

# Shiftly Terms and Conditions

**Effective Date:** 1 January 2026 **Last Updated:** 29 January 2026 **Version:** 1.1

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## 1. Introduction and Acceptance of Terms

### 1.1 Agreement to Terms

These Terms and Conditions (“Agreement”) constitute a legally binding contract between you (“Customer”, “you”, or “your”) and Squiggle Creative Pty Ltd (ABN 26 672 118 464), trading as Shiftly Australia (“Shiftly”, “we”, “us”, or “our”) governing your access to and use of the Shiftly platform, including our website, web applications, mobile applications, and all related services (collectively, the “Services”).

**BY ACCESSING OR USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS, YOU MUST NOT ACCESS OR USE THE SERVICES.**

### 1.2 Authority to Bind

If you are accepting this Agreement on behalf of a company, organisation, or other legal entity, you represent and warrant that you have the authority to bind that entity to this Agreement, and references to “you” or “Customer” shall refer to that entity.

### 1.3 Eligibility

To create a business account and use the Services as a Customer, you must: - Be at least 18 years of age - Have the legal capacity to enter into binding contracts - Be an Australian business or operate within Australia

Employees who access the Services through their employer’s account may be of any age, subject to applicable employment laws regarding minimum working age.

### 1.4 Geographic Restrictions

The Services are only available to businesses operating in Australia. By using the Services, you represent and warrant that your business operates within Australia and that you will only use the Services in connection with Australian-based operations.

## 1.5 Changes to Terms

We reserve the right to modify this Agreement at any time. We will notify you of material changes by email or through the Services at least 30 days before they take effect. Your continued use of the Services after changes take effect constitutes acceptance of the modified terms.

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## 2. Description of Services

### 2.1 Platform Overview

Shiftly is a workforce management platform that provides tools for:

- **Rostering and Scheduling:** Creating, managing, and publishing employee work schedules
- **Time and Attendance Tracking:** GPS-enabled sign-on/sign-off, timesheet generation, and approval workflows
- **Award Classification Tools:** Tools to assist with classifying employees under applicable modern awards
- **Payroll Integration:** Export functionality to third-party payroll systems (e.g., Xero)
- **Employee Self-Service:** Mobile applications for employees to view rosters, manage availability, and clock in/out
- **Reporting and Analytics:** Labour cost reports, timesheet summaries, and compliance reports

### 2.2 Service Availability

We will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for scheduled maintenance and circumstances beyond our reasonable control.

### 2.3 Pricing

The Services are currently provided free of charge. We reserve the right to introduce fees or change pricing at any time with 30 days' notice. Any future pricing will be communicated to you via email or through the Services before taking effect.

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### **3. CRITICAL DISCLAIMERS - PLEASE READ CAREFULLY**

#### **3.1 Shiftly is NOT a Payroll Service**

**SHIFTLY IS A WORKFORCE MANAGEMENT TOOL AND IS NOT A PAYROLL SERVICE, PAYROLL PROVIDER, OR PAYROLL PROCESSOR.**

The Services are designed to assist you with workforce scheduling, time tracking, and labour management. While the Services include features that calculate estimated pay amounts and export data to third-party payroll systems, these features are provided as **administrative tools only**.

Shiftly does not: - Process payroll - Make payments to your employees - Lodge tax returns or Single Touch Payroll (STP) reports on your behalf - Remit superannuation contributions - Act as your payroll provider or tax agent

#### **3.2 No Legal, Tax, or Payroll Advice**

**THE INFORMATION AND OUTPUTS PROVIDED THROUGH THE SERVICES DO NOT CONSTITUTE LEGAL, TAX, PAYROLL, FINANCIAL, OR PROFESSIONAL ADVICE.**

All information provided through the Services, including but not limited to: - Award classification assistance - Pay rate calculations - Overtime calculations - Penalty rate calculations - Allowance calculations - Superannuation calculations - Leave entitlement calculations - Classification level determinations

is provided for **general informational and administrative purposes only** and must not be construed as, or relied upon as, legal, tax, payroll, or other professional advice.

**YOU ARE STRONGLY ADVISED TO CONSULT WITH QUALIFIED LEGAL, PAYROLL, AND TAX PROFESSIONALS BEFORE RELYING ON ANY OUTPUTS OR CALCULATIONS GENERATED BY THE SERVICES.**

#### **3.3 Artificial Intelligence Disclaimer**

**THE SERVICES USE ARTIFICIAL INTELLIGENCE (AI) TECHNOLOGY IN A LIMITED CAPACITY. YOU MUST UNDERSTAND THE SCOPE AND LIMITATIONS OF THIS AI USAGE.**

The Services utilise AI (specifically, large language models) solely for the following purposes:

- (a) **Question Formulation:** To convert technical database field names into human-readable questions during the employee classification process. For

example, converting a field named “age\_group” into a question such as “Which age group does the employee belong to?”

- (b) **Description Generation:** To generate plain-language descriptions of classification results after a classification has been determined through database matching.

**THE AI DOES NOT:** - Interpret modern awards or enterprise agreements  
- Determine which classification applies to an employee - Calculate pay rates, penalties, or allowances - Make recommendations about employee classifications  
- Provide legal or payroll advice - Make any decisions that affect employee pay or entitlements

**All classification determinations are made through deterministic database matching based on the information you provide.** The AI is used exclusively to improve the user experience by making questions more readable - it does not influence, interpret, or determine any classification outcomes.

You acknowledge that: - AI-generated text may contain errors or inaccuracies - AI outputs are not a substitute for professional advice - You must independently verify all information before relying on it - Shiftly accepts no liability for any AI-generated content

### 3.4 User Configuration and Customer Responsibility

**THE SERVICES ARE HIGHLY CONFIGURABLE AND ALL CONFIGURATIONS, SETTINGS, AND INPUTS ARE YOUR SOLE RESPONSIBILITY.**

You acknowledge and agree that:

- (a) **Configuration Responsibility:** You are solely responsible for:
- Setting accurate base rates of pay
  - Configuring correct award codes and classification levels
  - Setting appropriate overtime rules and thresholds
  - Configuring penalty rate multipliers
  - Setting up allowances and their eligibility criteria
  - Configuring superannuation rates
  - Setting up correct employee details and employment terms
  - Validating all system configurations against applicable legal requirements
- (b) **Validation Responsibility:** You must:
- Validate that automated calculations and pay rules are suitable for your specific business circumstances
  - Review ALL outputs and calculations generated by the Services for each pay period before processing payroll

- Cross-reference calculations against the relevant modern award or enterprise agreement
  - Rectify any errors or discrepancies you identify
  - Maintain independent records to verify accuracy
- (c) **Award Classification Tools:** Where the Services provide award classification assistance:
- These tools reflect Shiftly’s good faith interpretation of published modern awards
  - Modern awards are inherently complex with multiple valid interpretations in many scenarios
  - Our interpretations are not a substitute for legal advice
  - You must independently verify that classifications are correct for your circumstances
  - If our interpretation conflicts with the relevant award, **the award always prevails**

### 3.5 Sole Responsibility for Employee Pay

**IT IS ULTIMATELY YOUR SOLE RESPONSIBILITY TO PAY YOUR EMPLOYEES CORRECTLY AND IN COMPLIANCE WITH ALL APPLICABLE LAWS, AWARDS, ENTERPRISE AGREEMENTS, AND EMPLOYMENT CONTRACTS.**

The Services are intended to assist you in managing your workforce, but they are: - Not a substitute for proper payroll processes - Not intended to relieve you of your legal obligations as an employer - Not a guarantee of compliance with any law or regulation

You remain fully responsible for ensuring: - All employees are paid correctly - All legal requirements are met - All award conditions are satisfied - All tax and superannuation obligations are fulfilled - All record-keeping requirements are maintained

### **STATE AND TERRITORY WAGE THEFT LAWS:**

You acknowledge that certain Australian states and territories have enacted criminal offences for wage theft, including but not limited to:

- (a) **Victoria:** The Wage Theft Act 2020 (Vic) makes it a criminal offence to dishonestly withhold wages, superannuation, or other employee entitlements, with penalties including imprisonment of up to 10 years and fines of up to approximately \$1 million for corporations.
- (b) **Queensland:** Amendments to the Criminal Code (Qld) criminalise wage theft, with penalties including imprisonment of up to 10 years.
- (c) **Other Jurisdictions:** Other states and territories may enact similar legislation. You are responsible for monitoring and complying with all

applicable laws in your jurisdiction.

**Shiftly accepts no liability for any criminal prosecution, penalty, fine, or imprisonment arising from your failure to pay employees correctly, regardless of whether you relied on outputs from the Services.**

### 3.6 Changes to Laws and Awards

**EMPLOYMENT LAWS, MODERN AWARDS, AND REGULATIONS CHANGE FREQUENTLY. SHIFTLY DOES NOT WARRANT THAT THE SERVICES WILL ALWAYS REFLECT THE MOST CURRENT LEGAL REQUIREMENTS.**

You acknowledge that: - Modern awards are updated by the Fair Work Commission periodically - Minimum wage rates change annually - Tax rates and thresholds are updated regularly - Superannuation guarantee rates change over time - New legislation may affect your obligations

**You are responsible for:** - Monitoring changes to applicable laws and awards - Updating your configurations in the Services accordingly - Ensuring your use of the Services remains compliant with current requirements - Notifying Shiftly of any errors or outdated information you identify

### 3.7 Automatic Rate Updates - Critical Disclaimer

**THE SERVICES INCLUDE A FEATURE THAT AUTOMATICALLY UPDATES BASE PAY RATES WHEN MODERN AWARD RATES CHANGE. YOU MUST UNDERSTAND THE LIMITATIONS OF THIS FEATURE.**

Shiftly obtains award rate information from official government data sources and updates the Services when new rates become available. However, you acknowledge and agree that:

- (a) **No Guarantee of Timeliness:** There may be a delay of up to thirty (30) days or more between the date new award rates are published or become effective and the date they are reflected in the Services. Shiftly does not warrant that rate updates will be applied before, on, or immediately after the effective date of any award variation.
- (b) **No Guarantee of Accuracy:** While Shiftly uses commercially reasonable efforts to ensure rate updates are accurate, we do not warrant that:
  - The data source is complete, accurate, or error-free
  - Our interpretation and application of rate changes is correct
  - All applicable allowances, loadings, or penalty variations are captured
  - Complex transitional or phasing arrangements are correctly applied
- (c) **Your Verification Obligation:** You **MUST** independently verify that

all rate updates applied by the Services are correct for your specific circumstances BEFORE processing any payroll. This includes:

- Comparing rates against the relevant modern award instrument
  - Checking that updates have been applied to all affected employees
  - Verifying that transitional arrangements (if any) are correctly applied
  - Confirming rates are effective from the correct date
- (d) **Notification of Updates:** Shiftly will notify you when automatic rate updates are applied to your account. Receipt of such notification does not relieve you of your obligation to verify accuracy.
- (e) **Reporting Errors:** If you identify any error or discrepancy in award rates within the Services, you must notify Shiftly promptly at support@shiftly.com.au. Shiftly will use reasonable efforts to investigate and correct confirmed errors, but accepts no liability for any losses incurred prior to or following such correction.

**SHIFTLY ACCEPTS NO LIABILITY FOR ANY UNDERPAYMENT, OVERPAYMENT, OR COMPLIANCE FAILURE ARISING FROM DELAYS, ERRORS, OR OMISSIONS IN AUTOMATIC RATE UPDATES, REGARDLESS OF THE CAUSE.**

### 3.8 Contractor Classification Disclaimer

**THE SERVICES ALLOW YOU TO CONFIGURE WORKERS AS INDEPENDENT CONTRACTORS. SHIFTLY DOES NOT DETERMINE, ADVISE ON, OR VERIFY WHETHER ANY WORKER IS CORRECTLY CLASSIFIED.**

You acknowledge and agree that:

- (a) **Your Classification Decision:** The decision to classify a worker as an employee or independent contractor is yours alone. Shiftly provides a configuration option only and does not make any recommendation or determination about the appropriate classification for any worker.
- (b) **Sham Contracting Risk:** Misclassifying an employee as an independent contractor may constitute “sham contracting” under Part 3-1, Division 6 of the Fair Work Act 2009 (Cth), which carries significant civil penalties. You are solely responsible for ensuring your classification decisions comply with applicable law.
- (c) **Multi-Factor Test:** The distinction between employees and contractors depends on multiple factors established by case law, including control, integration, economic reality, and the totality of the relationship. The Services do not assess these factors.
- (d) **Professional Advice:** You should seek legal and/or accounting advice before classifying any worker as an independent contractor, particularly

where the classification is unclear or the worker performs duties similar to your employees.

- (e) **No Shiftly Liability:** Shiftly accepts no liability for any penalties, back-pay claims, superannuation liabilities, or other losses arising from incorrect contractor classifications, regardless of how the worker is configured in the Services.

### 3.9 Accessorial Liability Disclaimer

**YOU ACKNOWLEDGE THAT UNDER SECTION 550 OF THE FAIR WORK ACT 2009 (CTH), A PERSON WHO IS “INVOLVED IN” A CONTRAVENTION OF THE ACT MAY BE HELD LIABLE AS AN ACCESSORY.**

Shiftly’s role is limited to providing software tools that you configure and control. Shiftly does not: - Direct or require you to pay employees any particular amount - Prevent you from paying employees above award rates - Prevent you from seeking independent professional advice - Control how you configure pay rates, classifications, or entitlements - Make decisions about your employees’ terms and conditions

By using the Services, you expressly acknowledge that:

- (a) **You Control All Inputs:** All pay rates, classifications, allowances, and other configurations are entered, approved, and controlled by you.
- (b) **You Make All Decisions:** Shiftly does not make any decisions about what employees should be paid. The Services perform calculations based solely on your inputs and configurations.
- (c) **You Validate All Outputs:** You are required to review and validate all outputs before relying on them for payroll or other purposes.
- (d) **Shiftly is Not “Involved In” Contraventions:** Shiftly’s provision of calculation tools does not constitute being “involved in” any contravention of the Fair Work Act that may arise from your use of the Services, your configurations, your employment decisions, or your failure to pay employees correctly.
- (e) **Indemnity:** You agree to indemnify Shiftly against any claim that Shiftly is an accessory to any contravention of the Fair Work Act or any other employment law arising from your use of the Services.

## **4. Limitation of Liability - Pay Calculations**

### **4.1 No Liability for Pay Calculation Errors**

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, SHIFTLY DISCLAIMS ALL LIABILITY FOR ANY AND ALL LOSSES ARISING FROM OR IN CONNECTION WITH:**

- (a) Errors, inaccuracies, or omissions in pay calculations generated by the Services
- (b) Incorrect award interpretations or classifications
- (c) Misconfigured pay rates, multipliers, or allowances
- (d) Underpayment or overpayment of employees
- (e) Incorrect overtime, penalty rate, or allowance calculations
- (f) Incorrect superannuation calculations
- (g) Non-compliance with modern awards or enterprise agreements
- (h) Failure to apply updated award rates or legislative changes
- (i) Errors in timesheet data or calculations
- (j) Any penalties, fines, or interest imposed by regulatory authorities (including the Fair Work Ombudsman and Australian Taxation Office)
- (k) Back-pay claims or underpayment recovery claims
- (l) Any employment-related disputes or claims
- (m) Errors or inaccuracies in AI-generated content, including questions or descriptions

### **4.2 No Obligation for Back-Pay or Remediation**

**SHIFTLY HAS NO OBLIGATION TO:**

- (a) Provide back-pay or compensation for any underpayment of your employees
- (b) Reimburse you for any overpayments made to employees
- (c) Pay any penalties, fines, or interest you incur due to non-compliance
- (d) Indemnify you against employee claims for underpayment
- (e) Provide financial remediation for any pay calculation errors, regardless of cause

### **4.3 Your Indemnification**

You agree to indemnify, defend, and hold harmless Shiftly and its officers, directors, employees, agents, and affiliates from and against any and all claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) arising from or related to:

- (a) Your use of or reliance on the pay calculation features of the Services
- (b) Underpayment or overpayment of your employees
- (c) Failure to comply with employment laws, awards, or agreements
- (d) Claims by your employees or former employees relating to pay
- (e) Regulatory investigations or enforcement actions

- (f) Your configuration of the Services
- (g) Your failure to validate outputs and calculations

## 5. Data Collection and Privacy

### 5.1 Information We Collect

To provide the Services, we collect and process the following categories of information:

**Account Information:** - Business name, ABN, and contact details - User names, email addresses, and phone numbers - Billing information and payment details

**Employee Information (provided by you):** - Names, contact details, and dates of birth - Employment details (start date, employment type, position) - Award codes and classification levels - Pay rates and allowances - Tax file numbers (TFN) - encrypted at rest - Bank account details - encrypted at rest - Superannuation fund details - Emergency contact information

**Time and Attendance Data:** - Sign-on and sign-off times - GPS location data at clock in/out (with consent) - Timesheet records and approval history

**Usage Data:** - Login history and session information - Feature usage and interaction data - Device information and IP addresses

### 5.2 Subprocessors

We use the following third-party service providers (subprocessors) to deliver the Services:

Provider	Purpose	Data Processed
Amazon Web Services (AWS)	Cloud hosting, file storage, email delivery	All data
MongoDB Atlas	Database hosting	All data
Stripe	Payment processing	Payment details
MailerSend	Transactional emails	Email addresses, names
Google	Maps, location services, authentication	Location data, auth tokens
Xero	Payroll integration, authentication	Employee and payroll data (when connected)

Provider	Purpose	Data Processed
OpenAI	AI-powered question formatting	Classification field names (no personal data)
Datadog	Application monitoring	Usage logs, performance data
Expo	Mobile push notifications	Device tokens, notification content
Doppler	Configuration management	No customer data

We may update this list from time to time. Material changes to subprocessors will be notified via email or through the Services.

### 5.3 Data Security

We implement appropriate technical and organisational measures to protect your data, including: - Encryption of sensitive personal information (TFN, bank details) at rest - Encryption in transit using TLS/HTTPS - Role-based access controls - Regular security assessments - Secure data backup procedures

### 5.4 Data Breach Notification

In the event of a data breach that is likely to result in serious harm to any individual whose personal information is involved, we will: - Notify affected Customers within 72 hours of becoming aware of the breach - Notify the Office of the Australian Information Commissioner (OAIC) as required by law - Provide information about the nature of the breach and steps being taken to address it

### 5.5 Data Ownership

You retain ownership of all Customer Data you input into the Services. We do not claim any ownership rights to your data.

### 5.6 Anonymised and Aggregated Data

You grant Shiftly a non-exclusive, royalty-free licence to use anonymised and aggregated data derived from your use of the Services for the purposes of: - Improving and developing the Services - Generating industry benchmarks and analytics - Training and improving AI models - Research and statistical analysis

Such anonymised data will not identify you, your business, or any individual employees.

## 5.7 Privacy Policy

Our collection, use, and disclosure of personal information is governed by our Privacy Policy, which forms part of this Agreement. By using the Services, you consent to the data practices described in the Privacy Policy.

## 5.8 GPS Location Tracking and Workplace Surveillance

**THE SERVICES INCLUDE GPS LOCATION TRACKING FEATURES. YOU ARE RESPONSIBLE FOR ENSURING YOUR USE OF THESE FEATURES COMPLIES WITH ALL APPLICABLE WORKPLACE SURVEILLANCE LAWS.**

- (a) **Employee Consent Required:** Before enabling GPS location tracking for any employee, you must:
  - Obtain the employee's informed consent to location tracking
  - Clearly explain what location data is collected and when
  - Explain how the location data will be used and stored
  - Provide employees with the ability to enable or disable location services on their devices
  - Comply with all applicable consent requirements under state and territory laws
- (b) **State and Territory Surveillance Laws:** You acknowledge that workplace surveillance is regulated by state and territory legislation, including but not limited to:
  - Workplace Surveillance Act 2005 (NSW)
  - Surveillance Devices Act 1999 (Vic)
  - Surveillance Devices Act 2007 (NT)
  - Workplace Privacy Act 2011 (ACT)
  - Invasion of Privacy Act 1971 (Qld)

These laws impose requirements including written notice to employees, restrictions on covert surveillance, and limitations on how surveillance data may be used. Requirements vary by jurisdiction.

- (c) **Your Compliance Obligations:** You are solely responsible for:
  - Determining which surveillance laws apply to your business
  - Providing required notices to employees before commencing location tracking
  - Obtaining any consents required by applicable law
  - Implementing appropriate policies regarding the use of location data
  - Ensuring location tracking is not used in prohibited ways (e.g., tracking employees outside work hours without consent)
- (d) **Shiftly's Role:** Shiftly provides the technical capability to collect GPS location data at clock in/out. Shiftly does not:

- Advise on the legality of location tracking in your jurisdiction
  - Provide template consent forms or policies
  - Determine whether your use of location tracking is lawful
  - Accept liability for unlawful surveillance
- (e) **Indemnification:** You agree to indemnify Shiftly against any claims, fines, or penalties arising from your use of GPS location tracking features in a manner that violates applicable surveillance laws.

**YOU ARE STRONGLY ADVISED TO SEEK LEGAL ADVICE REGARDING YOUR OBLIGATIONS UNDER WORKPLACE SURVEILLANCE LAWS BEFORE ENABLING GPS TRACKING FEATURES.**

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## **6. Subscription and Payment**

### **6.1 Current Pricing**

The Services are currently provided free of charge. This is subject to change at any time with 30 days' notice.

### **6.2 Future Pricing**

When fees are introduced, the following terms will apply:

- Subscription fees will be billed in advance on a weekly or monthly basis
- Payment will be due upon receipt of invoice
- We will accept major credit cards and direct debit

### **6.3 Overdue Payments**

If payment is not received within 14 days of the due date, we may: - Charge interest at 2% per month on overdue amounts - Suspend your access to the Services - Terminate your subscription

### **6.4 No Refunds**

Subscription fees are non-refundable except as required by Australian Consumer Law or as otherwise stated in this Agreement.

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## **7. Licence and Intellectual Property**

### **7.1 Licence Grant**

Subject to your compliance with this Agreement, we grant you a limited, non-exclusive, non-transferable, revocable licence to access and use the Services for

your internal business purposes during the subscription term.

## **7.2 Restrictions**

You must not: - Sublicense, sell, or transfer access to the Services - Copy, modify, or create derivative works of the Services - Reverse engineer, decompile, or disassemble the Services - Use the Services to build a competing product - Access the Services through automated means (except approved APIs) - Use the Services in violation of any applicable law - Use the Services outside of Australia

## **7.3 Our Intellectual Property**

The Services, including all software, designs, trademarks, and content, are owned by Shiftly and protected by intellectual property laws. This Agreement does not transfer any ownership rights to you.

## **7.4 Feedback**

If you provide feedback, suggestions, or ideas about the Services, you grant us a perpetual, royalty-free licence to use that feedback without restriction.

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# **8. Acceptable Use**

## **8.1 Prohibited Conduct**

You agree not to: - Use the Services for any unlawful purpose - Upload malicious code or interfere with the Services - Attempt to gain unauthorised access to any systems - Impersonate any person or entity - Harass, abuse, or harm others through the Services - Violate the rights of third parties

## **8.2 Compliance with Laws**

You are responsible for ensuring your use of the Services complies with all applicable laws, including employment laws, privacy laws, and workplace health and safety requirements.

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# **9. Service Level and Support**

## **9.1 Availability Target**

We target 95% availability for the Services, excluding scheduled maintenance windows. This is a target only and not a guarantee. No service credits or remedies are provided for failure to meet this target.

## **9.2 Scheduled Maintenance**

We will provide reasonable advance notice of scheduled maintenance that may affect availability.

## **9.3 Support**

Support is available via email and in-app chat during business hours (AEST). Response times depend on the nature and severity of the issue.

## **9.4 Professional Indemnity Insurance**

Shiftly maintains professional indemnity insurance with coverage of at least AUD \$1,000,000. This coverage is subject to policy terms, conditions, and exclusions, and may not cover all claims or losses. The existence of insurance does not expand Shiftly's liability beyond the limitations set out in this Agreement.

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# **10. General Disclaimers and Warranties**

## **10.1 “As Is” Provision**

**TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND.**

We expressly disclaim all warranties, whether express, implied, statutory, or otherwise, including: - Implied warranties of merchantability - Fitness for a particular purpose - Non-infringement - Accuracy or completeness of information - Uninterrupted or error-free operation - Security of data transmission

## **10.2 No Guarantee of Results**

We do not warrant that: - The Services will meet your specific requirements - The Services will be uninterrupted, timely, secure, or error-free - Results obtained through the Services will be accurate or reliable - Any errors will be corrected - The Services will be compatible with your systems

## **10.3 Australian Consumer Law**

Nothing in this Agreement excludes, restricts, or modifies any consumer guarantee, right, or remedy conferred by the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010 (Cth)) or similar laws that cannot be excluded, restricted, or modified by agreement.

Where our liability cannot be excluded, it is limited (to the extent permitted by law) to: - Re-supplying the Services; or - Paying the cost of having the Services re-supplied.

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## **11. General Limitation of Liability**

### **11.1 Exclusion of Consequential Damages**

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, SHIFTLY SHALL NOT BE LIABLE FOR ANY:**

- Indirect, incidental, special, or consequential damages
- Lost profits, revenue, or goodwill
- Loss of data or data corruption
- Business interruption
- Costs of procurement of substitute services
- Any damages arising from or related to pay calculation errors or employment compliance issues

regardless of the theory of liability (contract, tort, negligence, or otherwise) and even if advised of the possibility of such damages.

### **11.2 Liability Cap**

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, SHIFTLY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE GREATER OF:**

- (a) The total fees paid by you to Shiftly in the twelve (12) months immediately preceding the event giving rise to the claim; or
- (b) One hundred Australian dollars (AUD \$100.00).

### **11.3 Time Limitation**

Any claim arising out of or related to this Agreement must be brought within one (1) year of the date the cause of action arose, or it shall be permanently barred.

### **11.4 Essential Basis**

The limitations and exclusions of liability in this Agreement: - Are an essential basis of the bargain between the parties - Reflect a reasonable allocation of risk - Would not have been agreed to by Shiftly without these limitations

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## **12. Indemnification**

### **12.1 Your Indemnification of Shiftly**

You agree to indemnify, defend, and hold harmless Shiftly and its officers, directors, employees, agents, licensors, and affiliates from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) arising from:

- (a) Your use of the Services
- (b) Your violation of this Agreement
- (c) Your violation of any applicable law
- (d) Your violation of any third-party rights
- (e) Your Customer Data
- (f) Any claims by your employees or contractors
- (g) Any regulatory actions or penalties related to your employment practices

### **12.2 Shiftly's Indemnification of You**

Shiftly will defend you against any third-party claim that your authorised use of the Services infringes that party's intellectual property rights, and will indemnify you for any damages finally awarded against you (or settlements approved by Shiftly), provided you: - Promptly notify us of the claim - Give us sole control of the defence and settlement - Provide reasonable cooperation

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## **13. Dispute Resolution**

### **13.1 Informal Resolution**

Before initiating any formal dispute resolution process, you agree to first contact us at [legal@shiftly.com.au](mailto:legal@shiftly.com.au) to attempt to resolve the dispute informally. We will attempt to resolve any disputes within 30 days of receiving your written notice.

### **13.2 Mandatory Mediation**

If a dispute cannot be resolved informally within 30 days, either party may refer the dispute to mediation. The mediation shall be: - Conducted by an accredited mediator agreed upon by both parties - Held in New South Wales, Australia (or remotely by agreement) - Conducted in accordance with the mediation guidelines of the Resolution Institute (or successor body) - Confidential and without prejudice

The costs of mediation shall be shared equally between the parties, with each party bearing their own legal costs.

### **13.3 Litigation**

If mediation does not resolve the dispute within 60 days of the mediator's appointment (or such longer period as agreed), either party may commence court proceedings.

### **13.4 Class Action Waiver**

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION.**

You waive any right to participate in a class action lawsuit or class-wide arbitration against Shiftly. If this class action waiver is found to be unenforceable, then the entirety of this dispute resolution section shall be null and void.

### **13.5 Exceptions**

Nothing in this section prevents either party from: - Seeking urgent injunctive or interlocutory relief from a court - Filing a claim in a small claims tribunal with appropriate jurisdiction - Taking action to protect intellectual property rights

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## **14. Term and Termination**

### **14.1 Term**

This Agreement commences when you first access or use the Services and continues until terminated.

### **14.2 Termination by You**

You may terminate your subscription at any time by providing notice through the Services or by contacting us. Termination takes effect at the end of the current billing period (or immediately if no billing period applies).

### **14.3 Termination by Shiftly**

We may terminate or suspend your access to the Services: - Immediately if you breach this Agreement - Immediately if you fail to pay fees when due - With 30 days' notice for any reason

#### 14.4 Effect of Termination

Upon termination: - Your licence to use the Services ends immediately - You must pay all outstanding fees - We will provide access to export your data in a machine-readable format for 30 days - After 30 days, we may permanently delete your data - Provisions that should survive termination will continue to apply

#### **CRITICAL - RECORD KEEPING OBLIGATIONS:**

**YOU ARE SOLELY RESPONSIBLE FOR MAINTAINING EMPLOYMENT RECORDS IN COMPLIANCE WITH ALL APPLICABLE LAWS. SHIFTLY IS NOT A RECORD-KEEPING SERVICE AND DOES NOT MAINTAIN RECORDS ON YOUR BEHALF.**

Under the Fair Work Act 2009 (Cth) and Fair Work Regulations 2009, employers must retain employee records for a minimum of seven (7) years. These records include, but are not limited to: - Employee personal details and employment terms - Pay records, including rates, hours worked, and deductions - Leave records and entitlements - Superannuation contribution records - Records of any individual flexibility arrangements or guarantees of annual earnings

**You must:** - Export all data from the Services before or within the 30-day post-termination period - Maintain independent copies of all employment records for the legally required retention period - Not rely on the Services or Shiftly as your primary or sole record-keeping system - Implement your own backup and archiving procedures

**Shiftly accepts no liability for:** - Loss of records due to your failure to export data within the 30-day period - Penalties or adverse findings arising from inadequate record-keeping - Your inability to produce records required by the Fair Work Ombudsman or other regulatory authorities - Any loss arising from data deletion after the 30-day period

#### 14.5 Surviving Provisions

The following sections survive termination: Section 3 (Critical Disclaimers, including Sections 3.7 Automatic Rate Updates, 3.8 Contractor Classification, and 3.9 Accessorial Liability), Section 4 (Limitation of Liability - Pay Calculations), Section 5.6 (Anonymised and Aggregated Data), Section 5.8 (GPS Location Tracking and Workplace Surveillance), Section 7.3 (Our Intellectual Property), Section 10 (General Disclaimers), Section 11 (General Limitation of Liability), Section 12 (Indemnification), Section 13 (Dispute Resolution), Section 14.4 (Effect of Termination, including record-keeping obligations), and Section 15 (General Provisions).

## **15. General Provisions**

### **15.1 Governing Law and Jurisdiction**

This Agreement is governed by the laws of New South Wales, Australia. You agree to submit to the non-exclusive jurisdiction of the courts of Australia, and any courts competent to hear appeals from those courts.

### **15.2 Entire Agreement**

This Agreement, together with our Privacy Policy and any other policies referenced herein, constitutes the entire agreement between you and Shiftly regarding the Services.

### **15.3 Severability**

If any provision of this Agreement is found to be unenforceable, the remaining provisions will continue in full force and effect.

### **15.4 Waiver**

Our failure to enforce any provision of this Agreement does not constitute a waiver of that provision.

### **15.5 Assignment**

You may not assign this Agreement without our prior written consent. We may assign this Agreement at any time.

### **15.6 Notices**

Notices to Shiftly must be sent to: [legal@shiftly.com.au](mailto:legal@shiftly.com.au)

Notices to you will be sent to the email address associated with your account.

### **15.7 Force Majeure**

Neither party shall be liable for delays or failures in performance resulting from circumstances beyond reasonable control, including acts of God, natural disasters, war, terrorism, riots, embargoes, pandemic, government orders, or failures of third-party providers.

### **15.8 Independent Contractors**

The parties are independent contractors. Nothing in this Agreement creates a partnership, joint venture, employment, or agency relationship.

## 16. Contact Information

For questions about these Terms and Conditions, please contact:

**Squiggle Creative Pty Ltd** Trading as Shiftly Australia ABN: 26 672 118 464

Email: [legal@shiftly.com.au](mailto:legal@shiftly.com.au) Address: 4 Pacific St, Fisherman's Bay, NSW 2316

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## Acknowledgement

### BY USING THE SERVICES, YOU ACKNOWLEDGE THAT:

1. You have read and understood this Agreement
2. You agree to be bound by all terms and conditions
3. Shiftly is NOT a payroll service and does NOT provide payroll, legal, or tax advice
4. All configurations, settings, and inputs are YOUR sole responsibility
5. YOU are solely responsible for paying your employees correctly and compliantly
6. Shiftly is NOT liable for pay calculation errors, underpayments, or compliance failures
7. You will not seek back-pay, compensation, or remediation from Shiftly for any pay-related issues
8. AI is used ONLY for formatting questions and generating descriptions, NOT for interpreting awards or determining classifications
9. Any disputes will be subject to mandatory mediation before litigation
10. You waive the right to participate in class action proceedings against Shiftly
11. Automatic rate updates may be delayed by up to 30 days or more and YOU must independently verify all rate updates before processing payroll
12. If you classify workers as independent contractors, YOU are solely responsible for ensuring this classification is correct and does not constitute sham contracting
13. Shiftly is NOT “involved in” any contravention of the Fair Work Act arising from your use of the Services, and you will not assert otherwise
14. Wage theft may constitute a CRIMINAL OFFENCE in Victoria, Queensland, and potentially other jurisdictions, and Shiftly accepts no liability for any criminal prosecution arising from your failure to pay employees correctly
15. If you use GPS location tracking features, YOU are solely responsible for complying with all applicable workplace surveillance laws and obtaining required employee consents
16. YOU must maintain independent employment records for at least seven (7) years as required by law, and must export your data within 30 days of account termination

17. Shiftly's professional indemnity insurance does not expand Shiftly's liability beyond the limitations in this Agreement

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*This document was last reviewed in January 2026. Employment laws and regulations change frequently. This document should be reviewed by a qualified legal professional before use and updated regularly to reflect changes in applicable law.*