

# TERMS AND CONDITIONS

This website and its related services, products, websites, tools and applications ("Website") is owned and operated by Community Corporate ACN 612 189 545 ("Community Corporate").

Community Corporate owns the brands Community Corporate and DiversityWorks. For purposes of these terms and conditions ("Terms and Conditions") references to "the Website" shall include reference to such services, products, websites, tools and applications being offered by the brands owned by Community Corporate.

These Terms and Conditions set out the terms on which we agree to give you access to use the Website and our Services. Other terms and conditions contained in the privacy policy ("Privacy Policy") and elsewhere on our Website also form part of our agreement with you.

**Please carefully read these Terms and Conditions. By using the Website or obtaining our Services, you agree to be bound by these Terms and Conditions and our Privacy Policy. If you don't agree to be bound by these Terms and Conditions, you must not use the Website or our Services.** We reserve the right to amend these terms and conditions from time to time. Amendments will be effective immediately upon publication on this Website. Your continued use of this Website and our Services following this publication will represent an agreement by you to be bound by the terms and conditions as amended.

## 1. DEFINITIONS & INTERPRETATION

### 1.1 Definitions

In these Terms and Conditions unless inconsistent with the context or subject matter:

- (a) **Account:** means a User's account to use our Services.
- (b) **ACL:** the Australian Consumer Law (as set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth)).
- (c) **Applicable Laws:** means any applicable laws (including orders, by-laws and regulations) in the jurisdiction in which you are located.
- (d) **Corporations Act:** the *Corporations Act 2001* (Cth).
- (e) **Intellectual Property Rights:** all present and future rights conferred by law in or in relation to copyright, trade marks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and confidential information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registrable, registered or patentable.  
These rights include without limitation:
  - (i) all rights in all applications to register those rights;
  - (ii) all renewals and extensions of those rights; and
  - (iii) all rights in the nature of those rights, such as Moral Rights.
- (f) **Loss:** any loss, liability, cost (including legal costs on a solicitor and own client basis), charge, expense, tax or damage of any nature whatsoever, including lost profits, loss of goodwill, loss of business, loss of production and any other special, incidental, exemplary, compensatory or consequential damages, losses or expenses (howsoever arising or caused, including, without limitation, negligence).
- (g) **Materials:** all materials, documentation and information (whether reduced to written form or otherwise) provided to you by Community Corporate at any time.
- (h) **our, us and we:** Community Corporate.
- (i) **Policy:** any policy of Community Corporate in place from time to time (including the Privacy Policy).
- (j) **Privacy Legislation:** the Privacy Act 1988 (Cth), including Australian Privacy Principles, and the guidance and codes of practice issued by the Office of the Australian Information Commissioner from time to time.
- (k) **Privacy Policy:** the terms of the Community Corporate Privacy Policy published on the Website as amended from time to time.
- (l) **Services:** any services we provide to you, including the Website.
- (m) **State:** South Australia.
- (n) **Terms and Conditions:** these Terms and Conditions and any amendments to these Terms and Conditions from time to time.
- (o) **User:** any person who uses the Website.
- (p) **User Data:** all data, files, works and materials uploaded to or stored on the Website by you, transmitted by the Website at your instigation, or supplied by you to Community Corporate for uploading to, transmission by or storage on the Website.
- (q) **you and your:** a User.

## 1.2 Interpretation

In these Terms and Conditions, unless inconsistent with the context or subject matter:

- (a) a reference to a person includes any other legal entity and vice versa;
- (b) words importing the singular number include the plural number and vice versa;
- (c) a reference to a party includes the party's heirs, executors, successors and permitted assigns;
- (d) headings are for reference purposes only;
- (e) where any word or phrase is given a defined meaning any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning;
- (f) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes e-mail;
- (g) an obligation of two or more parties binds them jointly and each of them severally.

## 2. USING THE WEBSITE

2.1 This Website provides general information and resources about job placements and careers in Australia, and allows the provision of personalised job information to you where you register your details and engage us to provide you with certain Services. Community Corporate provides free access to the Services. These Terms and Conditions will apply generally to information provided by Community Corporate on the Website.

2.2 Although the Website provides general information, tips, recommendations and ideas to assist you in finding a job and your career pathways, you acknowledge that you use the Website at your sole risk. Community Corporate makes no guarantees that the provision of the Website and/or the Services will result in a job placement for you and any job that you commence as a result of the Website and/or Services is at your own risk. Please review the disclaimer in clause 10 as it contains important information in this respect.

2.3 Your use of this Website is by non-exclusive, revocable licence granted by Community Corporate strictly in accordance with these Terms and Conditions.

2.4 Our Website is available only to, and may only be used by, persons who are at least 18 years of age. If you do not qualify, please do not use our Website. By using the Website you represent and warrant that you are over 18 years of age.

## 3. YOUR ACCOUNT

3.1 In order to use some of the features on the Website, you may need to register with us and set up an Account with your email address and a password or similar. Certain features may also require you to register your details on a form to subscribe to newsletters.

3.2 In creating and using an Account (or otherwise submitting your details):

- (a) you must not use false or misleading information and must update your details should they change during the term;
- (b) you must follow any password policies made available on the Website from time to time (for Accounts);
- (c) you are solely responsible for maintaining the confidentiality of your login information and you are liable for all activities that happen under your Account, even if you do not authorise such activities; and
- (d) you must notify Community Corporate immediately if you become aware of any unauthorised use or access of your Account or other security breach.

3.3 If we enable you to connect to the Website with a third-party service (e.g. Facebook or Google+), you hereby grant us permission to access, store, and use your Information from that service as permitted by that service and as may be described in our Privacy Policy.

## 4. PROHIBITED USE

4.1 You acknowledge and agree that you must not use the Website and/or the Services (or submit any information to us):

- (a) in a way that violates these Terms and Conditions;
- (b) for unlawful or dangerous activities or purposes;
- (c) in a way that is fraudulent, inaccurate, false, misleading or deceptive (including in a way that impersonates others);
- (d) in a way that would infringe any third party's rights (including intellectual or other proprietary rights);
- (e) in a way that is defamatory, trade libellous, unlawfully discriminatory, threatening or harassing;
- (f) in a way that damages the credibility of the Website or us or that creates liability for us;
- (g) to distribute any virus, trojan horse, worms or other computer programming routines that may or are intended to damage, modify, delete, interfere with, surreptitious intercept, access without authority or expropriate any system, data or personal information or otherwise affect the integrity, operation or security of the Website;

- (h) in connection with the distribution of unsolicited commercial email ("spam") or advertisements;
- (i) to resell or provide the Services for a commercial purpose;
- (j) in any manner which could damage, disable, overburden, or impair the Website or interfere with any other party's use and enjoyment of this Website;
- (k) in a way that uses any robot, spider, scraper, data mining tools, data gathering and extraction tools or other automated means to access our Services;
- (l) to collect User's information and harass them; or
- (m) in a way that violates any Applicable Law (including those governing consumer protection, unfair competition, criminal law, antidiscrimination or trade practices law).

## 5. ACCESS AND TERMINATION

5.1 Either party may terminate these Terms and Conditions at any time without cause by giving written notice to the other party of their intention to terminate, and the termination will take effect immediately.

5.2 Community Corporate may immediately, suspend, restrict or terminate these Terms and Conditions and/or your access to all or part of the Services immediately where:

- (a) it is reasonably necessary for security, technical, copyright or operational reasons;
- (b) you breach any term of these Terms and Conditions;
- (c) you violate the rights of any third party or Community Corporate;
- (d) Community Corporate reasonably believes that you are engaged in illegal or fraudulent use of the Services;
- (e) Community Corporate reasonably believes that the User Data is inappropriate or unlawful; or
- (f) Community Corporate reasonably believes that you are using the Services in a way that would cause Loss or damage to or otherwise cause legal liability to Community Corporate, other users, third parties or disrupt others' use of the Services.

5.3 We reserve the right to withdraw, or amend, update or change the functionality or content of the Website at any time, without notice. We will not be liable if for any reason the Website is unavailable at any time or for any period of time or if at any time any functionality of the Website is restricted.

## 6. EFFECTS OF TERMINATION

6.1 On termination of these Terms and Conditions we will cease to provide you with the Services.

6.2 Any clause of these Terms and Conditions which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

## 7. INTELLECTUAL PROPERTY RIGHTS

7.1 You acknowledge and agree that we own all right, title and interest in and to the Website and the Materials including:

- (a) the Intellectual Property Rights subsisting in each;
- (b) any customisations of, and modifications to, the Website and Materials to suit your individual needs;
- (c) information or data, source codes and other information technology relating to or connected with the Services or Materials;
- (d) marketing information relating to or connected with the Website or Materials; and
- (e) technical information, including trade secrets, drawings, plans, encryptions, codes and product descriptions and information relating to or connected with the Website,

however, you will retain ownership of your User Data.

7.2 No right, title and interest in any of the Website and Materials is transferred or granted to you except so far as expressly stated in these Terms and Conditions. You must not use the Website in any way that is inconsistent with Community Corporate's ownership.

7.3 You agree that you will not copy, reproduce, reverse engineer, decompile, translate, alter, modify, create derivative works or otherwise attempt to derive the source code of the Website, or publicly display (other than on the Website) any Community Corporate Intellectual Property Rights except with the prior written permission of Community Corporate or the appropriate third party authorised to grant such permission.

## **8. USER DATA**

- 8.1 You shall at all times retain ownership of the User Data including the Intellectual Property Rights subsisting in it.
- 8.2 You are solely responsible for the uploading of any User Data. Community Corporate may, in its absolute discretion, refuse to accept the upload of User Data to the Website. You agree that Community Corporate shall not be liable to you for any Loss or damage you may suffer as a result of this.
- 8.3 You hereby grant to Community Corporate an irrevocable, worldwide, perpetual, transferable, non-exclusive license to use, communicate, display, copy, reproduce, store, distribute, publish, export, adapt, edit and translate the User Data to the extent reasonably required for the performance of Community Corporate's obligations and the exercise of Community Corporate's rights under these Terms and Conditions, together with the right to sub-license these rights to its hosting, connectivity and telecommunications service providers to the extent reasonably required for the performance of Community Corporate's obligations and the exercise of the Community Corporate's rights under these Terms and Conditions.
- 8.4 You also grant Community Corporate an irrevocable, non-exclusive licence to use the User Data as non-personally identifiable data in aggregated and blinded formats where the data provides no identifying, referencing or implication of an association with you, only for the purposes of display on the Website, improving the Website, bench marking, research and marketing analysis, surveys, reports and studies, to measure any metrics associated with your use of the Website and as set out in the Privacy Policy for government bodies.
- 8.5 Community Corporate warrants that:
- (a) it will only use the User Data as set out in these Terms and Conditions and Community Corporate's Privacy Policy in place from time to time; and
  - (b) it will not sell, rent or lease the User Data to any third party except as otherwise permitted in Community Corporate's Privacy Policy.
- 8.6 You warrant to Community Corporate that:
- (a) you own or have the necessary licenses to transmit such User Data through the Website and that any User Data provided will not infringe any third party rights (including intellectual property or confidentiality obligations) nor give rise to a liability to make royalty or other payments to a third party;
  - (b) the User Data will not:
    - (i) breach the provisions of any law, statute or regulation;
    - (ii) give rise to any cause of action against Community Corporate, in each case in any jurisdiction and under any applicable law.
- 8.7 You acknowledge that on termination we will delete any data that you have stored on the Services. It is solely your responsibility to backup any data before termination of the Services and we will not be liable for any Loss in this regard.

## **9. PRIVACY**

- 9.1 With respect to any personal information that is included in User Data or that is otherwise provided to, collected by or received by Community Corporate in connection with the Website and/or the Services, such personal information will be handled in accordance with our Privacy Policy.
- 9.2 If you are providing personal information on behalf of someone else, you must comply with:
- (a) applicable Privacy Legislation; and
  - (b) the applicable policies and guidelines of Community Corporate as made known from time to time.
- 9.3 You warrant and represent that such personal information that you provide on behalf of someone else complies with this clause at all times.

## **10. DISCLAIMER**

- 10.1 Subject to the other terms of this clause, we provide our Services on an "as-is" basis and without any warranties, representations, or conditions of any kind, whether express, implied or statutory, to the extent permitted by law. You acknowledge and agree that your use of the Services is at your own risk, and that you are solely responsible for how you use the Services.
- 10.2 Without limiting clause 10.1, you acknowledge and agree that:
- (a) Community Corporate does not guarantee continuous, uninterrupted or secure access to its Website or that any information provided by Community Corporate is up to date and accurate;
  - (b) Community Corporate does not guarantee that the Website or any data you provide to the Website will be free from loss, corruption, attack, viruses, interference, hacking or other security intrusion;
  - (c) Community Corporate cannot guarantee the accuracy, currency, suitability, reliability and availability of the Services and any content gained within (including any job listings or career advice or other content contained on the Website);

- (d) Community Corporate makes no guarantees that there will be no loss or corruption of User Data at any time;
- (e) Community Corporate makes no representations about the suitability of the Website for any purpose;
- (f) all Services we provide are intended for general education and information purposes only. Nothing in the Services, or any of the content we provide you purports to offer legal, business, tax or other professional advice. Use caution and always seek professional advice before acting on any information that we provide;
- (g) we provide support, guidance and tools to assist you find a job and to provide career advice, but any decisions you make, and the consequences that flow from such decisions are solely your responsibility. Your success depends on many factors outside of which the Services can assist;
- (h) nothing in the Services is a promise or guarantee of results (such as a job placement) or future earnings (such as earnings from such job). We cannot and do not make any guarantees about your ability to get results or earn any money with any job listings, information, tools and/or strategies provided by the Services;
- (i) any testimonials and examples within any marketing materials are not to be taken as a guarantee that you will achieve the same or similar results. Any financial representations referenced by us on the Services are illustrative of concepts only and should not be considered as promises for actual or future performance;
- (j) Community Corporate, its directors, principals, employees and representatives are not responsible for decisions that you may make nor losses that may arise out of any personal decision made by you at any time. Any job that you accept as a result of the Services is solely at your own risk. You are solely responsible for any actions you do or do not take directly or indirectly in connection with the Services; and
- (k) Community Corporate will maintain appropriate technical and organisational measures to protect the security of the User Data. However, Community Corporate does not guarantee that unauthorised third parties will never be able to defeat those measures to access the User Data for improper purposes. You acknowledge that there are risks inherent in internet connectivity that could result in the loss of privacy, confidential information and User Data. Accordingly, any User Data that is transmitted by you is transmitted solely your own risk. You are solely liable for your User Data.

10.3 This disclaimer applies to the fullest extent permitted by law, and shall survive any termination or expiration of these Terms and Conditions or your use of this Website.

## **11. LIMITATION OF LIABILITY**

11.1 Subject to the other terms of this clause, Community Corporate excludes all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Services that are not expressly set out in these Terms and Conditions to the maximum extent permitted by law.

11.2 To the extent permitted by law, we exclude all liability to you or anyone else for Losses arising in any way in connection with the Website or its use and/or the Services and/or these Terms and Conditions, including but not limited to Losses suffered as a result of:

- (a) errors, mistakes or inaccuracies on the Website;
- (b) your reliance or acting, or failing to act, on any information contained on or referred to on the Website and/or any linked website;
- (c) your reliance or acting, or failing to act, on any job listings, or career advice provided in the Services;
- (d) any job placement offered by a third party or the result of a job placement by the Services;
- (e) any unauthorised access to or use of the Website servers;
- (f) any interruption or cessation of transmission to or from the Website;
- (g) any incorrect data or content, errors, mistakes or inaccuracies on the Website;
- (h) any loss or corruption of User Data at any time; and/or
- (i) the quality or fitness for any purpose of any linked sites.

11.3 The limitation and exclusion of liability in this clause applies whether the liability claim is based on breach of contract, under a warranty or an indemnity, tort (including negligence), under statute, in equity or otherwise.

11.4 Except as expressly provided in these terms, and to the fullest extent allowed by the law, we will not be liable for any direct, indirect, special, incidental or consequential damages, including without limitation damages for loss of profits or income, loss or corruption of data, business loss or interruption or any other commercial damages or losses arising out of your access to or use of the Website or the provision of the Services.

11.5 This clause 12 shall survive any termination or expiration of these Terms and Conditions.

## **12. INDEMNITY**

12.1 Except to the extent caused by the breach of these Terms and Conditions by Community Corporate, you indemnify and release Community Corporate, and its officers, directors, shareholders, employees, consultants,

agents, and related bodies corporate from and against any Losses (including any direct, indirect, special or consequential Losses) and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by Community Corporate arising out of or in connection with:

- (a) your use of the Services;
- (b) the supply, suspension, restriction or cancellation of your access to the Website;
- (c) your breach or negligent performance or non-performance of these Terms and Conditions and/or the Services;
- (d) from your violation of any applicable law;
- (e) any claim made against Community Corporate and/or you by a third party arising out of or in connection with these Terms and Conditions and/or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of these Terms and Conditions and/or the Services by you;
- (f) any claim made against Community Corporate for actual or alleged infringement of a third party's rights arising out of or in connection with the User Data; and/or
- (g) the enforcement of these Terms and Conditions by Community Corporate.

12.2 You must make payments under this clause:

- (a) in full without set-off or counterclaim, and without any deduction in respect of taxes unless prohibited by law; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

12.3 Except where expressly stated to the contrary in these Terms and Conditions, the rights of a party under this clause are in addition to any other rights available to that party whether those rights are provided for under these Terms and Conditions or by law.

12.4 It is not necessary for Community Corporate to incur expense or make payment before enforcing a right of indemnity under this clause.

12.5 The indemnities in this clause:

- (a) are continuing obligations of yours, independent from your other obligations under these Terms and Conditions and survive termination or expiry of these Terms and Conditions; and
- (b) are absolute and unconditional and unaffected by anything which otherwise might have the effect of prejudicing, releasing, discharging or affecting your liability.

12.6 Community Corporate's liability under this indemnity is limited under clause 11.

### **13. NOTICES**

13.1 All notices authorised or required under these Terms and Conditions to be given by a party to the other shall be in writing sent by email or delivered personally or sent by pre-paid registered post and in each case addressed to the other party at that party's address as a party may from time to time notify to the other.

13.2 The following shall constitute proof of receipt:

- (a) proof by posting by registered post; or
- (b) proof of dispatch by email.

13.3 Receipt of a notice given under these Terms and Conditions will be deemed to occur:

- (a) in the case of a communication sent by pre-paid registered post, on the third business day after posting;
- (b) in the case of an email, on the business day immediately following the day of dispatch.

If a notice is sent via post, it must also be sent via email.

### **14. GENERAL PROVISIONS**

14.1 **No Waiver**

- (a) No party may rely on the words or conduct of any other party as being a waiver of any right, power or remedy arising under or in connection with these Terms and Conditions unless the other party or parties expressly grant a waiver of the right, power or remedy. Any waiver must be in writing, signed by the party granting the waiver and is only effective to the extent set out in that waiver.
- (b) Words or conduct referred to in clause 14.1(a) include any delay in exercising a right, any election between rights and remedies and any conduct that might otherwise give rise to an estoppel.

14.2 **Assignment, Novation and Other Dealings**

- (a) Community Corporate may assign or novate any rights that arise out of or under these Terms and Conditions without your.

- (b) Any rights of yours that arise out of or under these Terms and Conditions are not assignable or capable of novation by you without the prior written consent of Community Corporate, whose consent may be unreasonably withheld.

**14.3 Severability**

- (a) If the whole or any part of a provision of these Terms and Conditions is or becomes invalid or unenforceable under the law of any jurisdiction, it is severed in that jurisdiction to the extent that it is invalid or unenforceable and whether it is in severable terms or not.
- (b) Clause 14.3(a) does not apply if the severance of a provision of these Terms and Conditions in accordance with that clause would materially affect or alter the nature or effect of the parties' obligations under these Terms and Conditions.

**14.4 No Merger**

On completion or termination of these Terms and Conditions, the rights and obligations of the parties set out in these Terms and Conditions will not merge and any provision that has not been fulfilled remains in force.

**14.5 Further Action**

Each party must do all things (including completing and signing all documents) reasonably requested by the other party that are necessary to give full effect to these Terms and Conditions and the transactions contemplated by these Terms and Conditions.

**14.6 Time of the Essence**

Time is of the essence in these Terms and Conditions in respect of any date or time period and any obligation to pay money.

**14.7 Relationship of the Parties**

- (a) Nothing in these Terms and Conditions gives a party authority to bind any other party in any way.
- (b) Nothing in these Terms and Conditions imposes any fiduciary duties on a party in relation to any other party.

**14.8 Remedies Cumulative**

Except as provided in these Terms and Conditions and permitted by law, the rights, powers and remedies provided in these Terms and Conditions are cumulative with and not exclusive to the rights, powers or remedies provided by law independently of these Terms and Conditions.

**14.9 Entire Agreement**

These Terms and Conditions states all the express terms agreed by the parties about its subject matter. It supersedes all prior agreements, understandings, negotiations and discussions in respect of its subject matter.

**14.10 No Reliance**

No party has relied on any statement, representation, assurance or warranty made or given by any other party, except as expressly set out in these Terms and Conditions.

**14.11 Governing Law and Jurisdiction**

- (a) These Terms and Conditions is governed by the law in force in the State.
- (b) Each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in the State and courts of appeal from them in respect of any proceedings arising out of or in connection with these Terms and Conditions.
- (c) Each party irrevocably waives any right it has to object to the venue of any legal process in the courts described in clause 14.11(b) on the basis that:
  - (i) any proceeding arising out of or in connection with these Terms and Conditions has been brought in an inconvenient forum; or
  - (ii) the courts described in clause 14.11(b) do not have jurisdiction.