

# Terms and Conditions

Merlin Skill PTE LTD (UEN 201626395M) (“**Merlin Shift**”, “**we**”, “**our**”, “**us**”) operates an online technology platform that provides an online noticeboard to Shifters and Bosses who wish to communicate with each other in relation to employment contracting education and training opportunities.

By registering an account with Merlin Shift or by using the Application, you (“**You**”, “**Your**”) agree to be bound by these Terms and Conditions. Capitalised words which appear throughout these Terms and Conditions are either defined within the body of these Terms or in clause 9 below.

## 1. SCOPE OF THE SERVICE

### Services

- 1.1 Merlin Shift provides the Application as a notice board and communication platform to enable Shifters and Bosses to connect with each other.
- 1.2 Neither Merlin Shift, nor the Application, nor this site provide or offers any employment or contracting positions in any way whatsoever.
- 1.3 Merlin Shift will not be a party to any contracts (including Shifts) between Users.
- 1.4 You acknowledged that Merlin Shift does not have any control or responsibility nor does it make any representations in relation to the quality, timing, ability or non-ability of Users to complete their obligations under contracts, Users failing to appear for Shifts, the legality of employment or contracting arrangements, the solvency of Users, the payment of Users, the suitability or liability of Users, whether in public, private or offline interactions.
- 1.5 It is the sole responsibility of Shifters to agree on the terms of their engagement and to control the allocation and performance of Shifts.
- 1.6 You acknowledge that Merlin Shift does not control or participate in, any aspect whatsoever of:
  - (a) Shifts posted by Bosses;
  - (b) Shifts undertaken by Shifters; and
  - (c) any other act or omission of any User,

whether occurring through the Application or otherwise.

- 1.7 Merlin Shift takes no responsibility for any representations made by Users to each other.
- 1.8 Merlin Shift does not warrant the accuracy of any information provided by Users via the Application.

### **Incident response**

- 1.9 Merlin Shift will use its reasonable endeavours to initiate investigation and resolution of any reported technical issues regarding the Application by Users.
- 1.10 Merlin Shift is not liable for any Claim or Loss to the extent that the Claim or Loss arises out of or in connection with any act or omission that is:
  - (a) beyond the reasonable control of Merlin Shift or Merlin Shift's suppliers;
  - (b) caused by the internet or a User's infrastructure; or
  - (c) caused by a User failing to operate Merlin Shift as intended or instructed.

## **2. INTELLECTUAL PROPERTY**

- 2.1 You acknowledge that any goodwill in the Intellectual Property Rights thereof which arises or may arise as a result of or in connection with Your use of the Application shall be irrevocably assigned exclusively for the sole benefit of Merlin Shift at the time of its creation.
- 2.2 You acknowledge Merlin Shift's right, title and interest in the Application and the Intellectual Property Rights in connection with the Application and hereby undertake not to take any action which would or might be adverse to Merlin Shift's Intellectual Property Rights, including without limitation to:
  - (a) copy, modify or make any derivative versions of the Application or any part of the Application;
  - (b) extract any source code used in the Application; or
  - (c) permit, enable or assist others to do so.

## **3. USING MERLIN SHIFT**

### **Transactions and Fees**

- 3.1 All communications, interactions and other dealings between a Shifter and Boss initiated through the Application must continue exclusively through the Application.

## Terms and Conditions

- 3.2 It is free to register an account with Merlin Shift. There is no charge for a User to post Shifts, or for a User to review content on the Application.
- 3.3 Fees are displayed in the currency in which the transaction will be processed.
- 3.4 Payment may be made through third party finance companies.
- 3.5 A Shift commences upon the Shifter Clocking In on the Application at the Shift start time as set by the Boss, and a Shift finishes at the Shift end time as set by the Boss on the Application unless otherwise extended. In the event that there is an extension of the Shift, the Boss and/or Shifter must immediately notify Merlin Shift through the Application.
- 3.6 The Shift payment is calculated as the time taken to perform the Shift (in hours), multiplied by the hourly rate agreed between the Boss and Shifters before commencement of the Shift.
- 3.7 The Shift payment must be paid in accordance with the Application by the Boss at the time of the Shift post or in any event, prior to the Shift commencing. Merlin Shift will charge the Service Fee for the whole of the payment for the Shift or Extended Shift.
- 3.8 Shift payments are processed at the end of a completed Shift or Clock Out Early shift or in the event of a cancellation, in accordance with the Cancellation provisions of this Agreement. In order to process Shift Payment, the Boss' credit card will be pre-authorized for billing purposes or through financial providers listed on the Application and Shift Payment will be made to the Shifter's nominated bank account.
- 3.9 If a Shifter does not Clock In, the Shift will not be registered through the Application. A Shifter must then make a separate, manual claim for their Shift to be registered.
- 3.10 Merlin Shift reserves the right to vary the Service Fee from time to time, in its absolute discretion, by giving prior notice to Users.
- 3.11 All fees and charges payable to Merlin Shift are non-refundable, but Merlin Shift may, at its absolute discretion, process a refund or credit as it deems fit.
- 3.12 Bosses may process payments through the relevant forms of payments listed on the Application.
- 3.13 Once You have initiated any communications, interactions or other dealings with a Boss or Shifter through the Application, any subsequent communications, interactions and other dealings You have with a Boss or Shifter that would give rise to Your obligation to pay Us Fees that apply if You did so exclusively through the Application, shall be payable by You even if they do not occur exclusively through the Application. If You do not engage in communications interactions or other dealings with a Boss or Shifter exclusively through the Application after You initiate them

through the Application, You must also pay Our costs, losses and expenses (including any legal costs) which We may suffer or incur in relation to the recovery and enforcement of our right to Fees from You, on an indemnity basis.

- 3.14 If a Shifter does Clock Out Early, then the Shifter will only receive payment pro rata of the Clock In time till the Clock Out Early time.

### Recruitment of Shifter

- 3.15 If a Boss employs a Shifter on a permanent basis, a Recruitment Fee will be charged, calculated on the Shifter's total annual remuneration package and will be payable by the Boss within 7 days of the commencement date of the Shifter's employment.
- 3.16 If a Shifter, hired by a Boss on a permanent basis, does not pass any required probation period, then the Recruitment Fee will be refunded upon reasonable evidence being provided by the Boss to Merlin Shift.

### Pre-authorisation

- 3.17 If Users match with more than 24 hours until the scheduled Shift start time, pre-authorisation of the Boss' credit card will occur 24 hours before the scheduled Shift start time. If pre-authorisation fails, the Shift will be cancelled.
- 3.18 If a Shift is created less than 24 hours prior to the scheduled Shift start time, pre-authorisation of the Boss' credit card will occur immediately after matching occurs. If pre-authorisation fails, the Shift will be cancelled.

### Cancellations

- 3.19 If a Boss cancels a Shift with less than 2 hours before the scheduled Shift start time, the Boss is liable to pay a Shift Payment for the first hour of the Shift (or as permitted by law) and Merlin Shift must be paid its standard Service Fee on this amount.
- 3.20 If a Boss cancels a Shift during the Shift, the Shift Payment will be the lesser of:
- (a) Cancellation time rounded up to the nearest hour (as permitted by law); or
  - (b) Originally agreed Shift end time (before any extensions of Shifts),
- and Merlin Shift will receive its standard Services Fee on this amount.
- 3.21 If a Boss:
- (a) cancels a Shift, but does not record cancellation through the Application;
  - (b) is not present at the workplace; or
  - (c) has not arranged suitable arrangements for the Shifter to complete the Shift,

then the Boss must pay Shift Payment for the entire Shift, or until the Boss cancels the Shift through the Application.

- 3.22 If a Shifter cancels or does not attend a Shift, they will not be entitled to receive any Shift Payment.
- 3.23 If a Shifter cancels or does not attend a Shift after they have accepted it through the Application, with less than 24 hours before the scheduled Shift start, the Shifter's performance rating on the Application may be reduced.
- 3.24 A User may have his or her account on the Application temporarily or, permanently suspended in the sole absolute discretion of Merlin Shift, pending an investigation by Merlin Shift, if:
- (a) the User cancels a Shift after they have accepted or offered it and give less than 2 hours' notice of cancellation before the scheduled Shift start; or
  - (b) the User ends the Shift before the agreed finish time, without the other User's approval; or
  - (c) the User is deemed to cancel Shifts Frequently. For the purposes of these Terms and Conditions, "Frequently" means, in relation to Shifters, "more than two cancellations within a thirty day period", and in relation to Bosses means "more than 10% of posted Shifts"; or
  - (d) any other matters that Merlin Shift deems relevant to User's suitability to meet requirements.
- 3.25 If a Shifter is late to a Shift, or does not present themselves at the agreed location at the agreed time provided through the Application or with the agreed equipment and/or attire provided through the Application, the Boss reserves the right to cancel the Shift for the Shifter, in which case there shall be no charge to the Boss.

### **Overtime Work**

- 3.26 If a Shifter works beyond the agreed end time for a Shift (**Overtime**), the Shift Payment for Overtime will not be processed unless the overtime has been registered through the Application as an "Extended Shift". The Boss must request the Extension of the Shift through the Application by the Boss and it must be agreed to by the Shifter through the Application.
- 3.27 Shift Payment will not be processed in respect of work performed by a Shifter for Overtime, unless it is registered through the Application pursuant to clause 3.26 as an Extended Shift.

### Account Security

- 3.28 The User is responsible for maintaining the confidentiality of the User's password or other information uploaded to the Application, and is responsible for all activities that occur under the User's account. If the User's password is lost or stolen, the User must immediately attempt to reset their password.
- 3.29 Merlin Shift takes no responsibility for any account that has been tampered with, hacked or otherwise illegally modified.

### Account Eligibility

- 3.30 Any person who creates an account or uses the Application must be aged 18 years or older.
- 3.31 Users may create a Merlin Shift account and use the Application without an Australian Business Number (ABN), but a User must provide an ABN in order to accept or post Shifts or have otherwise applied for an ABN. In the event that the Shifter has applied for an ABN but has not yet obtained it, the Shifters may accept Shifts for up to 30 days before they must provide their ABN via the Application. Merlin Shift reserves its right to suspend or cancel a User's account until they supply their ABN.
- 3.32 Bosses must supply valid credit card details for payment of the Shift Payment. By providing credit card details, a Boss confirms to Merlin Shift that:
- (a) the Boss has authority to provide the credit card details to Merlin Shift; and
  - (b) Merlin Shift is authorised to automatically debit from that credit card any amounts that becomes payable to the Shifter under these Terms and Conditions plus any credit card fees or surcharges specified by Merlin Shift from time to time.
- 3.33 To use Merlin Shift, Shifters must register an account, which includes but is not limited to:
- (a) Application sign up;
  - (b) providing references; and
  - (c) providing relevant details, such as past work experience.
- 3.34 Merlin Shift reserves its right to refuse to accept any Application or suspend, deactivate or cancel any accounts set up by a User via the Application, as it deems fit.

### Members' obligations

- 3.35 You agree at all times that:

## Terms and Conditions

- (a) You will comply with these Terms and Conditions, all Policies and all applicable laws and regulations;
- (b) You will promptly and efficiently perform all Your obligations to other Users and to Merlin Shift;
- (c) You will ensure that You are able to meet Your financial obligations under the Application to Merlin Shift and to other Users;
- (d) all content on the Application belongs to Merlin Shift and may not be used on third party sites or for other business purposes without Merlin Shift's express permission;
- (e) You will only use the Application for the purpose of posting, finding and accepting Shifts, and will not use the Application for any illegal or immoral purpose;
- (f) any information posted on the Application must not in any way whatsoever be potentially harmful to Merlin Shift or any other person (in these Terms and Conditions "harm" includes, but is not limited to, non-economic loss that is or may be suffered);
- (g) without limiting any provision of these Terms and Conditions, any information You supply to Merlin Shift must not:
  - (i) be false, inaccurate, misleading or deceptive;
  - (ii) infringe any third party's Intellectual Property Rights including copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity, confidentiality or privacy;
  - (iii) violate any applicable law, statute, ordinance or regulation including, but not limited to, those governing export and import control, consumer protection, unfair competition, criminal law, antidiscrimination, the Act and trade practices/fair trading laws;
  - (iv) be defamatory, libellous, threatening or harassing;
  - (v) be obscene or contain any material that, in Merlin Shift's sole and absolute discretion, is in any way inappropriate or unlawful, including, but not limited to, obscene, inappropriate or unlawful images;
  - (vi) contain any malicious code, data, or set of instructions that intentionally or unintentionally causes harm or subverts the intended function of the Application or any other Merlin Shift software/website/application, including, but not limited to, viruses, Trojan horses, worms, time bombs, cancelbots, Easter eggs or other computer programming routines that may damage, modify, delete,

detrimentally interfere with, surreptitiously intercept, access without authority or expropriate any system data or personal information;

- (h) when You enter into a transaction using Merlin Shift, You create a legally binding contract with another User, unless the transaction is prohibited by law or by these Terms and Conditions. If You do not comply with Your obligations to another User, You may become legally liable to that other User. If another User breaches any obligation to You, You (and not Merlin Shift) are responsible for enforcing any rights that you may have against that User.

3.36 A User must take all necessary steps to update and correct any information he or she provides on the Application of which the User become reasonably aware is inaccurate, out-of-date, incomplete or misleading.

3.37 A User must never resell, transfer, sub-licence or otherwise make available to a third party all or any part of his or her Merlin Shift account without first obtaining Merlin Shift's express written approval, which consent may be withheld or granted in Merlin Shift's unfettered discretion.

### Shift Posting

3.38 Merlin Shift reserves the right to delete or remove a Shift posted on the Application if a Boss has not provided the following details:

- (a) position title;
- (b) the number of positions available for the Shift;
- (c) the beginning and end time of the Shift;
- (d) date of the Shift;
- (e) duties involved in the performance of the Shift;
- (f) skills required to complete the Shift;
- (g) location of the Shift; and
- (h) contact details of the Boss.

3.39 A Boss may provide any additional conditions for acceptance of a Shift in a Shift posting on the Application, including but not limited to:

- (a) licences required for the Shift;
- (b) attire;
- (c) any plant or equipment or tools relevant to the Shift;

- (d) things the Shifter must bring to the Shift; and
- (e) any other things relevant to the position listed on the Shift post;

You indemnify and keep Merlin Shift continually indemnified and held harmless from and against any and all claims made in relation to any breaches of law or regulation or non-compliance thereof.

- 3.40 A Boss must not post a Shift on the Application unless the Boss has supplied a valid credit card and valid details to enable payments contemplated by these Terms and Conditions to be processed.

### **Shifter acceptance**

- 3.41 If a Shifter accepts a Shift through the Application, the Shifter acknowledges and agrees that it will comply with all reasonable requests and directions as specified by the Boss in the description of the Shift on the Application.
- 3.42 A Shift may not exceed 12 hours (inclusive of any Shift Extension).
- 3.43 A Shifter may decline Shifts in their absolute discretion.
- 3.44 The Shifter must rectify any faults of the work performed at their own costs.

## **4. NO GUARANTEES AS TO SECURITY OF INFORMATION**

- 4.1 While Merlin Shift takes all due care in ensuring the privacy and integrity of the information You provide, the possibility exists that this information could be unlawfully observed by a third party while in transit over the Internet or while stored on Merlin Shift's systems or on the Application. Merlin Shift disclaims all liability to You to the greatest extent possible pursuant to law, should this occur.

## **5. SUSPENDING ACCESS AND TERMINATION**

- 5.1 Merlin Shift may immediately and without notice suspend, restrict, ban or terminate a User's access to and use of the Application at Merlin Shift's sole and absolute discretion, including but not limited to the following purposes:
- (a) to upgrade, repair, maintain or protect any part of the Application;
  - (b) where Merlin Shift considers there is an emergency;
  - (c) continuous poor or unsatisfactory feedback provided by a User and/or third party;
  - (d) where Merlin Shift considers the User is in breach of the Terms and Conditions; or

(e) any other reasons Merlin Shift deems relevant.

5.2 Subject to clause 4, Users may deactivate their accounts for convenience at any time without penalty. If a User deactivates his or her account, all charges and fees incurred prior to the date of deactivation will become immediately due and payable.

**6. DISPUTE RESOLUTION**

6.1 The User releases Merlin Shift and its Personnel from and against any and all claims, demands, or liability (actual or consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with disputes between Users.

6.2 Merlin Shift encourages Users to resolve disputes with other Users directly, to use a certified mediation or an arbitration entity, and to report any illegal activity to a relevant authority as appropriate.

**7. LIMITATION OF LIABILITY**

7.1 The Application is provided on an “as is” basis, and without any warranty or condition, express or implied. To the extent permitted by law, Merlin Shift specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose and non-infringement.

7.2 To the extent permitted by law, Merlin Shift shall not be liable for any claim, suit or liability (actual, special, direct, indirect and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed (including, without limitation, loss or damage relating to any inaccuracy of information provided, or the lack of fitness for purpose of any goods or service supplied), arising out of or in connection with a User’s use of the Application or any transaction created between Bosses and Shifters.

7.3 The User indemnifies and shall keep Merlin Shift and its Personnel indemnified from and against any suits, demands, claims, liabilities and costs which may be received, suffered or incurred by or on behalf of Merlin Shift as a result of or in connection with:

- (a) the User’s use of the Application;
- (b) any transaction created between Users;
- (c) any damage caused by a User or any of its representatives in the course of providing services through the Application; and
- (d) any taxation for which a User is responsible in respect of or pursuant to their use of the Application.

- 7.4 To the maximum extent permitted by Law, the User will be responsible for all taxes or charges, current or future, levied or payable pursuant to legislation as a result of or in connection with their use of the Application, including but not limited to income tax and superannuation.

## 8. GENERAL

### Privacy

- 8.1 Merlin Shift's Privacy Policy applies to all Users and forms part of these Terms and Conditions. Use of the Application confirms that the User consents to, and authorises, the collection, use and disclosure of your personal information in accordance with Merlin Shift's Privacy Policy.
- 8.2 Subject to the Privacy Policy, the User agrees that Merlin Shift may monitor the User's use of the Application and Merlin Shift account as:
- (a) reasonably required to provide or improve the Application or other Merlin Shift services;
  - (b) reasonably required to check the User's compliance with the Terms and Conditions; and
  - (c) required by law.

### Nature of Relationship

- 8.3 Nothing in these Terms and Conditions constitutes the parties being in a relationship of agent, employee, joint venture, fiduciary relationship, director or partner. A User has no authority to incur, and will not incur, any obligation on behalf of Merlin Shift except with the prior written approval of Merlin Shift.

### No waiver

- 8.4 Failure or omission by Merlin Shift at any time to enforce or require strict or timely compliance with any provision of these Terms and Conditions will not affect or impair that provision, or the right of Merlin Shift to avail itself of the remedies it may have in respect of any breach of a provision, in any way.

### Severability

- 8.5 Any provision of these Terms and Conditions which is or becomes illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and will not invalidate the remaining provisions.

### Variation

- 8.6 Merlin Shift reserves the right to amend these Terms and Conditions in its sole discretion. Merlin Shift will take reasonable steps to notify Users of any prospective

changes before they take effect, including via electronic notices posted on the Application.

- 8.7 The User shall be deemed to have accepted the amendments in clause 8.6 by continued use of the Application after such amendments have been posted. Subject to clause 5.2, if a User does not consent to an amendment of the Terms and Conditions, the User may terminate his or her account and cease using the Application at no cost to Merlin Shift.

### Governing law

- 8.8 These Terms and Conditions are governed by, takes effect and will be construed in accordance with the laws of Victoria, Australia, and the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of the State of Victoria and courts entitled to hear appeals from those courts.

### Entire agreement

- 8.9 These Terms and Conditions constitute the entire agreement between the parties concerning the matters dealt with pursuant to these Terms and Conditions. For the avoidance of doubt, these Terms and Conditions supersede all provisions, covenants, agreements, warranties, representations, negotiations and understandings with respect to the matters dealt with in these Terms and Conditions. These Terms and Conditions may be assigned by Merlin Shift to a third party without your consent. In the event of an assignment, the User will remain bound by these Terms and Conditions.

## 9. DEFINITIONS

“**Act**” means the *Fair Work Act* 2009 Cth as amended from time to time.

“**Application**” means the applications, mobile applications, websites, content and services operated by Merlin Shift or any of its regional or other domains or properties, and any related Merlin Shift services, tool or application, specifically including mobile web, any iOS App and any Android App.

“**Boss**” means a person registered as a Boss under the Application and is seeking the services of a Shifter.

“**Claim**” means a legal proceeding (whether civil or criminal), administrative proceeding, arbitral proceeding, mediation or other form of alternative dispute resolution (whether or not held in conjunction with a proceeding), an investigation or inquiry by a government agency, liquidator, controller or administrator or a threat, complaint, demand or other claim (whether oral or written, present or contingent) that might reasonably result in the person against whom it is made apprehending that a proceeding, investigation or inquiry might be initiated and any loss, damage, costs and any other liabilities (whether ascertainable or not) suffered or incurred by a party in connection with the foregoing.

**Clock In** means when a Shifter Clock's In on the Application or otherwise telephoning Merlin Shift for the commencement of the Shift.

**Clock Out Early** means when the Shifter clocks out earlier than the originally agreed Shift End Time on the Application or otherwise clock out through telephoning Merlin Shift.

**Extended Shift** means proposed by the Boss and accepted by the Shifter through the Application.

**"Intellectual Property Rights"** means any and all intellectual property rights, existing worldwide and the subject matter of such rights, including:

- (a) patents, copyright, rights in circuit layouts (or similar rights), registered designs, registered and unregistered trademarks, and any right to have confidential information kept confidential; and
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a), whether or not such rights are registered or capable of being registered and whether existing under any laws, at common law or in equity.

**"Law"** means all applicable laws including, all local, federal and state government legislation, codes, regulations and by-laws as amended from time to time.

**"Loss"** means in relation to any person:

- (a) a damage, loss, cost (including legal costs on a full indemnity basis), expense, penalty, fine, forfeiture or liability incurred or suffered by the person; or
- (b) claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment or award made against the person,

however arising and whether present or future, fixed or unascertained, actual or contingent, based in contract, tort or statute and whether involving a third party or a party to these Terms and Conditions or otherwise;

**"Match"** means the process whereby Shifters and Bosses are connected through the Application.

**"Merlin Shift"** means Merlin Skill PTE LTD (UEN 201626395M)

**"National Employment Standards"** means the minimum entitlements provided under the National Employment Standards in Australia as amended from time to time.

**"Personnel"** of a Party means any officers, employees, consultants agents, professional advisers, related entities or associates of such Party.

**"Policies"** means all policies of Merlin Shift, as existing and varied from time to time, including but not limited to Merlin Shift's Privacy Policy.

**“Recruitment Fee”** means 10% of the annual salary inclusive of superannuation.

**“Services Fee”** means 20% or as amended from time to time and notified accordingly to the Bosses and Shifters of the fee payable by the Bosses to the Shifters for Merlin Shift providing services in the Application. To avoid doubt, the Service Fee includes all payments payable for the Shift, but excludes any reimbursements of costs and expenses reimbursed by the Bosses to the Shifters.

**“Shifter”** means a person registered as a Shifter under the Application and/or persons who Shifters appoint to take their Shift.

**“Shift”** means any service completed or yet to be completed a Shifter.

**“Shift Payment”** means the total payments of the Service Fees to Merlin Shift subject to any further Extended Shifts posted in the Application from a Boss for the Shift for the services provided by the Shifter.

**“Terms and Conditions”** means these Terms and Conditions.

**“User”, “you”, “your”, “shifter”, “boss”** means an individual who visits or uses the Application, including a Shifter and a Boss.

## 10. INTERPRETATION

10.1 In these Terms and Conditions unless the context otherwise requires:

- (a) headings are inserted for convenience only and do not affect the interpretation of these Terms and Conditions;
- (b) words importing the singular include the plural and vice versa;
- (c) a word importing a gender includes all other genders;
- (d) where a word or phrase is defined or given meaning, any other grammatical form has a corresponding meaning;
- (e) a reference to a person includes an individual, a partnership, a body corporate, a trust, a joint venture, an association (whether incorporated or not), a government and a government authority or agency;
- (f) a reference to a party or a person includes the party’s or the person’s executors, legal personal representatives, successors, transferees and assigns;
- (g) where a party comprises two or more persons, an agreement or obligation to be performed or observed by that party binds those persons jointly and severally and a reference to that party includes a reference to any one or more of those persons;

## Terms and Conditions

- (h) a reference to a part, clause or party is a reference to a part or clause of, or a party to, these Terms and Conditions unless otherwise stated;
- (i) a reference to these Terms and Conditions includes the recitals and any schedules, annexures, exhibits or attachments to these Terms and Conditions;
- (j) a reference to any document (including these Terms and Conditions) is a reference to that document as amended, varied, novated, supplemented or replaced from time to time;
- (k) a reference to any law or legislation or any legislative provision includes all regulations, orders or instruments issued under the legislation or provision and any statutory modification, consolidation, amendment, re-enactment, replacement or codification and any subordinate or delegated legislation issued under such legislation or legislative provision;
- (l) a provision of these Terms and Conditions must not be construed to the disadvantage of a party because that party was responsible for the preparation of these Terms and Conditions;
- (m) a right includes a remedy, privilege, authority or power;
- (n) the expressions “includes”, “including” and “such as” and similar expressions shall not imply any limitation;
- (o) where any party enters into these Terms and Conditions as trustee of a trust, then that party is deemed to have done so both in that party’s own capacity and in the capacity as trustee of that trust; and
- (p) any monetary amounts stated in these Terms and Conditions are inclusive of any taxes, levies or any other charges save where otherwise explicitly stated to the contrary.

### More information

Please direct any queries by email to [support@merlinshift.com.au](mailto:support@merlinshift.com.au), by phone to 1300 784 900, or by post to 40 Stephenson Street, Cremorne VIC 3121.