

Terms of Use

Effective from 31 January 2024. For a version of our previous terms, please click [here](#)

The Agreement you enter into with us contains important terms you need to be aware of:

- **Clauses 3 and 4** set out your obligations to us in your use of the Service
- **Clause 5** explains that we will handle your personal information in accordance with our privacy policy, available at www.jobadder.com/privacy.
- **Clause 10** sets out your rights and our rights regarding termination and how renewal operates
- **Clause 12** sets out limitations on our liability to you
- **Clause 13** sets out the scenarios in which we indemnify you and you indemnify us
- **Clause 14(b)** explains how we can amend these terms
- **Schedule 1** explains the conditions around increasing and decreasing user numbers on your account under “per user, per month” pricing

1. Definitions

Affiliates means, with respect to JobAdder or Customer, any entity that directly or indirectly controls, is controlled by, or is under common control with JobAdder or Customer, respectively. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

Agreement means the contract between you and JobAdder for the provision of the Services, which consists of these Terms, the Order Form/Proposal, any statements of work or any other documents expressly identified and agreed between the parties in writing as forming part of the contract between you and JobAdder.

Australian Consumer Law means the Competition and Consumer Act 2010 (Cth), and similar consumer protection laws and regulations.

Claim means any claim, demand, suit, proceeding or action brought against a party to this Agreement, howsoever arising, whether in contract including under the indemnity provisions of this agreement, tort including negligence, or any other cause of action.

Confidential Information means: (a) Customer's Data; (b) the Service, Documentation, and the terms and conditions on all Order Forms /Proposal including pricing; and (c) each party's technical and business information (including but not limited to hardware, software, designs, specifications, techniques, processes,

procedures, research, development, projects, products or services, business and marketing plans or opportunities, finances, vendors, penetration test results and other security information, defect and support information and metrics, and third party audit reports and attestations) that is marked by the disclosing party as confidential or the receiving party should reasonably know is confidential given the nature of the information and circumstances of disclosure.

Consequential Loss any loss or damage howsoever arising, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise; that cannot be considered to arise according to the usual course of things from the relevant breach, act or omission, whether or not such loss or damage may reasonably be supposed to have been in the contemplation of the parties at the time they entered into this Agreement as the probable results of the relevant breach, act or omission, and includes (but is not limited to) any real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use of any Data and/or loss or corruption of any Data, but excludes your obligation to pay us Fees owing under this Agreement.

Consumer Law Rights means any rights, warranties, guarantees and remedies relating to the provision of the Service by us to you which cannot be excluded, restricted or modified under the Australian Consumer Law.

Contract Start Date means the date identified on the Order Form as the contract start date.

Customer, you, your - means the legal entity that is stated on the Order Form/Proposal that entered into the Agreement for the Services.

Customer Add-On means software applications, plug-ins, or other add-ons that: (i) are separately developed solely by or for Customer, (ii) licensed directly to Customer by a Third-Party Service provider, (iii) utilise the Customer's own application programming interface ("API") to interoperate with the Service; and (iv) do not incorporate or include any JobAdder code, intellectual property or Services.

Customer Contact means the individual identified on the Order Form/Proposal as the customer contact.

Data means any data, files, graphics, images, text, emails or other content submitted by or on behalf of the Customer to the Customer's account in the Service, including Personal Data.

Data Controller means an individual or legal entity that collects Personal Data and that alone, or jointly with others, determines the means, purpose and processing of such Personal Data.

Data Processor means the individual or entity that processes Personal Data on behalf of a Data Controller.

Documentation means the end user documentation available on the online help feature of the Service, as may be updated by JobAdder from time to time, being the materials available at <https://support.jobadder.com/hc/en-us>.

Feedback means suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or its Invited Users relating to the features, functionality or operation of the Service, or the professional services provided by JobAdder.

Fees means any fees payable by you to JobAdder in respect of the provision of the Services, including Setup Fees, Subscription Fees and fees for professional services as set out in the Order Form/Proposal or any subsequent Statement of Work.

Intellectual Property Rights means any and all existing and future rights throughout the world conferred by statute, common law, equity or any corresponding law in relation to any copyright, designs, patents or trade marks, domain names, know-how, inventions, processes, trade secrets or confidential information, circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing, whether or not registered or registrable.

Invited User means any employee, agent or independent contractor of Customer who Customer authorises to access its account.

IT Systems means hardware, desktops & desktop environments, mobile devices, Third-Party Services, tools, plug-ins, add-ons, integrations and software (excluding that licensed under this Agreement); communication equipment, access service, access lines, Internet connectivity, Data and the general internal information systems operating environment external to the Service and its testing and production environment

JobAdder, our, us means Job Adder Operations Pty Ltd, a company registered in Australia, Australian Business Number 39 167 597 953.

Loss means damages, liabilities, losses, final judgments or awards, settlements, costs and expenses.

Malicious Code means viruses, worms, time bombs, Trojan horses and other malicious code, files, scripts, agents or programs.

Order Form or Proposal means the document executed by you setting out the details of your subscription for the Service.

Personal Data means both 'personal information' as defined in the Privacy Act and "personal data" as defined in the GDPR.

Privacy Act means the Privacy Act 1988 (Cth), Australia.

Service means the cloud based online recruitment management software made available via www.jobadder.com as changed or updated from time to time and as described in the applicable Documentation, but excluding Third-Party Services and Customer Add-Ons.

Subscription End Date means the last day of the Initial Term or the then current Renewal Term.

Subscription Fees means the amount payable by you to use the Service, as set out on the Order Form/Proposal.

Term has the meaning given to it in clause 10 of these Terms.

Terms means these terms and conditions.

Third Party Services means third-party products, integrations, applications and services, including those offered through the JobAdder Marketplace or resold by JobAdder, that work in conjunction with the Service but do not form part of the Service such as applications and job boards that transmit data between the Service and a different service via the JobAdder API, or third party applications that offer additional functionality within the Service.

2. Access to the Service

Subject to your compliance with the terms of this Agreement, including payment of the Subscription Fees, JobAdder grants you a limited, non-exclusive, non-transferable, non-sellable, non sublicensable, revocable subscription licence to access and use the Service during the Term solely and exclusively for your internal business purposes.

3. Your obligations

- a. Invited Users:** - You may permit Invited Users to create accounts pursuant to your Subscription, and use the Service, for your internal business purposes. With respect to Invited Users: (i) You remain solely responsible for maintaining the appropriate access level for each Invited User and revoking access where necessary; (ii) You must ensure that each Invited User complies with this Agreement and are responsible for any Invited User's breach of this Agreement as though it were your own; (iii) You must ensure that each Invited User holds their own unique login credentials for the Service and that each Invited User creates a secure password for their unique login, which is kept confidential. Login credentials must not be used by multiple Invited Users. JobAdder may at its discretion suspend or terminate the account of an Invited User, where it has reasonable grounds to believe that the Invited User's login and password credentials are being used by multiple individuals; (iv) You are responsible for maintaining the security and confidentiality of the usernames and passwords of all Invited Users and shall notify JobAdder promptly upon becoming aware of any unauthorised use of

the Services by Invited Users, or other suspected breach of security relating to the Service and (v) JobAdder incurs no liability to you for the acts or omissions of your Invited Users.

- b. Admin Users** - Any Invited User which you designate as an “admin user” will be deemed to have permission to make binding decisions on your behalf with respect to your account and will have the ability to take any actions with respect to your account. Where a request is made by an admin user, we will action that request on the basis that all admin users have the authority to bind you and take all actions with respect to the account, including data deletion or transfer, imposing restrictions on the permissions of other Invited Users, and requesting account closure.
- c. Security of your IT Systems** - You shall be solely responsible for procuring, maintaining, upgrading, securing, backing-up and repairing, at its own expense, all of your IT Systems and Customer Add-Ons. You acknowledge that the operation, speed, and performance of the Services can be adversely affected by the operating characteristics, defects in compatibility of your IT Systems, and you agree that JobAdder is not responsible for any degradation or interruption in Service operation caused by your IT Systems. You understand that your use of the Service will involve transmission over the Internet and over various other networks that are not owned or operated by JobAdder. You agree that JobAdder is not responsible for any electronic communications or Data which are delayed, lost, altered, intercepted or stored without authorization during transmission across networks that are not owned or operated by JobAdder, including the Internet. You must take any action that we reasonably require to maintain the security of the Service.
- d. Other obligations** - You will not (i) alter, distribute, licence, resell, sublicense, transfer, rent, lease, timeshare, or otherwise commercially exploit the Service to any third party, (ii) reverse engineer, decompile or otherwise attempt to discover the source code, APIs or underlying ideas or algorithms of the Service or its technology, (iii) frame or mirror the Service, (iv) remove or obscure any proprietary or other notice contained in the Service, (v) disclose or publish performance benchmark results for the Service, (vi) conduct any penetration or vulnerability testing on the Service, (vii) use the Service in any manner that is illegal, misleading, defamatory, indecent, obscene, threatening, infringing upon third-party Intellectual Property Rights, or breaches applicable laws including spam and privacy laws; (viii) post bulk job advertisements for fake roles or pass-off a relationship between yourself and another business where such relationship does not exist; (ix) use the Service to promote multi-level marketing, pyramid schemes or any other “business opportunity”; (x) take any action that would adversely affect the functionality or speed of other customer accounts; or (xi) use or access the Service to build a competitive product or service, copy features of the Service make derivative works based upon the Service

- e. **Affiliate use of the Service** - You shall ensure that each of your Affiliates is subject to and bound by the terms of the Agreement with respect to their use of the Services, and guarantee the compliance of those Affiliates with these terms in their use of the Service. JobAdder shall be a third party beneficiary of any of your rights necessary to enforce the terms of this Agreement against any Affiliate. You remain liable for all obligations under this Agreement and you indemnify JobAdder against all Claims and Losses suffered or incurred directly or indirectly by JobAdder as a result of, or arising out of any breach or default by your Affiliates of this Agreement.
- f. **Usage of the Service** - You must not use the Service in a way that adversely impacts the functioning of the Service as a whole. We will notify you in writing if your use of the Service is creating performance issues of this kind and will provide you with 30 days to, at your election: (a) modify your usage of the Service; or (b) terminate the Agreement.

4. Your Data

- a. **Ownership of Data** - You retain ownership of all Data inputted into the Service by you, including Data inputted by your Invited Users. You will have sole responsibility for ensuring the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all Data that you submit to the Service. You acknowledge that you are the Data Controller and JobAdder is the Data Processor with respect to Personal Data. You will comply with all privacy laws relating to your performance as a Data Controller, including the lawful processing of the Personal Data and in permitting JobAdder access to the Personal Data to provide the Service. You agree that you will implement your own policies, procedures and obtain your own legal advice with respect to compliance with all applicable laws including privacy laws. You grant JobAdder a non-exclusive licence to process, use, copy, store, access, transmit and display the Data to provide you with the Service.
- b. **Use of your Data by JobAdder** - You acknowledge that JobAdder has the right to collect, process, use, store and disclose datasets that are derived from part, or all, of the JobAdder database, including your Data. You consent to: (i) JobAdder running analytics processes over your Data via various mechanisms, including but not limited to machine learning algorithms and analytics inferences; (ii) JobAdder storing the output of the analytics processes referred to in this clause; (iii) JobAdder using the data created or obtained pursuant to this clause for: statistical, reporting and analytical purposes relevant to the JobAdder business; Service improvements and customer support; and industry insights. Any part of the output of an analytics process performed in accordance with this clause that contains Personal Data sourced from your Data will be deleted upon termination of this Agreement. All other data derived from an analytics process performed in accordance with this clause, including data in anonymised or aggregated form, may be retained by JobAdder following termination of this Agreement.

- c. **Removal of Data** - If JobAdder receives a complaint which suggests Data stored in your account breaches an applicable law, to the extent permitted by law, we will notify you about the complaint. You shall promptly investigate the complaint and advise us within 1 business day of the action you have taken, or will take, to address the complaint. If you fail to respond or take action to address the complaint, and we have a reasonable basis to believe the Data violates applicable laws or third-party rights, to the extent permitted by law, we will remove the relevant Data from your account.
- d. **Mobile Application** - If you access or download our mobile application from (i) the Apple App Store, you agree to any Usage Rules set forth in the App Store Terms of Service or (ii) the Google Play Store, you agree to the Android, Google Inc. Terms and Conditions including the Google Apps Terms of Service.

5. JobAdder obligations

- a. **Availability of the Service** - We will make the Services set out in your Order Form available to you pursuant to the terms of this Agreement. JobAdder warrants that it will comply with its [Service Level Agreement](#),
- b. **Security controls** - During the Term, JobAdder will implement and maintain commercially appropriate administrative, physical, and technical safeguards to protect the security and integrity of the Service and the Data from unauthorised access by third parties, including: reasonable restrictions on data access, firewall protection, employee security training, customary virus screening using anti-virus software, as applicable, password protection, disaster recovery and business continuity planning, and prompt application of current virus definitions and security patches.
- c. **Reports and Audit** - During the Term, JobAdder shall provide a copy of its ISO27001 certification and penetration testing letter of attestation, upon request. Any of JobAdder's security information provided to you is Confidential Information of JobAdder and subject to the confidentiality obligations contained in this Agreement.
- d. **Privacy Policy** - During the Term, JobAdder will provide the Service in accordance with its privacy policy, as updated from time to time at our sole discretion, a copy of which may be accessed at <https://jobadder.com/privacy-policy/>.
- e. **Processing of your Data by JobAdder** - JobAdder will process the Data for the purposes of providing you the Service. For Customers who are located in the European Economic Area or the United Kingdom, JobAdder will comply with the terms of its Data Processing Agreement <https://jobadder.com/gdpr-terms/> in its processing of Personal Data in your account.

6. Confidential information

- a. During the Term, Confidential Information may be disclosed by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) that is either identified as confidential or should be reasonably understood to be confidential due to the nature and circumstances surrounding its disclosure.
- b. Each party agrees: (i) not to use, publish or otherwise disclose the Confidential Information of the other party, except to the extent reasonably necessary to perform its obligations or exercise its rights under the Agreement; (ii) to protect the confidentiality of such Confidential Information as it protects its own Confidential Information (but in any event with no less than a reasonable degree of care); and (iii) to make Confidential Information available to its own employees, consultants, sub-processors and subcontractors only on a need-to-know basis and only if such employees, consultants, sub-processors or subcontractors are under a binding, written obligation of confidentiality with respect to such Confidential Information at least as restrictive as the obligations contained in this clause.
- c. Confidential Information shall not include information that (i) has become generally publicly available; (ii) was rightfully received by the Receiving Party from a source not under obligation of confidentiality with respect to the Confidential Information; (iii) is lawfully in the possession of the Receiving Party, in written or other recorded form, prior to the disclosure by the Disclosing Party; or (iv) is developed by the Receiving Party independent of, and without reference to, any Confidential Information as demonstrated by Receiving Party’s written records.
- d. This clause shall not prohibit the disclosure of Confidential Information, (i) to the extent such disclosure is permitted or required by applicable law or order of a court or other government authority, provided that to the extent permitted, the Disclosing Party has been given notice and the opportunity to petition for injunctive relief or protective order regarding such disclosure, or (ii) in connection with a claim between the parties under this Agreement.
- e. As of the Contract Start Date, this clause supersedes and replaces any prior non-disclosure agreement(s) entered into between the parties related to the subject matter covered by these Terms.

7. Third Party Services

- a. **Connecting a Third Party Service to your JobAdder account** - You acknowledge that Third Party Services are independent of JobAdder’s Services. When you connect a Third Party Service to your JobAdder account, you are establishing a direct contractual relationship between you and the entity offering the Third Party Service. Before enabling a Third Party Service to integrate with your JobAdder account, you must review and agree to the Third Party Service’s terms and privacy documentation. It is your responsibility to understand the data that the Third Party Service will be accessing from, and passing back to, your JobAdder account.

- b. No liability for Third Party Services** - JobAdder makes no express or implied warranties with regard to the information, material, products, or services that are contained on or accessible through Third Party Services. Access and use of Third Party Services, including the information, material and products available through Third Party Services is solely at your own risk. JobAdder is not liable, directly or indirectly, for any Loss however caused or arising, by or in connection with your use of or reliance on Third Party Services, including those listed in the JobAdder Marketplace.
- c. Access to your Data by Third Party Service** - If you choose to integrate a Third Party Service with the Service, you grant JobAdder permission to allow the Third Party Service to access your Data as required for the interoperation of that Third Party Service with the Service. You agree that JobAdder is not responsible for any and all third party information or data that you may transmit, process or transfer to or from such Third Party Service through the Service. We are not responsible or liable for any disclosure, modification or deletion of your Data resulting from access to your JobAdder account by such Third Party Service, or the accuracy of information provided by a Third Party Service.
- d. Availability of Third Party Services** - JobAdder has no control over Third Party Services and is not responsible for the availability of Third Party Services. JobAdder cannot guarantee the continued availability of Third Party Services and may cease providing a Third Party Service without liability to you, including where, the provider of a Third Party Service ceases to make the Third Party Service available for interoperation with our Service.
- e. Connecting to Third Party Service via JobAdder API** - If you connect your JobAdder account to a Third Party Service using the JobAdder API, or otherwise use the JobAdder API, you agree to be bound by JobAdder's API terms available at <https://jobadder.com/api-terms/>

8. Intellectual Property Rights

- a. Ownership of the Service** - JobAdder and/or its subcontractors and third-party suppliers retain all rights (including any and all Intellectual Property Rights) in the Service provided under this Agreement. You acquire no licence, ownership right or other right, title or interest in the Service except as otherwise expressly stated in this Agreement. JobAdder's name, trademarks, product names, branding, trademarks and content associated with the Service are the property of JobAdder, and they may not be used, altered or removed from the Service, without JobAdder's prior written consent.
- b. Modification of the Service** - JobAdder is constantly innovating and improving the Service. JobAdder has the right to modify the Services, and functionality or features within the Service from time to time, without prior notice to you. JobAdder owns the Intellectual Property Rights in these modifications upon creation and the licence granted to you in this Agreement extends to those modifications. You agree that your purchase of the Service is

not contingent upon the delivery of any future functionality or features, or any oral or written public comments made by JobAdder with respect to potential future functionality or features.

- c. **Feedback** - You grant us a worldwide, royalty-free, sublicensable, perpetual, and irrevocable and perpetual licence to use your Feedback for any purpose, including incorporation of the Feedback into the Service or other offerings without compensation or attribution to you. JobAdder has no obligation to use the Feedback Customer shall have no obligation to provide Feedback.
- d. **Publicity** - You consent to JobAdder's disclosure of the fact that you are a paying customer of JobAdder. During the Term, JobAdder may list or otherwise include your name, corporate branding and logo on JobAdder's website and marketing materials.

9. Fees

- a. **Fees** - You agree to pay JobAdder all Fees set out in the applicable Order Form, in accordance with these Terms and the Order Form. Setup Fees, including data migration fees, are payable at the Contract Start Date. JobAdder will commence charging Subscription Fees from the Subscription Start Date. Subscription Fees are charged monthly in advance. The Fees are not refundable or cancellable for change of mind.
- b. **Invited User numbers** - You are responsible for maintaining the correct number of Invited Users on your account. The conditions set out in Schedule 1 apply to the adding and removing of users if you are paying "per user, per month". If you are paying "per user, per month" and you add an Invited User midway through the billing month, we will prorate your next bill for the added Invited User from the date they were added. If you are on a month-to-month Subscription, paying "per user per month", and you remove Invited Users midway through the billing month, the change to your billing will take effect from the following billing month.
- c. **Add-Ons** - If you are on a month-to-month subscription, in accordance with clause 10(a), you must provide JobAdder with no less than 30 days notice to terminate an Add-On. You will be billed in full for the billing period in which the termination date for that Add-On falls. You may only add, or remove, an individual Add-On once during an individual billing period. If you are on a fixed-term subscription, any Add-Ons referenced on an Order Form are purchased for the same subscription term as the core JobAdder service and are subject to the minimum user numbers specified on this Order Form. The cancellation terms set out at clause 10(b) will apply to the Add-On cancellation, if you cancel an Add-On during the Term.
- d. **Automatic card debit** - If you are paying via automatic card debit, you authorise JobAdder to debit any Fees that arise in connection with this Agreement from the card whose details you have supplied. If the payment is declined, we may attempt to run the payment again at our sole discretion. We

shall not be liable to you for any charges incurred in connection with a debit of Fees.

- e. **Taxes** - Fees and charges are exclusive of all applicable value added taxes, withholding, and other taxes, levies, or duties, and you will be responsible for payment of all such amounts., in addition to the payment of the Fees specified in the Order Form.
- f. **Failure to pay Fees** - If you fail to pay any Fees due under this Agreement by the due date, in addition to any other rights or remedies we may have under this Agreement or by law, JobAdder reserves the right to:
 - i. restrict your ability to add users to the account;
 - ii. suspend your account access and cease providing the Service upon thirty (30) days written notice, until such amounts are paid in full. If you are on a fixed-term contract, you will continue to be charged the Subscription Fees for the period in which your account is suspended.
 - iii. terminate your account upon 30 days notice to you if Fees remain unpaid for a period of ninety (90) days or more from the due date of those Fees. If you are on a fixed-term contract and your account is terminated in accordance with this clause, you will be charged in full for the Subscription Fees owing for the remainder of the Initial Term, or relevant Renewal Term.
 - iv. to the maximum extent permitted by law, restrict your access to Data held by us, including but not limited to restricting any direct access, API access, data exports and backups, until such amounts are paid in full;
 - v. recover, as a debt due and immediately payable from you, our reasonable additional costs of doing so (including all recovery costs).

In addition to its other rights set out in this clause, JobAdder reserves the right to charge interest on overdue Fees at a rate that is the lesser of one and a half percent (1.5%) per month or the maximum rate permitted by applicable law until Customer pays all amounts due. JobAdder will not exercise its right to charge interest if the applicable charges are under reasonable and good faith dispute, that Customer raised with JobAdder within 30 days of the issue of the invoice in dispute. Data backups will not be provided to Customers while an account is suspended. or where an account is terminated, for failure to pay Fees in accordance with this Agreement.

- g. **Increase to the Subscription Fees** - For Customers on a month-to-month Subscription, JobAdder may increase the Subscription Fees upon 60 days notice to you. For Customers on a fixed-term Subscription, JobAdder may

increase the Subscription Fees at the conclusion of the Initial Term set out in the Order Form, or at the conclusion of the then current renewal term.

- h. Changes to billing details** - You are responsible for providing us with complete and accurate billing and contact information and for ensuring the details of the Customer Contact and any billing contact that is connected to your account remain current. Please contact Customer Support using [this link](#) to update contact details within 30 days of a change.
- i. Lien over data** - You grant JobAdder a lien over all Data stored within the Service which gives JobAdder the right to retain possession and control of the Data until all outstanding Fees are paid in full. This lien applies regardless of whether or not you are insolvent, have an administrator appointed or are subject to similar action. Until such time as all outstanding Fees have been paid in full, you must not allow any other person to have or acquire any security interest in the Data (or in any proceeds of the Data), unless with our prior written consent. The lien created by this clause:
 - i. is a 'security interest' for the purposes of the Personal Property Securities Act 2009 (Cth) (PPSA) and may be registered pursuant to the PPSA at JobAdder's absolute discretion;
 - ii. is in addition to, and do not prejudice or affect, any other right, power, or remedy that JobAdder may have under this Agreement or by law;
 - iii. extends to any Data added to your account after the creation of the lien;
 - iv. continues despite the termination of this Agreement for any reason, until all outstanding Fees and any accrued interest are paid in full.

10. Term and termination

- a. Month to Month Subscription** - For a month-to-month subscription, the term of the Agreement commences on the Contract Start Date and will continue for a period of 30 days (Initial Term). After the Initial Term, the Subscription will automatically renew for successive periods of 30 days until terminated in accordance with the Agreement (Initial Term and subsequent renewal terms, collectively, the Term). A month-to-month subscription may be terminated by you without cause upon 30 days written notice to JobAdder via the admin area in the "subscription" tab of your JobAdder account or by raising a support ticket [here](#). JobAdder may terminate the Agreement without cause upon 90 days notice to you. You will have the ability to use and access your account until the termination date. Any prepaid and unused Subscription Fees will not be refunded.
- b. Fixed-Term Subscription** - For a fixed-term subscription, the term of the Agreement commences on the Contract Start Date and concludes on the Subscription End Date (Initial Term). At the conclusion of the Initial Term, the Agreement will automatically renew for successive periods of 12 months (each a Renewal Term, collectively the Initial Term and

subsequent Renewal Terms are the “Term”), unless you advise us of your intention not to renew, or we advise you of our intention not to renew, prior to the commencement of the next Renewal Term. In the first 30 days of a new Renewal Term, you may terminate the Agreement without cause by raising a support ticket [here](#). If you exercise this termination right, you will be charged for the 30 day period at the Subscription Fee rate that was notified to you prior to the conclusion of the previous term. If you terminate a fixed-term subscription for convenience at any other time during the Initial Term, or a Renewal Term, you will not be refunded Subscription Fees for any unused portion of the Term. If you are invoiced monthly, the Subscription Fees owing for the remaining term of the Agreement become immediately due and payable at the termination date. If you pay via direct debit, you consent to JobAdder debiting any Setup Fees or Subscription Fees owing from your relevant card or account. For each Renewal Term, Subscription Fees will be calculated as follows:

(a) you will be charged the updated Subscription Fees that were notified to you by JobAdder no less than 60 days prior to the commencement of that Renewal Term;

(b) if you are on a “per user” subscription:

(i) invoiced monthly, the “minimum user number” for the new Renewal Term will be based on the user number on your account 60 days prior to the commencement of the new Renewal Term;

(ii) invoiced annually upfront, the “minimum user number” will be based on the user number on the account at the Subscription Start Date for the new Renewal Term.

c. Termination for cause – A party may terminate the Agreement for cause: (i) upon 60 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. If the Agreement is terminated by you for cause in accordance with this clause, we will refund you any prepaid Fees and/or waive any Fees owing for the remainder of the Term from the effective date of termination. If the Agreement is terminated by JobAdder for cause in accordance with this clause, you must pay any unpaid fees owing for the remaining Term of the Agreement. Termination will not relieve you of your obligation to pay any Fees payable to us for the Services that have already been supplied.

d. Suspension or termination by JobAdder – JobAdder may immediately suspend or terminate the Agreement upon written notice to you, where it has a reasonable basis to believe that your continued use, or misuse, of the Service is, or has the potential to be, of detriment to the JobAdder business including: (i) where JobAdder can reasonably conclude that your account is being used to engage in denial of service attacks, harvest data, engage in fraud, or to otherwise violate applicable laws; (ii) where there is evidence of

sustained harassment or abuse of JobAdder staff by you or your Invited Users; or (iii) where JobAdder is instructed to do so by order of a Court or governmental authority. JobAdder may also terminate your account on 30 days notice if you are on a month-to-month subscription, with per user pricing, and you have maintained 0 users on your account for 90 or more consecutive days. You agree that JobAdder will not be liable to you nor to any third party for any suspension or termination of your account on the basis of this clause.

- e. **Effect of Termination** – Upon termination or expiration of the Agreement, your licence to use the Service shall immediately terminate, and you shall have no rights to continue your use of the Service. Subject to clause 9(e), upon your request, JobAdder will provide you with one backup copy of the Data that was live in your account at the termination date, in SQL backup format. Fees will apply if: (i) you request more than one backup; or (ii) if you have been a Customer for less than six (6) months. To the extent permitted by law, your Data will be irretrievably deleted from the production environment of the Service ninety (90) days following termination of your use of the Service, whether you request a copy of the Data or not. JobAdder will not store Data beyond this time due to data protection concerns and the cost of data storage.
- f. **Data Retention and Access** – To the maximum extent permitted by law, if:
 - i. a Customer's account is suspended by JobAdder in accordance with the terms of this Agreement;
 - ii. this Agreement is terminated in accordance with its terms; or
 - iii. the Customer becomes insolvent, has an administrator appointed or is subject to similar action,

and there are any outstanding Fees or accrued interest, JobAdder reserves the right to restrict all forms of access to Data held by it, including but not limited to restricting any direct access, API access, data exports, and backups. This restriction will remain in effect until all outstanding Fees and any accrued interest are paid in full.

- g. **Survival** -The following will survive termination or expiration of this Agreement: Customer's accrued financial obligations under the Agreement, and clause 6 "Confidential Information," clause 8 "Intellectual Property Rights", clause 9 "Fees", clause 10 "Term and Termination" clause 12 "Limitation of Liability," clause 13 "Indemnities," and clause 14 "General".

11. Warranties

- a. **Mutual warranty** – Each party warrants that it has the authority to enter into this Agreement.
- b. **JobAdder warranty** – JobAdder warrants that during the Term: (i) JobAdder will employ then-current, industry-standard measures to test the Service to detect and remediate Malicious Code designed to negatively impact the operation or performance of the Service, (ii) JobAdder will not materially decrease the overall security of the Services and (iii) JobAdder will use

commercially reasonable efforts to provide the Service in all material respects in accordance with the functionality as described in the Documentation. The warranties set forth in this subsection shall apply only if the Service has been utilised in accordance with the Documentation, the Agreement and applicable law. You agree to report material non-conformities in the Service in writing via JobAdder Customer Support. During the Term, JobAdder will provide, as your sole and exclusive remedy for any breach of this limited warranty obligation, commercially reasonable support and maintenance to troubleshoot, update or apply workarounds or other remedies in respect of such non-conformities in the Services. Subject to any rights which cannot be excluded by law including any Consumer Law Rights, we exclude all other express and implied warranties, and all material, work and services (including the Service) are provided to you without warranties of any kind, either express or implied, whether in statute, at law or on any other basis.

12. Limitations

- a. **Disclaimer** - The warranties stated in this Agreement, and warranties that cannot be excluded by applicable law, are the sole and exclusive warranties offered by JobAdder to Customer. You acknowledge that: (i) any warranties JobAdder provides regarding the Service do not extend to Customer Add-Ons, Third-Party Services or any other third-party products that are interoperable with the Service including Microsoft, Google or Apple products; (ii) the Service is provided to you on an “as is” and “as available” basis for your internal business use only; (iii) the operation of the Service may not be interrupted or error free due to failings in your internet connection, scheduled maintenance, unscheduled emergency maintenance and other causes beyond JobAdder’s control; (iv) the Service cannot be completely free of the risk of viruses, attacks or threats and (v) the Services may not meet your specific business needs.
- b. **Acknowledgement** - You acknowledge and agree that: (i) data loss is an unavoidable risk when using any software and you agree to maintain a backup copy of any Data you input into the Service; and (ii) your use of the Service may be subject to limitations, delays and other problems inherent in the use of internet based services. To the maximum extent permitted by law, we shall have no liability to you for, and you release us from any and all liability in respect of, any loss or corruption of Data, or any scheduled or emergency maintenance that causes the Service to be unavailable. You agree that this limitation is reasonable to protect JobAdder’s commercial interest and reduce the Fees charged to Customers.
- c. **Australian Customers** - For Australian customers who are “consumers” under the Australian Consumer Law, nothing in this Agreement excludes, restricts or modifies the application of any of your Consumer Law Rights. JobAdder’s liability for any breach of the consumer guarantees set out in the Australian Consumer Law is limited to supplying the Services again for an equivalent period to the time period over which the breach of the guarantee

occurred. This clause does not otherwise limit or restrict any rights you may have under the Australian Consumer Law, or any other rights or warranties which cannot be excluded by law.

- d. **Limitation of liability** - Subject to clause 12(h) below, to the extent permitted by law, JobAdder's total liability for all Claims arising in connection with this Agreement is limited, in the aggregate, to the Subscription Fees paid or payable by you in the six (6) month period immediately preceding the first incident out of which the liability arose.
- e. **Exclusion of liability** - Despite anything stated to the contrary in this Agreement or otherwise, to the maximum extent permitted by law, we will not be liable for, and you waive and release us from and against, any liability caused or contributed to by, arising from or connected with:
 - i. any loss or corruption of your Data (including Personal Data);
 - ii. any Claims that your Data or Personal Data you input into the Service are in breach of applicable laws;
 - iii. any scheduled or emergency maintenance that causes the Service to be unavailable;
 - iv. subject to this Agreement, any downtime or interruption to the Service;
 - v. any Third Party Service; and/or
 - vi. any event outside of our reasonable control (including a fault, defect, error or omission in the IT Systems or your Data).

You acknowledge and agree that the exclusion of liability set out in this clause is necessary in order to protect the legitimate commercial interests of JobAdder and reduce the Fees charged to Customers.

- f. **Consequential losses** - To the extent permitted by law, in no event will one party to this Agreement be liable to the other for any Consequential Loss, even if the other party has been advised of the possibility of such damages.
- g. **Proportionate reduction in liability** - a party's liability for any Claims or Loss under the Agreement will be reduced proportionately to the extent the relevant Loss or Claim was caused or contributed to by the acts or omissions of the other party or any of that party's personnel (including a party's Invited Users), including any failure by that party to mitigate its losses.
- h. **Excluded Claims** -The following types of Claims are excluded from the liability cap in section 12(d):
 - i. Customer's payment obligations under the Agreement;
 - ii. Each party's indemnification obligations under the Agreement;
 - iii. Customer's breach of JobAdder's Intellectual Property Rights.

13. Indemnities

- a. **Indemnification by JobAdder** - JobAdder will defend, indemnify, and hold Customer harmless from and against Losses, arising as a result of a Claim brought by a third party against Customer alleging that the Service as

provided by JobAdder to Customer under this Agreement infringes any copyright, patent, trademark, or misappropriates any trade secret of any third party ("Infringement Claim"). In the event of any such Infringement Claim, JobAdder may, at its option: (i) obtain the right to permit Customer to continue using the Service, (ii) modify or replace the relevant portion(s) of the Service with a non-infringing alternative having substantially equivalent performance within a reasonable period of time, or (iii) terminate the applicable Order Form as to the infringing Service and provide a pro rata refund of any prepaid, unused Fees for such infringing Service. Notwithstanding the foregoing, JobAdder will have no liability for any Infringement Claim of any kind to the extent that it results from: (1) modifications to the Service made by a party other than JobAdder, (2) the combination of the Service with other products, processes or technologies (where the infringement would have been avoided but for such combination), (3) Customer's use of the Service other than in accordance with the Documentation or the Agreement, or in breach of applicable laws or (4) any Data uploaded or provided by Customer. This clause sets out JobAdder's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement or misappropriation of third-party Intellectual Property Rights of any kind.

- b. Customer indemnity** - Customer shall defend at its expense, indemnify, and hold JobAdder, its Affiliates, and their respective employees, directors, agents, representatives, successors and assigns harmless from and against all Losses arising out of or in connection with any Claims alleging: (i) a violation of any third party rights arising from Customer's provision or use of the Data or other data or information supplied by Customer; (ii) Customer's use of the Services in violation of the Agreement, the Documentation or applicable law.
- c. Indemnity requirements** - In connection with any indemnity under this Agreement, the party seeking to claim under the indemnity (the "Indemnified Party") must: (i) notify the other party (the "Indemnifying Party") promptly in writing of any claim under an indemnity; (ii) not make any admission or purport to settle a third party claim without the Indemnifying Party's prior written consent; (iii) give the Indemnifying Party the opportunity to have sole control for the defence of any action on a claim and all negotiation for its settlement; (iv) afford all reasonable assistance to the Indemnifying Party with such negotiations (and the Indemnifying Party will reimburse the Indemnified Party for its reasonable costs in relation to the provision of such assistance); and (v) use reasonable endeavours to mitigate the amount payable by the Indemnifying Party.

14. General

- a. Entire Agreement** - This Agreement and other documents referred to within it represent the entire agreement of the Parties, supersedes all prior discussions, writings, communications, emails and/or agreements between the Parties, and is intended to be the final expression of the agreement with

respect to the Services

- b. **Amendment to this Agreement** - We may amend the Agreement at any time. If we make a substantive change to the Agreement, we will provide you with 30 days written notice. We will also post any updates on the website. If you are on a month-to-month contract, by continuing to use the Service, you agree to the amended Terms. If you do not agree to the amendment, you may terminate this Agreement pursuant to clause 10. If you are on a fixed-term contract, changes will take effect from the Subscription End Date set out on the Order Form, or at the conclusion of the then current renewal term if no Subscription End Date is specified, or the Subscription End Date has passed. Any terms and conditions stated on a Customer purchase order, acknowledgment form, Customer “supplier policies” documentation, or other Customer document or terms shall not vary, supersede or replace the terms and conditions of the Agreement unless: (i) such document expressly states that it acts to vary the Agreement, or that its terms are to be incorporated into the Agreement; and (ii) is signed by both parties.
- c. **Assignment** - Neither the rights nor the obligations arising under the Agreement are assignable or transferable by a party without the other party’s prior written consent, which shall not be unreasonably withheld or delayed, and any such attempted assignment or transfer shall be void and without effect. Notwithstanding the foregoing, either party may freely assign this Agreement in its entirety (including all Order Form), upon at least 30 days’ written notice and without the consent of the other party, to its successor in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of its assets, provided that all fees owed and due have been paid (in the case of an assignment by Customer prior to the date of such assignment) and the assignee agrees to be bound by all the terms of this Agreement. To the extent permitted by law, in the event that this Agreement is assigned by you in accordance with clause 14(c) in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of its assets, JobAdder reserves the right to verify the legitimacy of any data transfer request and may require reasonable proof of the transfer of data ownership before facilitating any data transfer.
- d. **Subcontracting** – JobAdder may, in its reasonable discretion, subcontract some or all of its obligations under the Agreement, provided that JobAdder shall remain responsible for the acts and omissions of its subcontractors that result in a breach of the Agreement by JobAdder.
- e. **Waiver** – No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.
- f. **Severability** – If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

- g. **Notices** - All notices related to this Agreement will be in writing. JobAdder may provide notice either (i) by email to the email address provided for the Customer Contact as specified in the Order Form; or (ii) by written communication sent by mail or by courier service with return receipt requested, to the Customer Billing Address (stated on the Order Form). Notices to the Customer will be deemed to have been given upon: the expiration of forty-eight (48) hours after mailing (if sent by courier/express post) class mail); or if provided by electronic mail, twelve (12) hours after sending. Customer may give notice to JobAdder (deemed given upon receipt) at any time by either (i) email to legalnotices@jobadder.com; or (ii) written communication sent by mail or by a recognized courier service return receipt requested to: Job Adder Operations Pty Ltd addressed to the attention of: General Counsel at Level 28, 161 Castlereagh Street Sydney NSW 2000. Customer may give notice of termination, and direct billing related notices, to JobAdder Customer Support [here](#).
- h. **Force majeure** - If the performance of this Agreement or any obligation hereunder (other than obligations of payment) is prevented or restricted by reasons beyond the reasonable control of a party including but not limited to internet failure, labour stoppage or industrial dispute, epidemics and pandemics, war or military hostilities, national or regional emergencies, embargoes, sanctions and blockades, criminal or wrongful acts of third parties, or acts of terrorism (each a "Force Majeure Event"), the party so affected shall be excused from such performance and liability to the extent of such prevention or restriction. The impacted party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. Any liability for damages resulting from a Force Majeure Event is excluded between the parties to the widest extent permitted by applicable law.
- i. **Dispute Resolution**- If a dispute arises between the parties relating to the Agreement, the parties shall initially attempt to resolve such dispute in good faith before either party initiates legal proceedings. The parties shall provide that senior executives with decision-making authority, shall attend such negotiation to attempt to reach a mutually agreeable resolution, within 30 business days of either party's request in writing for such meeting. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations in any subsequent legal proceedings.
- j. **Relationship between the parties** - The relationship between the parties is that of independent contractors. This Agreement does not create any joint venture, partnership, agency, or employment relationship between the parties.
- k. **Anti-Corruption** - Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate

the above restriction.

- l. **Third Party Rights** - Except in relation to the parties' successors and permitted assigns, a person who is not a party to this Agreement has no right to enforce any term of this Agreement.
- m. **Governing law** - These Terms are governed by the laws of New South Wales, Australia. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- n. **Interpretation and inconsistency** - In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (i) any Special Conditions set out on an applicable Order Form; (ii) the remainder of the terms set out on an applicable Order Form; (iii) these Terms and (iv) any other ancillary documents or terms referred to in these Terms or otherwise agreed between the parties. Titles and headings of sections of these Terms are for convenience only and shall not affect the construction of any provision of this Agreement.

Schedule 1

Adding and removing users

For customers on "per user, per month" pricing, the following conditions apply to the increase and decrease of user numbers on the account. The "contract type" and "billing frequency" for your account are specified on your most recent Order Form for the Service.

Contract type	Billing Frequency	Adding and removing users
Month to month	Monthly	• JobAdder will commence charging you for a minimum of one (1) user on the account from the Subscription Start Date • You may increase or decrease the number of Invited Users on Your account at any time at your discretion. • Subscription Fees for additional users are pro-rated from the day the user is added to your account. • If you decrease the number of users on your account, the change will take effect from the next billing cycle (ie: there is no pro-rating).
Fixed-term	Monthly	• The user number specified in the Order Form is a

		minimum user number for the account that will apply through to the end of the Initial Term. Prior to each renewal term, the minimum user number will be recalculated per clause 10 of these Terms of Use. • Customer may increase the number of Invited Users on its account at any time and will be invoiced for the increased number of Invited Users at the “per user price” set out in the Order Form for the months in which user numbers exceed the number set out in the Order Form. • Customer cannot decrease the Invited User number below the number set out in the Order Form. If Customer decreases its user numbers below the number set out in the Order Form, it will continue to be charged for this minimum user number.
Fixed-term	Annually, or any other billing frequency (excluding monthly)	• The user number specified in the Order Form is a minimum user number for the account that will apply through to the end of the Initial Term, unless user numbers are increased. • Prior to each renewal term, the minimum user number will be recalculated per clause 10 of these Terms of Use. • Customer may increase the number of Invited Users at any time and will be invoiced upfront for the increased number of Invited Users at the “per user price” set out in the Order Form. Customer will be invoiced Subscription Fee prorated from the month in which the user numbers are increased until the Subscription End Date, or the end of the then current renewal period. • If Customer decreases its user numbers on its account at any time during the Term, it will not be refunded any amount that it has already paid for those users.