

Terms & Conditions

Last updated 19th September 2023

By accepting these terms & conditions you are entering a legally binding agreement between yourself and Locumly (Locumly Pty Ltd)

The Terms & Conditions are divided into 3 parts

Part A: All Users

Part B: Health Facilities

Part C: Practitioners

If you intend to use the Platform as a Health Facility, only Parts A and Part B of these terms will apply to you.

If you intend to use the Platform as a Practitioner, only Parts A and Part C of these terms will apply to you.

When we talk about the “Services” in this agreement, we are referring to the services available through our website and any associated services we offer.

If you access or download our mobile application from the Apple App Store, you agree to Apple’s Licensed Application End User License Agreement and any Usage Rules set forth in the App Store Terms of Service or the Android, Google Inc. Terms and Conditions including the License Agreement and Terms of Application.

We may use Google Maps/Earth mapping services, including Google Maps API(s). Your use of Google Maps/Earth is subject to the Google Maps/Google Earth Additional Terms of Service.

1 **ELIGIBILITY**

- (a) This Platform is not intended for unsupervised use by any person under the age of 18 years old or any person who has previously been suspended or prohibited from using the Platform. By using the Platform, you represent and warrant that you are either:
 - (i) over the age of 18 years and accessing the Platform for personal use; or
 - (ii) accessing the Platform on behalf of someone under the age of 18 years old and consent to that person's use of the Platform.
- (b) You must not access the Platform if you are under the age of 18 years old and do not have your parent or guardian's consent, or if you have previously been suspended or prohibited from using the Platform.
- (c) If you use the Platform on behalf of a company or organisation you warrant that you have the necessary authority from that company or organisation to do so.
- (d) If you are signing up not as an individual but on behalf of your company, your employer, an organisation, government or other legal entity (**Represented Entity**), then "**you**" or "**User**" means the Represented Entity and you are binding the Represented Entity to this agreement. If you are accepting this agreement and using our Services on behalf of a Represented Entity, you represent and warrant that you are authorised to do so.
- (e) If you do not have such authority referred to in clause 1(d) above but have represented and warranted that you did have such authority, you will be personally bound by these terms (including any payment obligations placed on you or your purported Represented Entity).
- (f) We may require proof of such authority referred to above at any time.

2 **CHANGE TO THESE TERMS**

- (a) We may modify these terms or our Privacy Policy from time to time. If we make material changes, we will provide you notice through the Platform, or by other means, to provide you the opportunity to review the changes before they become effective.
- (b) We agree that changes cannot be retroactive. If you object to any changes, you may terminate this agreement and close your Account. Your continued use of our Services after we publish or send a notice about our changes to these terms means that you are consenting to the updated terms as of their effective date.

3 **ACCOUNTS**

- (a) In order to use most of the functionality of the Platform, all Users are required to sign-up, register and receive an account through the Platform (an **Account**).
- (b) As part of the Account registration process and as part of your continued use of the Platform, you are required to provide personal information and details, such as your email address, first and last name, preferred username, a secure password, billing, postal and physical addresses, phone number, and other information as determined by Locumly from time to time;
- (c) You warrant that any information you give to Locumly in the course of completing the Account registration process will always be accurate, honest, correct and up to date.
- (d) If you sign up as a Practitioner, you will be required to submit additional information as set out in Part C of these terms.
- (e) If you register an Account using your Google, Facebook or other social media network account (**Social Media Account**), you authorise us to access certain information on your Social Media Account including but not limited to your current profile photo and other basic information.
- (f) Correspondence between Users must take place on the Platform. You agree to ensure that your Account does not display any of your

personal contact information at any time such that it can be viewed by any other User. You agree to not give your contact details to any other User.

- (g) Once you complete the Account registration process, Locumly may, in its absolute discretion, choose to accept you as a registered user within the Platform and provide you with an Account.
- (h) Locumly reserves the right to contact you about any concerning behaviour by you, or to seek a resolution with you.
- (i) Locumly may, in its absolute discretion, suspend or cancel your Account for any reason, including for any failure to comply with this agreement.

4 USING THE PLATFORM

- (a) A Health Facility that requires a shift to be performed (Shift), and a Practitioner that desires to work a Shift, must register and receive an Account through the Platform in accordance with clause 3 of Part A.
- (b) After Locumly has accepted the Health Facility or Practitioner (as applicable) as a registered user:
 - (i) a Health Facility may create and submit a shift listing containing the details of the Shift to the Platform (Shift Listing);
 - (ii) a Practitioner may apply for a Shift Listing through the Platform.
- (c) Users must comply with all Shift Listings requirements as set out in clause 2 of Part B.
- (d) A Health Facility may accept or reject a Practitioner's application to a Shift Listing, however a contract is formed between the Users when the Health Facility accepts a Practitioner's application, in accordance with clause 8 of Part B.
- (e) After the anticipated end time of a Shift, each User will be prompted to submit the details of the Shift (Shift Details), including by:
 - (i) confirming the actual hours and times worked by the Practitioner during the Shift; and

- (ii) confirming the total fees payable for the professional services of the Practitioner during the Shift (Professional Service Fee).
- (f) Users must submit accurate and complete Shift Details and report any issues, problems or potential issues or problems relating to a User within 24 hours of the end time of a Shift. Any issues and problems will be dealt with in accordance with clause 15 of Part A.
- (g) If any Shift Details vary from the original details provided in a Shift Listing, each User must submit those variations through the Platform (or in any other manner reasonably directed by Locumly) as soon as it becomes aware of them, and in any case before the expiry of the 24 hour period set out above.
- (h) If the Shift Details submitted by a User are not consistent with another User's Shift Details, this will constitute a dispute and will be dealt with in accordance with clause 15 of Part A.
- (i) On approving the Shift Details, Locumly will issue an invoice to the Health Facility for the Professional Service Fee in addition to Commission Fee, calculated and payable by the Health Facility in accordance with clause 5 of Part B.
- (j) Locumly will pay the Practitioners the Professional Service Fee within 7 days of receiving payment of the Professional Service Fee from the Health Facility. Payment of the Professional Service Fee by Locumly is conditional on:
 - (i) the Practitioner and Health Facility submitting undisputed Shift Details in accordance with this agreement; and
 - (ii) Locumly receiving payment of the Professional Service Fee from the Health Facility for the professional services of the Practitioner.

5 USER OBLIGATIONS

As a User, you agree:

- (a) not to intimidate, harass, impersonate, stalk, threaten, bully or endanger any other User or distribute unsolicited commercial content, junk mail, spam, bulk content or harassment;
- (b) follow the law;

- (c) use a strong password, and not share your Account with any other person and that any use of your Account by any other person (which is strictly prohibited). You must immediately notify Locumly of any unauthorised use of your Account, password or email, or any other breach or potential breach of the Platform's security;
- (d) to not use the Platform for any purpose other than for the purpose of making arrangements to provide or receive services, including by not using the Platform:
 - (i) in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity (including requesting or accepting a job which includes illegal activities or purposes); and
 - (ii) in connection with any commercial or money making or other promotional or marketing endeavours except those that are endorsed herein, or as approved in writing by Locumly;
- (e) not to act in any way that may harm the reputation of Locumly or associated or interested parties or do anything at all contrary to the interests of Locumly or the Platform;
- (f) not to make any automated use of the Platform and you must not copy, reproduce, translate, adapt, vary or modify the Platform without the express written consent of Locumly;
- (g) not to, through any act or omission (including but not limited to creating an Account) mislead or deceive others;
- (h) that Locumly may change any features of the Platform or Services offered through the Platform at any time without notice to you;
- (i) that information given to you through the Platform, by Locumly or another User including a Health Facility, is general in nature and we take no responsibility for anything caused by any actions you take in reliance on that information; and
- (j) that Locumly may cancel your account at any time if it considers, in its absolute discretion, that you are in breach or are likely to breach this clause 4.

6 POSTED MATERIALS

6.1 WARRANTIES

By providing or posting any information, materials or other content on the Platform (**Posted Material**), you represent and warrant that:

- (a) you are authorised to provide the Posted Material (including by being authorised to provide any services that you represent you provide);
- (b) the Posted Material is accurate and true at the time it is provided;
- (c) any Posted Material which is in the form of a Rating is honest, accurate and presents a fair view of the relevant person and/or your experience;
- (d) the Posted Material is free from any harmful, discriminatory, defamatory or maliciously false implications and does not contain any offensive or explicit material;
- (e) the Posted Material is not “passing off” of any product or service and does not constitute unfair competition;
- (f) the Posted Material does not infringe any Intellectual Property Rights, including copyright, trademarks, business names, patents, confidential information or any other similar proprietary rights, whether registered or unregistered, anywhere in the world;
- (g) the Posted Material does not contain any viruses or other harmful code, or otherwise compromise the security or integrity of the Platform or any network or system; and
- (h) the Posted Material does not breach or infringe any applicable laws.

6.2 LICENCE

- (a) You grant to Locumly a perpetual, irrevocable, transferable, worldwide and royalty-free licence (including the right to sublicense) to use, copy, modify, reproduce and adapt any Intellectual Property Rights in any Posted Material in order for Locumly to use, exploit or otherwise enjoy the benefit of such Posted Material.

- (b) If it is determined that you retain moral rights (including rights of attribution or integrity) in any Posted Material, you forever release Locumly from any and all claims that you could assert against Locumly by virtue of any such moral rights.
- (c) You indemnify Locumly against all damages, losses, costs and expenses incurred by Locumly arising out of any third party claim that your Posted Material infringes any third party's Intellectual Property Rights.

6.3 REMOVAL

- (a) Locumly acts as a passive conduit for the online distribution of Posted Material and has no obligation to screen Posted Material in advance of it being posted. However, Locumly may, in its absolute discretion, review and remove any Posted Material (including links to you, your profile or listings you have posted on the Platform) at any time without giving any explanation or justification for removing the Posted Material.
- (b) You agree that you are responsible for keeping and maintaining records of Posted Material.

7 SERVICE INTERRUPTIONS AND CANCELLATIONS

Locumly will have no liability or obligation to you, and you will not be entitled to any compensation from Locumly, if:

- (a) a Health Facility cancels a Shift or Shift Listing;
- (b) a Practitioner withdraws their application for a Shift Listing (or fails to show up to a Shift); or
- (c) for whatever reason, including technical faults, the services in a Shift Listing cannot be performed or completed.

8 IDENTITY VERIFICATION

- (a) It is not our responsibility to verify the identity of any User on the Platform.
- (b) You acknowledge and agree that:

- (i) you will make your own inquiries as to other Users' identities or authority before engaging in contracts with those Users; and
- (ii) we do not endorse any User or Shift Listing.

9 **ONLINE PAYMENT PARTNER**

- (a) We may use a third-party online payment partner (**Online Payment Partner**), such as Stripe, to make or collect payments on the Platform, including for our Services.
- (b) The processing of payments by the Online Payment Partner will be, in addition to this agreement, subject to the terms, conditions and privacy policies of the Online Payment Partner, including Stripe's terms and conditions located [here](#).
- (c) You agree to release Locumly and its employees and agents in respect of all liability for loss, damage or injury which may be suffered by any person arising from any act or omission of the Online Payment Partner, including any issue with security or performance of the Online Payment Partner's platform or any error or mistake in processing our or your payment.
- (d) We reserve the right to correct, or to instruct our Online Payment Partner to correct, any errors or mistakes in making a payment or collecting your payment.

10 **SERVICE LIMITATIONS**

The Platform is made available to you strictly on an 'as is' basis. Without limitation, you acknowledge and agree that Locumly cannot and does not represent, warrant or guarantee that:

- (a) the Platform will be free from errors or defects;
- (b) the Platform will be accessible at all times;
- (c) messages sent through the Platform will be delivered promptly, or delivered at all;
- (d) information you receive or supply through the Platform will be secure or confidential; or
- (e) any information provided through the Platform is accurate or true.

11 NOT LABOUR HIRE

We are not a labour hire agency, and the Platform is not designed to work as one. Practitioners that apply for Shift Listings and are approved by Health Facilities for a Shift will be engaged directly by the Health Facility as an independent contractor.

12 INTELLECTUAL PROPERTY

- (a) Locumly retains ownership of all materials developed or provided (or both, as the case may be) in connection with the Services (including text, graphics, logos, design, icons, images, sound and video recordings, pricing, downloads and software) (**Service Content**) and reserves all rights in any Intellectual Property Rights owned or licensed by it not expressly granted to you.
- (b) You may make a temporary electronic copy of all or part of the Service Content for the sole purpose of viewing it and applying for a Shift Listing. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify or publish the Service Content without prior written consent from Locumly or as permitted by law.
- (c) In this clause 12, “**Intellectual Property Rights**” means all copyright, trade mark, design, patent, semiconductor and circuit layout rights, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of this agreement both in Australia and throughout the world.

13 THIRD PARTY CONTENT

The Platform may contain text, images, data and other content provided by a third party and displayed on the Platform (**Third Party Content**). Locumly accepts no responsibility for Third Party Content and makes no representation, warranty or guarantee about the quality, suitability, accuracy, reliability, currency or completeness of Third Party Content.

14 **THIRD PARTY TERMS**

- (a) Any service that requires Locumly to acquire goods and services supplied by a third party on behalf of the Practitioner (including a third party payment service) may be subject to the terms and conditions of that third party (**Third Party Terms**), including 'no refund' policies.
- (b) Users agree to familiarise themselves with any Third Party Terms applicable to any such goods and services and, by instructing Locumly to acquire the goods or services on the User's behalf, the User will be taken to have agreed to such Third Party Terms.

15 **DISPUTES BETWEEN USERS**

- (a) You must promptly report any issues, problems or potential issues or problems relating to another User or the Platform to Locumly via our support functionality. We will assess the complaint and attempt to satisfactorily resolve it within a reasonable time.
- (b) Any costs you incur in relation to a complaint or dispute will be your responsibility.
- (c) Locumly has the option to appoint an independent mediator or arbitrator if needed. The cost of any mediator or arbitrator must be shared equally between each of the parties to the dispute.
- (d) Locumly reserves the right to hold funds in relation to a dispute until the dispute is resolved by the relevant parties or by a mediator or arbitrator.
- (e) If you have a dispute with Locumly, you agree to notify us first and enter into discussion, mediation or arbitration with us for a minimum of a 60-day period before pursuing any other proceedings.
- (f) Notwithstanding any other provision of this clause 15, you or Locumly may at any time cancel your Account or discontinue your use of the Platform.

16 SECURITY

Locumly does not accept responsibility for loss or damage to computer systems, mobile phones or other electronic devices arising in connection with your use of the Platform. You should take your own precautions to ensure that the process you employ to access the Platform does not expose you to the risk of viruses, malicious computer code or other forms of interference.

17 DISCLAIMER

- (a) **(Introduction service)** Locumly is a medium that facilitates the introduction of Practitioners and Health Facilities for the purposes of finding suitable candidates for jobs in the healthcare sector. Locumly simply collects a service fee, or Commission Fee, in consideration for providing this introduction service and does not have any obligations or liabilities to, and is not a party to any contract between Practitioners and Health Facilities in relation to such services or otherwise resulting from the introduction.
- (b) **(Limitation of liability)** To the maximum extent permitted by applicable law, Locumly excludes completely all liability to any person for loss or damage of any kind, however arising whether in contract, tort (including negligence), statute, equity, indemnity or otherwise, arising from or relating in any way to the Platform or its use or any services provided by any Health Facility. This includes the transmission of any computer virus.
- (c) **(Disclaimer)** All express or implied representations and warranties made by Locumly are, to the maximum extent permitted by applicable law, excluded.
- (d) **(Consumer law)** Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, you may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services we provide. Our services come with guarantees that cannot be excluded under the ACL. For major failures with the service, you are entitled:

- (i) to cancel your service contract with us; and
- (ii) to a refund for the unused portion, or to compensation for its reduced value

You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

- (e) **(Indemnity)** You agree to indemnify Locumly and its employees and agents in respect of all liability for loss, damage or injury which may be suffered by any person arising from you or your representatives':
 - (i) breach of any term of this agreement;
 - (ii) use of the Platform; or
 - (iii) your provision or receipt of services from another User.
- (f) **(Consequential loss)** To the maximum extent permitted by law, under no circumstances will Locumly be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with the Platform, this agreement or their subject matter, or any services provided, or duties owed, by any Practitioner (except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth)).

18 **CONFIDENTIALITY**

You agree that:

- (a) no information owned by Locumly, including system operations, documents, marketing strategies, staff information and client information, may be disclosed or made available to any third parties; and
- (b) all communications involving the details of other Users on this Platform and of the Health Facility are confidential and must be kept

as such by you and must not be distributed nor disclosed to any third party.

19 **PRIVACY**

You agree to be bound by the clauses outlined in Locumly's Privacy Policy, which can be accessed here: <https://locum.ly/privacy-policy>

20 **COLLECTION NOTICE**

- (a) We collect personal information about you in order to enable you to access and use the Platform, to contact and communicate with you, to respond to your enquiries and for other purposes set out in our Privacy Policy.
- (b) Our Privacy Policy contains more information about how we use, disclose and store your information and details how you can access and correct your personal information.

21 **NOTICE REGARDING APPLE**

If we offer access to an application from Apple, Inc. (**Apple**) iOS Store, you acknowledge and agree:

- (a) this agreement is between you and Locumly and not with Apple. Apple is not responsible for the Services or any content available on the Services;
- (b) Apple has no obligation whatsoever to furnish any maintenance and support services for the Services;
- (c) in the event of any failure of Locumly to conform to any applicable warranty, you may notify Apple, and Apple will refund the price for the Services. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Services, and any other claims, losses, liabilities, damages, costs of expenses attributable to any failure to conform to any warranty will be Locumly's responsibility;
- (d) Apple is not responsible for addressing any claims by you or any third party relating to the Services, including, but not limited to:
 - (i) product liability claims;

- (ii) any claim that the Services fails to conform to any applicable legal or regulatory requirement; and
- (iii) claims arising under consumer protection, privacy, or similar legislation;
- (e) in the event of any third party claim that the Services or your use of the Services infringes any third party's intellectual property rights, Apple will not be responsible for the investigation, defence, settlement and discharge of any such claim;
- (f) that you represent and warrant that:
 - (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and
 - (ii) you are not listed on any U.S. Government list of prohibited or restricted parties;
- (g) you must comply with applicable third party terms of this agreement when using the Services; and
- (h) Apple, and Apple's subsidiaries, are third party beneficiaries of this agreement, and that, upon your acceptance of this agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this agreement against you as a third party beneficiary.

22 TERMINATION

- (a) Locumly reserves the right to terminate a User's access to any or all of the Platform (including any listings, memberships or Accounts) at any time without notice, for any reason.
- (b) If a User's Account is terminated:
 - (i) the User's access to all posting tools on the Platform will be revoked;
 - (ii) the User will be unable to view the details of all other Users (including contact details, geographic details and any other personal details or requests);

- (iii) the User will only be able to view limited information in connection with a Shift Listing, as shown to the general public; and
- (iv) Shift Listings previously posted by the respective User will also be removed from the Platform.
- (c) Users may terminate their Account, and any other membership they hold in connection with the Platform, at any time by using the Platform's functionality, where such functionality is available. Where such functionality is not available, Locumly will effect such termination within a reasonable time after receiving written notice from the User.
- (d) Notwithstanding termination or expiry of your Account, this agreement, or any other membership you hold in connection with the Platform, the provisions of Part A and any other provision in this agreement which by its nature would reasonably be expected to be complied with after termination or expiry, will continue to apply.

23 TAX

You are responsible for the collection and remission of all taxes associated with the services you provide or receive or any transactions through your use of the Platform, and Locumly will not be held accountable in relation to any transactions between Practitioners and Health Facilities where tax, superannuation or other related misconduct has occurred.

24 RECORD / AUDIT

To the extent permitted by law, Locumly reserves the right to keep all records of any and all transactions and communications made through this Platform between you and other Users (including conversations, User posts, job request bids, comments, feedback, cookies, and I.P. address information) for administration purposes and also holds the right to produce these records in the event of any legal dispute involving Locumly.

25 NOTICES

- (a) A notice or other communication to a party under this agreement must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
 - (ii) when replied to by the other party,whichever is earlier.

26 GENERAL

26.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in Victoria, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

26.2 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

26.3 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

26.4 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

26.5 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

26.6 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

26.7 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

26.8 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;

- (c) (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) (**person**) a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) (**party**) a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) (**this agreement**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) (**document**) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) (**headings**) headings and words in bold type are for convenience only and do not affect interpretation;
- (i) (**includes**) the word “includes” and similar words in any form is not a word of limitation; and
- (j) (**adverse interpretation**) no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.

Part B **Health Facilities**

1 **ELIGIBILITY AND QUALIFICATIONS**

You must verify the identity and qualifications of, and confirm the possession of the right to work, for any Practitioner on the Platform that applies for any of your Shift Listings before hiring them.

2 SHIFT LISTINGS

You acknowledge and agree that:

- (a) you must use your best endeavours to provide as much information as possible in any Shift Listing;
- (b) any Shift Listing must include:
 - (i) the address where the Practitioner must work during the Shift;
 - (ii) the anticipated duration of the Shift;
 - (iii) the anticipated start and end times of the Shift;
 - (iv) the hourly rate payable to the Practitioner during the Shift;
 - (v) the total fees payable to the Practitioner for the Shift;
 - (vi) a description of the professional services that the Practitioner must provide during the Shift;
 - (vii) the role title and minimum job experience required for a Practitioner for a Shift; and
 - (viii) any other requirements that must be met by a Practitioner to be considered for a Shift.
- (c) Locumly may choose not to accept any Shift Listing you submit to the Platform, and Locumly may limit the number of Shift Listings you can submit to the Platform;
- (d) any information you supply in a Shift Listing must be true, timely and accurate;
- (e) you must deal with any dispute with a Practitioner in accordance with clause 15 of Part A;
- (f) any additional terms and conditions relating to a Shift Listing, are solely between you and the relevant Practitioner and do not involve Locumly in any way, except that they must not be inconsistent with your or the Practitioner's obligations under this agreement; and
- (g) Locumly will have no responsibility for the accuracy, reliability or timeliness of any Practitioner's response to a Shift Listing.

3 CANDIDATE SUGGESTIONS

From time to time, the Platform may, using its algorithm, direct to you Practitioners on the Platform (**Candidate Suggestions**). The Platform will generally direct you to Candidate Suggestions that are related to your Shift Listings, though Locumly does not guarantee this.

4 NO GUARANTEE

- (a) We give no guarantee to you of the continued availability of Practitioners on the Platform and will not be liable to you should fail to secure a candidate for a vacancy.
- (b) While we may require Practitioners to provide information about their job history, performance and qualifications, we give no guarantee to you that suitable candidates exist on the Platform and you will need to perform your own checks into the suitability of any Practitioner.

5 FEES

5.1 NO LISTING FEE

Viewing the Platform and posting a Shift Listing is free.

5.2 COMMISSION FEE PAYABLE

- (a) We will charge and invoice you for an amount equal to the pricing indicated on <https://locum.ly/post> unless agreed upon otherwise in writing. In addition to this fee, a GST-inclusive Professional Service Fee payable to the Practitioner for each Shift (**Commission Fee**).
- (b) We may, from time to time and in our sole discretion:
 - (i) revise the Commission Fee (**Revised Commission Fee**) by giving at least 1 months' written notice; and/or
 - (ii) apply a discount to the Commission Fee for select users or during promotional events.
- (c) If do not agree to the Revised Commission Fee, you may terminate your Account in accordance with clause 22(c) of Part A. If you engage our Services after receiving notice of the Revised

Commission Fee or you do not provide notice of termination in accordance with clause 22(c) of Part A, you will be deemed to have accepted the Revised Commission Fee.

- (d) You must pay us the Commission Fee:
 - (i) at the times, in the manner and via the payment method set out in an invoice or as otherwise agreed in writing; and
 - (ii) for any Shift worked by a Practitioner that was introduced to you through the Platform, including for Shifts agreed between you and the Practitioner outside of the Platform following an initial introduction on the Platform.

5.3 CALCULATING THE COMMISSION FEE

- (a) You must not delay the payment or formal engagement of the Practitioner with the intention of delaying payment of the Commission Fee.
- (b) We will calculate the Commission Fee in accordance with the total Professional Service Fee as set out in any Shift Details between you and the Practitioner. In that regard, we may rely on your statements (in a Shift Listing, Shift Report or otherwise) and representations about the duration of a Shift and/or Professional Service Fees payable to a Practitioner and you indemnify us for any false or misleading representations you make in that regard.
- (c) You acknowledge and agree that, unless applicable laws or regulations require otherwise, taxes (including GST) will be calculated and charged in addition to the Service Fee.

6 REFUNDS & CANCELLATIONS

The Commission Fee is by default non-refundable for change of mind. However, Locumly may, in its absolute discretion, issue refunds or partial refunds of the Commission Fee in certain circumstances.

7 BYPASSING

- (a) You agree that while you are a Health Facility on the Platform, and for one (1) year after you cease using the Platform, regardless of the reason that your Account was suspended or cancelled, you will not, either directly or indirectly, solicit or attempt to solicit any business, work, income or other benefit, from any Practitioner whom

you came to know about, or with whom you received services from to directly or indirectly in connection with the Platform. This provision will apply whether the relevant Practitioner or their representative is still active on the Platform.

- (b) Notwithstanding clause 7(a) of Part B, you may solicit work from or engage a Practitioner for work whom you came to know about, or with whom you received services from in connection with the Platform, if Locumly grants you written approval, in Locumly's absolute discretion.
- (c) Clause 7(a) does not apply to an extension to an existing contract or the hiring of a Practitioner in relation to whom the Health Facility has already paid to us a Commission Fee.
- (d) Locumly may, in its absolute discretion, cancel your Account and suspend you from using the Platform if it finds or suspects that you have breached or are in breach of this clause 7.

8 BINDING CONTRACT

You agree that when a Practitioner submits an enquiry in response to your Shift Listing, this constitutes their intention and offer to enter into a contract with you, where you will provide the Practitioner with either confirmation or rejection of their suitability for the Shift. A contract is formed in this respect (between you and the Practitioner) when you respond to an email or message on the Platform confirming that you accept the Practitioner's application, unless otherwise agreed between the parties.

9 FEEDBACK

- (a) The Platform may include a one-way feedback system to help Health Facilities evaluate Practitioners. Health Facilities may submit skill tags or digital badges through the feedback system documenting their experience with a Practitioner (**Feedback**).
- (b) Feedback can be viewed by any User and will remain viewable until the relevant Practitioner's Account and/or Shift Listing is removed or terminated.
- (c) All Feedback must be true, fair and accurate.

- (d) If we consider that Feedback is untrue, unfair, inaccurate, offensive or inappropriate, we may delete the Feedback and/or ban the relevant Health Facility from posting further Ratings. We do not undertake to review each Feedback item submitted on the Platform.
- (e) You may not submit Feedback for those whom you have a personal or professional relationship with (separately from the Platform).
- (f) You can only submit Feedback about a Practitioner if you have had a service experience with the Practitioner you are rating, which means that:
 - (i) you have received an application for a Shift Listing you have posted;
 - (ii) you have received services in a contractual setting from the Practitioner introduced to you through the Platform; or
 - (iii) you can otherwise document your experience with the Practitioner, including via correspondence or other interaction via the Platform,(collectively referred to as a **Service Experience**).
- (g) You may only submit Feedback based on your own Service Experience. You are not permitted to submit Feedback about somebody else's Service Experience, such as that of a family member or friend.
- (h) You may not submit Feedback about a direct competitor to you, or a business which they are employed by or work for.
- (i) Your Service Experience must have occurred within 12 months before you submit Feedback.
- (j) If you have been offered an incentive by a Practitioner to submit Feedback, you should not submit that Feedback. Incentives include a Practitioner offering you a gift, reward, discount or advantage for leaving positive Feedback about the Practitioner. It doesn't include someone asking you nicely to leave positive Feedback.

10 **WARRANTIES**

By listing yourself as a Health Facility on the Platform and posting a Shift Listing or responding to a Candidate Suggestion, you

represent and warrant that there is a genuine role available on the terms described in each Shift Listing you post.

1 INFORMATION ON SIGN UP

- (a) In addition to the information required when setting up an Account under Part A, as a Practitioner, you may be required to provide the following extra information:
 - (i) your job experience, including a description of your proficiency with any equipment and/or software relevant to your role;
 - (ii) your ABN and ACN number;
 - (iii) your Australian Health Practitioner Regulation Agency (**AHPRA**) registration number and other professional registration numbers if they apply;
 - (iv) a clear police check (no older than 6 months);
 - (v) working with children check (no older than 6 months);
 - (vi) blue card;
 - (vii) vaccination status;
 - (viii) proof of professional indemnity insurance and public liability insurance;
 - (ix) proof of first aid CPR status being up to date;
 - (x) proof of your participation in any required continuing professional development programs (**Qualifications**); and
 - (xi) any other information required on the Platform to enable you to provide your professional services to Health Facility.
- (b) By creating an Account you warrant that all information provided under clause 1(a) above is true and correct.
- (c) You acknowledge and agree that information you supply to us when signing up for an Account may be shared with Health Facilities using the Platform (and may be visible to other Users of the Platform).

2 NO GUARANTEES

- (a) We give no guarantee to you of the continued availability of any particular Shift Listing advertised on the Platform and will not be liable to you if a Health Facility fills a Shift at any time prior to removal of the Shift Listing from the Platform.
- (b) While we may require Health Facilities to provide detailed information in Shift Listings, we give no guarantee that Shift Listings

are for actual job vacancies on the terms set out in any Shift Listing. You should do your own research and verification of employment or engagement terms which you enter into with any Health Facility.

- (c) Should your application for a Shift Listing be accepted, we encourage you to enter into a formal agreement with the Health Facility. You should obtain independent legal advice on the terms of that agreement.

3 QUALIFICATIONS

- (a) If you apply for a Shift Listing with required Qualifications, or anywhere on your Account you hold yourself out to have any Qualifications, you warrant to Locumly that you do hold such Qualifications and if requested, will promptly provide Locumly or any Health Facility with evidence of those Qualifications.

4 CANCELLATIONS AND TERMINATIONS

- (a) Locumly will have no liability or obligation to you if a Health Facility cancels a Shift (even after you have been accepted for the Shift) and you will not be entitled to any compensation from Locumly in relation to any such cancellation. This clause is not intended to limit the liability of the Health Facility for any such action under the law generally.
- (b) If you are cancel a Shift, or are terminated from or resign from a role which you accepted on the Platform within 1 month of commencement (and that engagement was not intended to last for less than 1 month), we may cancel your Account and/or any membership you hold in connection with the Platform.

5 LINKED BUSINESSES

You acknowledge and agree that:

- (a) the Platform provides links and introductions for Health Facilities and Practitioners, which are either themselves third parties (or owned and operated by third parties) that are not under the control of Locumly;
- (b) the provision by Locumly of introductions does not imply any endorsement or recommendation by Locumly of any User; and

- (c) Locumly does not examine, determine or warrant the certification and/or licensing, competence, solvency or information of any User who uses or is listed on the Platform.

6 COMMUNICATION OUTSIDE THE PLATFORM

- (a) You must not communicate with a User, or request or entice a User to communicate with you, outside the Platform.
- (b) Locumly, in its absolute discretion, may cancel your Account and suspend you from using the Platform if it finds or suspects that you have breached or are in breach of this clause 6.