the relevant postal authority for delivery by that method to the recipient's location; and
- (c) if sent by email, the earlier of:
  - (i) when the sender receives a delivery confirmation report that records the time that the email was delivered to the recipient's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient's email address, or the sender knows or reasonably ought to know that the email was not delivered to the recipient's email address or the recipient could not open the communication due to its format);
  - (ii) the time the email becomes capable of being retrieved by the recipient's email address; and
  - (iii) the time it is otherwise established that the email (including any attachment) came to the attention of the recipient.

#### **14.3 Receipt outside business hours**

If due to clause 14.2 a communication would be taken to be received on a day that is not, or after 5:00pm on, a business day in the place of receipt, the communication is taken to have been received at 9:00am on the first business day in the place of receipt after that day. The place of receipt of an email is the address of the recipient contemplated by clause 14.1(b).

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### **15 General**

#### **15.1 Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise.

#### **15.2 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

**15.3 Failure to exercise rights**

Except as otherwise set out in this agreement, any partial exercise, failure to exercise, or delay in exercising, a right or remedy provided under this agreement or by law does not operate as a waiver or prevent or restrict any further or other exercise of that or any other right or remedy in accordance with this agreement.

**15.4 Duty**

Bidder must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this agreement or the Offer or the steps to be taken under this agreement or the Offer.

**15.5 No liability for Loss**

Except as otherwise set out in this agreement, a party is not liable for Loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy that is available to it under this agreement.

**15.6 Costs**

Each party is responsible for its own costs in relation to the negotiation, preparation, execution and performance of this agreement, except to the extent this agreement provides otherwise.

**15.7 Conflict of interest**

The parties' rights and remedies under this agreement may be exercised even if this involves a conflict of duty or a party has a personal interest in their exercise.

**15.8 Variation and waiver**

A provision of this agreement or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

**15.9 Time is of the essence**

Time is of the essence in this agreement.

**15.10 Further acts**

Each party must, at its own expense, do all things (including the execution and delivery of documents) required by law or reasonably requested by another party to give effect to this agreement and the transactions contemplated by it.

**15.11 Amendment**

This agreement may only be varied or replaced by a document executed by the parties.

**15.12 Severability**

If a provision of this agreement would, but for this clause 15.12, be void, unenforceable or illegal in a jurisdiction:

- (a) the provision is read down to the extent necessary to avoid that result; and
- (b) if the provision cannot be read down, to that extent, it is severed in that jurisdiction,

without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of this agreement. This clause 15.12 has no effect if its operation alters the basic nature of this agreement or is contrary to public policy.

**15.13 Assignment**

A party cannot assign or otherwise deal with its rights under this agreement without the consent of each other party.

**15.14 Counterparts**

This agreement may be executed in counterparts which together constitute one document but is not effective until each party has executed at least one counterpart and the counterparts have been exchanged. Each party consents to the exchange of counterparts by facsimile, email or other electronic means.

**15.15 Entire agreement**

This agreement, including its schedules, exhibits and annexures:

- (a) constitutes the entire agreement between the parties in connection with its subject matter; and
- (b) in relation to that subject matter, supersedes all previous agreements or understandings between the parties and all prior conditions, warranties, indemnities or representations imposed, given or made by a party.

**15.16 Governing law and jurisdiction**

This agreement is governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and Commonwealth courts having jurisdiction there, and waives any right to object to proceedings being brought in those courts on the basis that proceedings have been brought in an inconvenient forum.

## Schedule 1 – Agreed Terms

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### **1 Bid class securities**

The Offer will apply to all Shares that exist or will exist at any time during the Bid Period (including Shares issued after the date of this agreement as a result of the exercise of any Employee Rights on issue as at the date of this agreement).

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### **2 Offer**

Bidder will make offers under an on-market takeover bid to acquire all of the Shares that exist or will exist at any time during the Bid Period (including Shares issued after the date of this agreement as a result of the exercise of any Employee Rights on issue as at the date of this agreement) for \$0.045 cash per Share, subject to any improvement permitted under the Corporations Act.

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### **3 Offer Period**

The Offer Period will commence at the start of trading on ASX on 29 August 2024 and will initially last for at least one month. The Bidder may extend the Offer Period in its sole discretion as permitted by the Corporations Act.



## **Schedule 2 – Bidder Announcement**



14 August 2024

The Company Announcements Platform  
ASX Limited  
20 Bridge Street  
Sydney NSW 2000

## ASX Announcement

### For immediate release

#### Unconditional recommended on-market takeover offer for LiveHire Limited at \$0.045 cash per share

Humanforce Holdings Pty Ltd (ACN 618 020 401) (**Bidder** or **Humanforce**) is pleased to announce a recommended unconditional offer (**Offer**) to acquire by means of an on-market takeover bid at \$0.045 cash per share (**Offer Price**) all of the fully paid ordinary shares in LiveHire Limited (ACN 153 266 605) (ASX: LVH) (**LiveHire**) which are listed for quotation on the official list of the ASX (**LiveHire Shares**) during the Offer Period (defined below), together with all rights attaching to them.

The Bidder has appointed MA Moelis Australia Securities Pty Ltd (ACN 122 781 560) (**MA Moelis**) as its broker for the purchase of the LiveHire Shares on-market.

The Offer will commence on 29 August 2024 and end on 30 September 2024, unless extended or withdrawn under the *Corporations Act 2001* (Cth) (**Offer Period**). However, MA Moelis will buy LiveHire Shares from today at the Offer Price (before the Offer opens).

As an on-market bid, the Offer is unconditional and provides you with a simple cash exit from your investment in LiveHire that delivers immediate value. You are expected to be paid cash on the usual T+2 basis (being 2 trading days after your acceptance). The Offer Price of \$0.045 per share represents a:

- 75.8% premium to the 30-day VWAP of LiveHire Shares on the ASX to 13 August 2024;
- 137.7% premium to the 60-day VWAP of LiveHire Shares on the ASX to 13 August 2024;
- 156.0% premium to the 90-day VWAP of LiveHire Shares on the ASX to 13 August 2024;
- 158.1% premium to the 120-day VWAP of LiveHire Shares on the ASX to 13 August 2024; and
- 87.5% premium to the closing price of LiveHire Shares on the ASX on 13 August 2024, the last Trading Day prior to the date of this Bidder's Statement.

Further details of the Offer are set out in section 5 of the attached Bidder's Statement.

#### Pre-Offer Acquisitions and Recommendation

As set out in section 7.8 of the attached Bidder's Statement, Humanforce holds a relevant interest in 73,882,619 LiveHire Shares (equating to 19.99% of all LiveHire Shares) pursuant to share purchase agreements with each of the LiveHire Directors (being Christy Forest, Andrew Rutherford, Cris Buningh and Henry Ludski) and certain larger LiveHire shareholders.

Each LiveHire Director has also informed LiveHire that they will accept the Offer for all LiveHire Shares that they come to hold or control as a result of the exercise of securities convertible into LiveHire Shares during the Offer Period, in the absence of a Superior Proposal.

The LiveHire Board unanimously recommends that LiveHire Shareholders accept the Offer in the absence of a Superior Proposal.

**Humanforce Chief Executive Officer, Clayton Pyne commented,** "Humanforce continues to make work easier and life better for frontline and flexible workforces. LiveHire's best-of-breed ATS, Recruit CRM, Direct Sourcing and AI-Powered Talent Pooling products are highly complementary and will enable Humanforce to power innovative and

intelligent hiring, candidate engagement, shift filling, skills matching and mobility models for companies and workers alike.

We are excited that by adding Talent to Humanforce's current HCM suite of Workforce Management, HR, Payroll and Wellbeing, businesses will now be able to augment their workforce quickly, intelligently and compliantly – across internal, contingent, gig and staffing agency labour pools – to address dynamic labour demands.

Organisations will be able to reduce expenditure and their time-to-hire, respond nimbly to frontline labour shortages, and generate committed pools of flexible workers by leveraging their employer brand, enhancing their EVP. All the while, maintaining complete visibility over their total talent within a single, best-in-one HCM suite with centralised data, and deep insights & analytics to make more informed people decisions."

**Accel-KKR Managing Director, Joe Porten commented**, "Humanforce continues to accelerate its growth by deliberately seeking complementary best-in-class people management solutions. With LiveHire's market leading AI-Powered Talent solutions, Humanforce will now have the capability to seamlessly connect the flow of the world's talent with the growth, productivity and efficiency objectives of frontline and flexible workforces."

### **About Humanforce Holdings Pty Ltd**

Humanforce Holdings Pty Ltd (**Humanforce**) is making the Offer. Humanforce, established in 2004 and incorporated in 2017, is an Australian proprietary company which operates a SaaS platform providing workforce management solutions. Humanforce has subsidiaries in Australia, New Zealand, Singapore and the United Kingdom. Humanforce is a portfolio company of Accel-KKR (**AKKR**), a USA headquartered technology-focussed private equity firm. The funds managed or advised by AKKR indirectly hold approximately 95% of the issued share capital of Humanforce, with the remaining interests held by minority investors.

### **Shareholder Enquiries**

For information regarding your LiveHire Shares, the Offer or how to accept the Offer please read the attached Bidder's Statement. If you still need assistance please contact the Offer Information Line on:

Within Australia: 1300 293 325  
Outside Australia: +61 2 8072 1454

The Offer Information Line is open between 8:30 am and 7:30 pm (Sydney time) during the Offer Period.

JOHNSON | WINTER | SLATTERY

## **Schedule 3 – Company Announcement**

# ASX: LVH MARKET RELEASE

## LIVEHIRE BOARD UNANIMOUSLY RECOMMENDS ALL CASH TAKEOVER OFFER FROM HUMANFORCE

14 August 2024 | Melbourne, Victoria

LiveHire Limited (**ASX:LVH**) ("**LiveHire**" or the "**Company**"), is pleased to advise that it has entered into a Bid Implementation Agreement (**BIA**) relating to an all cash, on-market takeover bid by Humanforce Holdings Pty Ltd (**Humanforce**), an Accel-KKR portfolio company, to acquire all of the ordinary shares (**Shares**) in LiveHire for \$0.045 per Share (**Offer**). Humanforce currently has a Relevant Interest in 73,882,619 of the Shares representing 19.99% of all LiveHire Shares on issue.

LiveHire's Board unanimously recommends that holders of LiveHire Shares (**Shareholders**) accept the Offer, in the absence of a superior proposal, and sell their LiveHire Shares on market before the Offer closes on 30 September 2024.

### Background to the Offer

As previously advised to the market, the Company has been actively reviewing capital structure and ownership options. LiveHire's Board began a concerted and intensive effort to find a strategic new investor or owner for the business some months ago. On 14 August 2024, following a global search for alternative buyers and investors, LiveHire and Humanforce entered into the Bid Implementation Agreement under which Humanforce agreed to make its Offer.

### Overview of the Offer

Under the Offer, Humanforce will pay LiveHire Shareholders cash consideration of \$0.045 cash per Share (**Offer Price**).

The Offer Price of \$0.045 cash per Share provides represents a:

- 87.5% premium to the undisturbed closing share price of \$0.024 on 13 August 2024 (being the last Trading Day prior to the date of this announcement);
- 75.8% premium to undisturbed 30-day volume weighted average price (**VWAP**) of \$0.026<sup>1</sup>;
- 137.7% premium to undisturbed 60-day VWAP of \$0.019;
- 156.0% premium to the undisturbed 90-day VWAP of \$0.018; and
- 158.1% premium to the undisturbed 120-day VWAP of \$0.017.

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<sup>1</sup> The VWAP of LiveHire Shares is calculated for the period up to and including 13 August 2024.

The Offer is unconditional and Shareholders may sell their Shares to Humanforce on market from today until the close of the Offer at 4pm on 30 September 2024 (**Offer Period**) unless otherwise extended by Humanforce.

The Offer extends to Shares that come to exist between the date of this announcement and the end of the Offer Period as a result of the conversion of other rights or securities (including rights under the LiveHire Employee Incentive Plan (**EIP**)<sup>2</sup> which have vested).

Further details of the Offer are set out in section 5 of the attached Target's Statement and in the BIA, which governs the implementation of the Offer.

### **Acceptance – on market**

Humanforce has advised that it intends to immediately commence buying LiveHire Shares on market through its appointed broker, MA Moelis Australia Securities Pty Ltd. LiveHire Shareholders wishing to accept the Offer simply need to sell their LiveHire Shares on market before the Offer closes on 30 September 2024.

### **LiveHire Board's recommendation and commentary**

The LiveHire Board unanimously recommends that LiveHire Shareholders accept the Offer, in the absence of a superior proposal, and sell their LiveHire Shares on market to Humanforce before the Offer closes on 30 September 2024.

The LiveHire Board considers the Offer to be an attractive offer for LiveHire Shareholders as it provides them an opportunity to receive certain cash value at a compelling premium to the recent trading price of their Shares. Further reasons for the LiveHire Board's unanimous recommendation are set out below and in section 1 of the Target's Statement which was lodged with ASX and ASIC today and will be sent to LiveHire Shareholders.

LiveHire Chair, Andrew Rutherford, commented:

*"Humanforce's Offer provides certainty of value for LiveHire Shareholders and enables them to realise value for their investment at a significant premium to LiveHire's recent trading price."*

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<sup>2</sup> The EIP was adopted by the Board of Directors of LiveHire on 17 December 2015 (as amended from time to time).

## LiveHire Directors support for the Offer

Each of the LiveHire Directors have agreed to sell all of the LiveHire Shares which they hold or control as at the date of this announcement (representing 43,403,072 LiveHire Shares or 11.74% of all LiveHire Shares on issue) for the Offer Price under pre-bid share purchase agreements entered into with Humanforce on 14 August 2024.

As disclosed in the Bidder's Statement, certain other LiveHire Shareholders have also agreed to sell, in aggregate, 30,479,547 LiveHire Shares to Humanforce for the Offer Price representing 8.25% of LiveHire Shares.

As a result, Humanforce holds a relevant interest in 73,882,619 LiveHire Shares representing 19.99% of all LiveHire Shares on issue.

In addition, each LiveHire Director intends to accept the Offer (in the absence of a superior proposal) in respect of any LiveHire Shares which they will hold or control following the exercise of any rights they hold under the EIP which have vested between the date of this announcement and the end of the Offer Period (representing up to a further 8,717,230 LiveHire Shares).

## Reasons to accept the Offer

The LiveHire Directors' reasons for recommending that LiveHire Shareholders **ACCEPT** the Offer in the absence of a superior proposal, are:

- (a) the Offer Price is at a compelling premium to recent trading prices of LiveHire Shares;
- (b) the Offer is unconditional, and provides certain cash consideration on a T+2 basis;
- (c) the Offer provides an important liquidity opportunity for LiveHire Shareholders;
- (d) there are ongoing risks associated with the business, in particular, its near-term capital requirements;
- (e) no superior proposal has emerged and, as at the date of this announcement, the Bidder holds a Relevant Interest in 73,882,619 LiveHire Shares<sup>3</sup>, and the Board considers it unlikely that a superior proposal will emerge; and
- (f) by not accepting the Offer, LiveHire Shareholders risk becoming minority shareholders in an entity controlled by Humanforce.

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<sup>3</sup> Pursuant to share purchase agreements entered into between each LiveHire Director and certain LiveHire Shareholders, as further described in Section 10.2 of the Target's Statement.

## Bid Implementation Agreement

The BIA between LiveHire and Humanforce (which is attached to this announcement at **Annexure 1**) contains certain terms customary for a transaction of this nature. These terms include deal protection mechanisms including no shop, no talk and no due diligence restrictions as well as notification and matching rights in the event of a competing proposal.

As mentioned above, the Offer is unconditional.

## Impact on holders of LiveHire Rights

Under the BIA, the parties have agreed that upon Humanforce acquiring relevant interests in at least 50.1% of LiveHire Shares:

- the vesting of all "FY23 Go the extra mile" and "Retention Equity Plan" performance rights issued under the EIP be accelerated (equal to 1,793,709 rights as at the date of this announcement); and
- all remaining unvested performance rights issued under the EIP will lapse (equal to 7,780,340 rights as at the date of this announcement).

All service rights (equal to 4,575,698 rights as at the date of this announcement) have vested.

Holders of vested performance rights or service rights may elect to exercise those rights by sending an exercise notice to LiveHire following which they will be issued LiveHire Shares in accordance with the terms of the EIP. Holders of newly issued LiveHire Shares may then accept the Offer and will receive cash for their LiveHire Shares on a T+2 basis.

## Overview of LiveHire

LiveHire is a disruptive award-winning talent acquisition & engagement platform that revolutionises the candidate experience and enables businesses to thrive with talent on demand.

Our Talent Acquisition & Engagement platform delivers a proactive sourcing and talent mobility solution called Live Talent Communities. The platform makes managing the flow of talent into and through businesses seamless, delivering value through detailed visibility of talent, shifting recruitment from reactive to proactive, improving fit, significantly reducing time and cost to hire, with an unrivalled candidate experience.

Founded in 2011, LiveHire is an Australian company headquartered in Melbourne.



## Overview of Humanforce

Humanforce is an Australian proprietary company which operates a SaaS platform providing workforce management solutions. Humanforce was incorporated in 2017, though the business has been operating since 2004, with subsidiaries in Australia, New Zealand, Singapore and the United Kingdom. Humanforce is a portfolio company of Accel-KKR Growth Capital Partners IV, LP, which is advised by AKKR Fund II Management Company, LP (**AKKR**). The AKKR Funds indirectly hold approximately 95% of the issued share capital of Humanforce, with the remaining interests held by minority investors.

AKKR is a private equity firm headquartered in Menlo Park, California, which invests in middle-market software and tech-enabled businesses. AKKR has over US\$19 billion in cumulative capital commitments and provides a broad range of capital solutions, including buyout capital, minority-growth investments, and credit alternatives.

Further information regarding AKKR can be found on its website: <https://www.accel-kkr.com/>

## Advisors

Johnson Winter Slattery is acting as legal adviser to LiveHire.

DLA Piper is acting as legal adviser to Humanforce in relation to the Offer.

## For more information:

Christy Forest – CEO and Executive Director

[investors@livehire.com](mailto:investors@livehire.com)

Subscribe to LiveHire's newsletter at: [https://www.livehire.com/investors/directors/  
www.livehire.com/investor](https://www.livehire.com/investors/directors/www.livehire.com/investor)

The Board of Directors of LiveHire authorised the release of this announcement to the ASX.



## **Annexure 1 – Bid Implementation Agreement**

**Schedule 4 – Shares and LVH Convertibles**

Type	Number on issue
Shares	369,597,897
Unvested Performance Rights	9,574,049
<i>Go the extra mile award – FY23</i>	<i>100,000</i>
<i>LTI Performance Rights - FY24</i>	<i>7,780,340</i>
<i>Retention Equity Plan</i>	<i>1,693,709</i>
Vested Performance Rights	5,648,240
<i>Go the extra mile award - FY21</i>	<i>50,000</i>
<i>Go the extra mile award - FY22</i>	<i>50,000</i>
<i>Year End Performance award - STI FY20</i>	<i>69,947</i>
<i>Year End Performance award - STI FY21</i>	<i>304,559</i>
<i>Year End Performance award - STI FY22</i>	<i>873,601</i>
<i>Year End Performance award – Company Performance - STI FY22</i>	<i>335,365</i>
<i>Year End Performance award – Tenure Bonus - STI FY22</i>	<i>118,578</i>
<i>Year End Performance award - STI FY23</i>	<i>643,014</i>
<i>Year End Performance award – Company Performance - STI FY23</i>	<i>338,295</i>
<i>Year End Performance award – Individual Performance - STI FY23</i>	<i>2,219,017</i>
<i>Year End Performance award – Tenure Bonus - STI FY23</i>	<i>445,864</i>
<i>Retention Equity Plan</i>	<i>200,000</i>
Unvested Service Rights	0
Vested Service Rights	4,575,698
<i>Remuneration service rights – FY24</i>	<i>2,075,699</i>
<i>STI service rights – FY24</i>	<i>2,499,999</i>
Warrants	728,828
SRG Rights	500,000
Total	390,624,712

**Schedule 5 – Timetable**

<b>Date Offer announced</b>	14 August 2024
<b>Bidder's Statement lodged with ASIC, ASX and served on LiveHire</b>	14 August 2024
<b>Target's Statement lodged with ASIC and ASX</b>	14 August 2024
<b>Earliest date from which LiveHire Shareholders are able to sell LiveHire Shares to the Bidder on the ASX</b>	14 August 2024
<b>Offer opens</b>	29 August 2024
<b>Offer closes (unless extended or withdrawn)*</b>	Close of trading on 30 September 2024

Execution

**EXECUTED** as an agreement

**Executed by Humanforce Holdings Pty Ltd**  
in accordance with section 127 of the  
*Corporations Act 2001* (Cth) by:

\_\_\_\_\_  
Director signature

\_\_\_\_\_  
Director/Secretary signature

\_\_\_\_\_  
Director full name  
(BLOCK LETTERS)

\_\_\_\_\_  
Director/Secretary full name  
(BLOCK LETTERS)

**Executed by LiveHire Ltd** in accordance with  
section 127 of the *Corporations Act 2001* (Cth)  
by:

Signed by:  
  
\_\_\_\_\_  
3EF0680F75444B7...  
Director signature

DocuSigned by:  
  
\_\_\_\_\_  
6E3782E2C0A7460  
Director/Secretary signature

Andrew Rutherford  
\_\_\_\_\_  
Director full name  
(BLOCK LETTERS)

Christy Forest  
\_\_\_\_\_  
Director/Secretary full name  
(BLOCK LETTERS)

Execution

**EXECUTED** as an agreement

**Executed by Humanforce Holdings Pty Ltd**  
in accordance with section 127 of the  
*Corporations Act 2001* (Cth) by:

Signed by:  
  
685F8FD800C04B8  
\_\_\_\_\_  
Director signature

David Pullini

\_\_\_\_\_  
Director full name  
(BLOCK LETTERS)

DocuSigned by:  
  
30E7DE62D8AE483...  
\_\_\_\_\_  
Director/Secretary signature

Joseph Porten

\_\_\_\_\_  
Director/Secretary full name  
(BLOCK LETTERS)

**Executed by LiveHire Ltd** in accordance with  
section 127 of the *Corporations Act 2001* (Cth)  
by:

\_\_\_\_\_  
Director signature

\_\_\_\_\_  
Director full name  
(BLOCK LETTERS)

\_\_\_\_\_  
Director/Secretary signature

\_\_\_\_\_  
Director/Secretary full name  
(BLOCK LETTERS)