

<p style="text-align: center;"><b>DELIVERY UNION SOFTWARE LICENCE AGREEMENT FOR THE USE OF THE ONLINE HAULAGE LOAD VISIBILITY PLATFORM</b></p>
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Please read these terms and conditions carefully, they contain important information about your rights and obligations. You can print out these terms and conditions by clicking on the print icon on your browser.

## **1. Introduction**

1.1 Please read these terms and conditions carefully before using the website operated by Delivery Union. By clicking on the 'I Accept' button at the bottom of these terms and conditions you agree to be legally bound by these terms and conditions as they may be modified and posted on our website from time to time.

1.1 If you do not wish to be bound by these terms and conditions then you may not use the Delivery Union online haulage load visibility service.

1.2 Delivery Union does not represent not is it affiliated with any transport or haulage company and does not own any delivery vehicles. Delivery Union provides an online service which brings together transport companies and people who want to send goods.

1.3 Delivery Union has developed an internet based database system which serves as an online Haulage Load Visibility Platform ( the 'Software').

1.4 Delivery Union has agreed to provide and you have agreed to accept a non-exclusive licence ( 'Licence') to use the Software.

## **2 Licence**

2.1 Delivery Union grants you a non-exclusive, worldwide licence to use the Software, effective from the date of this Licence and on the terms and conditions of this Licence.

2.2 Any updates to, or new versions of, the Software ('Upgrades') will be subject to this Licence from the time of provision of the Upgrade.

2.3 This Licence does not permit you to use the Software for any purpose other than a Haulage Visibility Platform.

2.4 In relation to the Software you may not:

- (i) Sub-licence, rent, lease, transfer or attempt to assign this Licence or the Software to any other person save for any holding company, affiliated entities and affiliated individuals established in England & Wales which are either responsible directly or indirectly for your business activities.
- (ii) Translate, modify, adapt, reverse engineer, disassemble, decompile or create derivative works based on the Software (whether for purposes of error correction or otherwise) except where decompilation is essential to do so in order to achieve interoperability of the Software with another program ('Permitted Purpose') and provided the information obtained by you during such decompilation is only used for the Permitted Purpose and is not disclosed or communicated to any third party whom it is not necessary to disclose or communicate such information without Delivery Union's prior written consent and is not used to create any software which is substantially similar to the Software.
- (iii) Save for your sub-contractors and approved Hauliers, allow any other person to use the Software.
- (iv) Change or otherwise enhance the Software, support or maintain the Software, integrate the Software with a preferred database schema, reengineer the Software to a preferred language or re-use the best practice design.

2.5 Delivery Union may terminate this Licence at any time if you are found in breach of any of these terms.

### **3 Licence Fee**

- 3.1 The Licence Fee payable by you is specified in Schedule 1 to this Licence
- 3.2 All charges referred to are exclusive of and net of any taxes, duties or such other additional sums including value added tax, whether levied in respect of this Licence, the Software, its use or otherwise.

### **4 Warranties**

- 4.1 Delivery Union warrants its right to licence the Software to you but not that the Software will be error or virus free. Such errors shall not constitute a breach of this Licence.
- 4.2 At Delivery Union's option, Delivery Union may grant you a refund or provide you with replacement Software in the following circumstances:
  - If you discover a material error during the Implementation Plan contained in Schedule 2 to this Licence which substantially affects your use of the Software and you notify Delivery Union of the error within (14 days) from the date of this Licence ( the 'Warranty Period')

Provided that such error has not been caused by any modification, variation or addition to the Software not performed by Delivery Union or caused by your

incorrect use, abuse or corruption of the Software or by use of the Software with any other software or on equipment with which it is incompatible.

- 4.3 In respect of any breach of warranties notified to Delivery Union within the Warranty Period Delivery Union undertakes to fix or patch any material defects or deficiencies;
  - 4.3.1 which cause a business critical disruption to the Software ( namely one which results in the Software either not being accessible to all users or all users experience major inconvenience ) within five working hours; and
  - 4.3.2 which cause a major disruption to the Software ( namely one which results in the Software either not being accessible to some users or some users experience major inconvenience) within 24 working hours; and
  - 4.3.3 which cause a minor disruption to the Software (affecting some or all users) within seven working days.
- 4.4 To the extent permitted by the applicable law, Delivery Union disclaims all other warranties with respect to the Software, either express or implied.
- 4.5 Although Delivery Union does not warrant that the Software supplied hereunder shall be free from all known viruses it has used commercially reasonable efforts to check for the most commonly known viruses but you are solely responsible for virus scanning your own hardware which includes hardware connected to any internet based software

## **5 Intellectual Property**

- 5.1 The Software is protected by international copyright laws and other Intellectual Property Rights. The owner of these rights is Delivery Union. Such rights shall include (but shall not be limited to) all code, documentation, flowcharts, drawings, specifications, manuals and other data or materials which are created as a result of this Licence, database design, screen design, user interface design, interface dialogue and computer programs.
- 5.2 You agree that Delivery Union shall be the owner of any and all Intellectual Property Rights including without limitation, new inventions, designs or processes which evolve in performance or as a result of this Licence and that Delivery Union shall be free to incorporate such changes into upgrades to the Software.
- 5.3 You shall indemnify Delivery Union fully against all liabilities, costs and expenses which Delivery Union may incur as a result of work done where you have requested changes to the specifications involving infringement of any patent or other proprietary right.

## 6 Liability

- 6.1 All warranties offered in relation to the Software are set out in clause 3 of this Licence. Delivery Union excludes all other warranties, express or implied terms, conditions, representations or endorsements whatsoever with regard to the Software.
- 6.2 Delivery Union excludes all liability for any late deliveries, loss or damage to goods occasioned by transport company users of the Software.
- 6.3 In relation to the Software, Delivery Union accepts no liability for any indirect or consequential loss or damage, or for any loss of data, profit, revenue or business (whether direct or indirect), however caused, even if foreseeable. In circumstances where you suffer loss or damage Delivery Union accepts no liability for such loss or damage (except where Delivery Union has been negligent) whether due to inaccuracy, error, omission or any other cause and whether on the part of Delivery Union or its servants, agents or any other person. For the avoidance of doubt Delivery Union confirms that the Software and the data therein contained is produced using its best endeavours and Delivery Union believes it is reliable.
- 6.4 If Delivery Union is liable to you for any reason, Delivery Union's liability will be limited to the amount paid by you for the Software.
- 6.5 You are responsible for ensuring that your computer system meets all relevant technical specifications necessary to use the Software. Delivery Union cannot and does not guarantee or warrant that the Software will be free from infection, viruses and/or other code that has contaminating or destructive procedures and virus checks (including anti-virus and other security checks) to satisfy your particular requirements for the accuracy of data input and output. Delivery Union also cannot guarantee that the Software will function as intended your computer system does not permit such functionality for reasons Delivery Union cannot have foreseen.
- 6.6 You agree to indemnify and hold harmless and defend at your own expense Delivery Union from and against any and all claims made by third parties arising from data which you have accessed via the Software but which you have subsequently altered from the form it was originally presented in the Software.
- 6.7 Delivery Union shall not provide any ongoing or further services including, without limitation, bug fixes and upgrades to the Software, where you have failed to pay any charges associated with the maintenance of the Software as detailed in Schedule 1 to this Licence.

## **7. Your obligations and responsibilities as either haulage supplier or customer**

It is your responsibility to ensure that you provide your precise requirements as to goods to be delivered to the correct transport company, check the Identification of that company and collect proof of sending (which you may print from our website with the reference number).

It is the responsibility of the haulage company to ensure that the pick up location described in the online lot corresponds to the actual collection address.

The haulage company driver may be given special instructions regarding delivery of goods, and the details of goods may be left with a neighbour of a customer in a specific location within the locality. If no special instructions are supplied it is the haulage company driver's responsibility to ensure the delivery location is precise and the signature is from the correct recipient of the goods.

Any dispute between a haulage company and a customer as users of the Software relating to arrangements regarding delivery or collection of goods must be resolved between each party. Delivery Union will not intervene in any such disputes.

It is your responsibility to seek confirmation of all terms and conditions pertaining to the all arrangements between a haulage company and a customer as users of the Software, for example as to mutually convenient times for collection of goods and costs associated with the same. Delivery Union will not accept any liability for such arrangements. However, the following is a non-exhaustive list of issues which may well arise and which you should bear in mind;

The haulage company may charge more than quoted if it has to make a return journey to collect the goods if a customer fails to be present at the pre arranged time, or has to make a return journey if a customer has not arranged for someone to receive goods. The haulage company charge is based one collection and delivery only

It is the haulage company's sole responsibility to carry insurance to carry goods in their vehicles. Delivery Union is not responsible for any uninsured vehicle. The haulage company is also solely responsible for determining its capacity to undertake the consignment. Delivery Union will undertake due diligence in checking the insurance and operator license of a haulage company where that company is expressly registered with Delivery Union as insured suppliers. Details of such status are available on our website.

It is the responsibility of the customer to ensure that the vehicle carrying and delivering goods has appropriate insurance. Delivery Union will display the option of offering the delivery to insured or non insured haulage providers.

It is the responsibility of the haulage company to ensure that it is not carrying illegal cargo and Delivery Union accepts no liability for whether cargo is unlawful.

## 8 Confidential Information

- 8.1 All information, data, drawings, specifications, documentation, software listings, which Delivery Union may have imparted and may from time to time impart to you relating to the Software, or support documentation or procedures or modems is proprietary and confidential. You agree that you shall use the same solely in accordance with the provisions of this Licence and that you shall not at any time during or after expiry or termination of this Licence (in whole or with respect to support only), disclose the same, whether directly to any third party without Delivery Union's prior written consent.
- 8.2 You further agree that you shall not yourself or through any subsidiary, agent or third party modify, vary, enhance, copy, sell, lease, licence, sub-licence or otherwise deal with the Software or any part or parts or variations, modifications, copies, releases, versions or enhancements thereof or any supporting software or have any software or other program written or developed for you based on any confidential information supplied to you by Delivery Union.
- 8.3 The foregoing provisions shall not prevent the disclosure or use by you of any information which is or hereafter, through no fault of yours, becomes public knowledge or to the extent permitted by law.

## 9 Implementation Testing

Delivery Union shall provide all reasonable assistance, advice and support as you shall require in connection with the preparation of any Implementation Plan which you have produced provided that Delivery Union shall not be obliged to actually prepare the Implementation Plan.

## 10 Term and Termination

- 10.1 This Licence shall commence on the date you click the 'I Accept' button and shall continue in force unless and until terminated in accordance with these terms. This Licence may be terminated:
- 10.2.1 By either party giving to the other not less than **One** months notice in writing.
- 10.2.2 Forthwith by either party by notice to the other if the other commits any material breach of any term of this Licence and which ( in the case of a breach capable of being remedied ) shall not have been remedied within 30 days of a written request to remedy the same;
- 10.2.3 Forthwith by either party by notice to the other if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal

for any other composition scheme or arrangement with ( or assignment for the benefit of ) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order ( otherwise than for the purpose of an amalgamation or reconstruction );

10.3 In the event of termination by you it is agreed that:

10.3.1 any unpaid stage payments which fall due for payment prior to the termination date shall become due and payable notwithstanding such termination, but that no stage payment which falls due for payment after the termination date shall be payable by you;

10.3.2 where the termination date falls in a period between two stage payments the stage payment which relates to such period ( being the stage payment which falls at the end of such period) shall be apportioned on a daily basis throughout the period concerned and you shall be liable to pay to Delivery Union the relevant proportion of the stage payment which relates to that part of the relevant period falling prior to the termination date; and

10.3.3 any stage payments ( or any part thereof ) paid by you to Delivery Union in advance which relate to the period after the termination date shall be refunded by Delivery Union to you on the termination date.

10.4 Any termination of this Licence pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

## 11 Variations

11.1 If you request Delivery Union to modify the design or functionality of the Software or Software documentation ( including changing the functional specification ), or to change any of Delivery Union's obligations hereunder you shall make such request in writing only.

11.2 You shall provide Delivery Union as soon as reasonably practicable with an itemised statement containing particulars of any requested modification to enable the reasonableness of the proposed change and any resulting costs to be verified.

11.3 Within five ( 5 ) working days of receipt of a request pursuant to clause 11.1 above Delivery Union ( at your cost ) shall prepare a written impact statement noting whether such modification or change is technically feasible,

and including details of any increases to the Licence Fee that it shall reasonably judge appropriate as a result of such modification or change.

11.4 If Delivery Union modifies the whole or any part of the Software in accordance with this clause 11 it will prepare all appropriate related modifications to any Software documentation.

## **12 General**

12.1 Delivery Union may assign, novate or subcontract any or all of its rights and obligations under this Licence at any time.

12.2 If any provision or term of this Licence shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, such term or provision shall be divisible from the other terms and conditions and shall be deemed to be deleted from them.

12.3 This Licence and your use of the Software is governed by English law and the parties submit to the non-exclusive jurisdiction of the English Courts.

12.4 Neither Delivery Union or you will be held liable to the other for any failure to perform any obligation due to causes beyond each party's respective reasonable control.

12.5 Failure by either party to exercise any right or remedy under this Licence does not constitute a waiver of that right or remedy.

## **13 Notices**

Any notice to be given by either party to the other may be sent by recorded delivery to the address of the other party as appearing in the online registration on our website or such other address as such party may from time to time have communicated to the other in writing and if so sent shall be deemed to be served two days following the date of posting.

## **SCHEDULE 1 Charges**

### **The Licence Fee**

**Delivery Union shall charge the Licence Fee which is based upon a percentage of each confirmed delivery arranged between haulage supplier and customer as users of the Software at a rate of ten (10) per cent of the total charge levied by the haulage company to the customer.**

**The Licence Fee is due and payable to Delivery Union by the customer as sender at the conclusion of the delivery and must be paid by credit card or debit card only.**

**The haulage supplier must confirm within the online account administration area on the Delivery Union website that payment has been made before commencing any delivery. It is the haulage company's sole responsibility to satisfy itself as to payment. An email will however be sent by Delivery Union to the haulage company confirming payment has been made in cleared funds.**

**Payments by Delivery Union to all haulage company users of the Software will be invoiced and transferred monthly and the balance ( less the Licence Fee ) will be transferred to the haulage company once a month. A request can be made by a haulage company for instant payment which may take up to 48 Hours to process by Delivery Union. Each haulage company will be responsible for payment of its own VAT. It is the haulage company's sole responsibility to ensure that its bid prices include any VAT liability it may suffer.**

## **SCHEDULE 2 Hosting Provisions**

### **1. Provision of the Hosting Services**

Delivery Union will host the Software on the terms and conditions of this Schedule.

### **2. Availability**

2.1 You acknowledge that Delivery Union's systems, servers, and equipment may from time to time be inoperative or only partly operational as a consequence of mechanical breakdown, maintenance, hardware or software upgrades, telecommunications connectivity problems or other causes outside its control.

2.2 In the event of any such interruptions Delivery Union will notify you by email or facsimile as soon as reasonably practicable of any such interruptions to its ability to host the Software.

2.3 Delivery Union agrees to rectify faults or problems and to restore the system to full operational capacity as soon as reasonably practicable.

2.4 Delivery Union operates a business continuity plan for its internal systems. Delivery Union encourages you to operate your own business continuity plan to protect your systems and data.

### **3. Client Content**

3.1 Delivery Union will not be responsible for the accuracy and/or functionality of any content or data supplied by you during your operation of the Software ( 'Client Content').

3.2 Delivery Union may monitor, intercept and block any Client Content if Delivery Union reasonably forms the view that the Client Content is designed to intentionally introduce into the Software any virus or other contaminating program or fail to use an up to date virus-scanning program, be used to send unsolicited emails, spoof other computer networks and users of the Software, unreasonably interfere with other users of the Software, be misleading or deceptive or otherwise in breach of any third party's rights or in contravention of applicable law including Data Protection laws. Delivery Union may without prior notice or any liability

remove that Client Content and shall within twenty four (24) hours thereafter notify you of its removal.

- 3.3 You shall indemnify and hold harmless Delivery Union and its affiliates, employees, agents, contractors, directors, officers and third party providers from all liabilities, demands, costs and expenses (including legal expenses) arising in connection with any Client Content and acknowledge that if Delivery Union is required to permit any relevant authority to inspect the Client Content, Delivery Union has your express permission to grant such access.
- 3.4 You acknowledge that in the course of hosting the Software, Delivery Union will need to reproduce the Client Content by making transitory electronic copies.
- 3.5 Delivery Union may suspend hosting the Software without notice to you and without incurring any liability if;
  - 3.5.1 Delivery Union reasonably believes that you are in breach of this Licence;
  - 3.5.2 There is an attack on the servers or any other event for which Delivery Union reasonably believes that the suspension is necessary to protect Delivery Union's network or its other clients; or
  - 3.5.3 Such suspension is required by law or regulation.

#### **4. Marketing**

- 4.1 You acknowledge and agree that Delivery Union may use your names, logos, domain names and trademarks for the following purposes:
  - (a) Use on Delivery Union's Website;
  - (b) Use in Delivery Union's written documentation; and
- 4.2 You agree to provide a link to Delivery Union's home page from your home page. This link shall be as agreed between us.