

## **TERMS OF SERVICE**

These **TERMS OF SERVICE** are a legally binding contract between you (“TENANT”) and Trailhead Logistics, LLC (“THL”), and govern your access to any Services we provide to you and your users. If you are using the Services on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity to these Terms of Service, and “you” will refer and apply to that company or other legal entity. You are requested to accept these Terms of Service and may use the Services available on our website and our mobile apps only on the condition that you accept all the terms and conditions contained herein. We reserve the right to update and change the Terms of Service and your continued use of the Services after such changes shall constitute your acknowledgement of and consent to such changes.

**WHEREAS**, THL has developed a cloud-based service for use in routing, telematics, distribution, transportation, and logistics (“NorthStar Software”). The NorthStar Software allows use from any location in a secure environment in order to manage, communicate and collaborate in a virtual environment, based on the cloud in a secure and accessible way.

**WHEREAS**, you agree to use the Services only for the purposes permitted by these Terms of Service;

**NOW, THEREFORE**, in consideration of the premises and mutual covenants of these Terms of Service, the parties hereto agree as follows:

### **I. DEFINITIONS**

For the purpose of this Agreement, the following words and phrases have the following meaning:

“*Services*” shall mean the NorthStar Software, including any and all applications, mobile apps, programs, codes, integrations, and modifications thereto.

“*Documentation*” means all manuals, user documentation, design and development material and other related materials pertaining to the NorthStar Software.

“*TENANT*” shall mean who is responsible for payment to THL and who is supervising the use of the Services by its Users.

“*Tenant Account*” shall mean the account used by the TENANT to access the Services.

“*User*” shall mean who is associated with a TENANT to access the website and mobile app to use our Services and is supervised by and under the control of the TENANT.

“*User Account*” shall mean the account used by the User to access the Services under supervision and control of the TENANT.

“*Platform*” shall mean the web system through which the TENANT and User accesses its account to use the Services.

## **II. LICENSE AND RESERVATION OF RIGHTS**

Subject to the terms, conditions and restriction set forth in these Terms of Service, THL grants to TENANT a non-exclusive, non-transferable, and limited license to access, use, and benefit from the NorthStar Software and Documentation beginning when you start using the Services and continuing until terminated or expires as set forth herein.

The license granted herein shall not be construed to confer any rights upon the TENANT by implication, estoppel, or otherwise except as specifically provided and set forth herein. The TENANT may not use, copy, publish, emulate, clone, download, transmit, rent, lease, loan, sell, assign, modify, distribute, license, sub-license, decompile, disassemble, create derivative works, reverse engineer or transfer the NorthStar Software, the Platform or the Services. Any unauthorized use will result in immediate and automatic termination of this license and may result in criminal and/or civil proceedings.

Any rights not expressly granted herein are hereby expressly and solely reserved to THL.

## **III. LICENSE FEES AND PAYMENTS**

All rights and privileges set forth in these Terms of Service are subject to payment for the Services in accordance to the prices agreed between you and THL (“license fees”).

THL may grant a limited trial period to use the Services free of charge, and thereafter, you will be charged a recurring service fee on a monthly or annual basis and that is not refundable. There will be no refunds or credits for partial use of Services, account cancellations, or refunds for unused months.

By subscribing to the Services, the TENANT gives THL the right to charge your credit card, or bill you via other payment methods, for fees connected with the Services. THL reserves the right to change prices for the Services at any time upon a 30-day notice.

The TENANT shall be responsible for paying all (i) sales, use, excise, value-added, or other tax or governmental charges imposed on or as a result of using the Services.

## **IV. ACCOUNTS AND ACCESS**

In order to make use of the Services, the TENANT must register and keep active a Tenant Account. Also, the User must register and keep active a User Account to use the Services. The rates and data rates of the mobile network of the TENANT and/or User may apply if accessing the Services from a wireless device and THL will not be responsible for those rates and fees.

The registration of the Tenant Account requires you to provide certain personal information including your name, address, phone number, and valid payment method. You are responsible to keep your username and password safe and secure.

THL is not responsible for any damage caused or related to the theft or misappropriation of your Tenant Account or your authorization to any other individual to use your Tenant Account.

## **V. TECHNICAL SUPPORT**

THL will provide technical support for its services and applications. In order to receive technical support from THL, the TENANT must describe the nature of the problem to be solved and information about the TENANT. THL will make reasonable efforts to respond to such requests in a timely manner. The TENANT will cooperate with THL in the search for the solution by providing the necessary information to help THL diagnose and solve the problem. Although THL cannot guarantee that a technical support problem will be resolved, THL will make reasonable efforts to carry out technical support services in a professional manner.

## **VI. INTELLECTUAL PROPERTY**

Subject to the these Terms and Conditions, THL provides the TENANT with a personal, worldwide, royalty-free, non-assignable, non-transferable, revocable, limited and non-exclusive license to access and use the Platform, mobile app, and Services. This license is for the sole purpose of enabling the TENANT and its Users to have the benefit of the Services as provided by us, in the manner permitted by these Terms of Service. The TENANT shall not copy, sell, transfer, distribute, publish, or assign your license to our Services in any format to any third party. In addition, you may not use the Services in any way that violates applicable federal, state, or international law, or for any unlawful purpose.

All right, title, and interest in and to the Services are and will remain the exclusive property of THL. The Services are protected by copyright, trademark, and other laws of both the United States of America and foreign countries. All of the content generated by us for the Services and all or portions of the software used for the Services are the property of THL, our affiliates, or our suppliers, and are protected by laws of United States of America and international laws.

Nothing should be construed as granting, by implication, estoppels, or otherwise, any license or right to use any of the copyrighted works displayed or contained in the Services without our express, written consent. Nothing in these Terms of Service gives you a right to use any of our, our affiliates', or our suppliers' trade names, trademarks, service marks, logos, domain names, and other distinctive brand features.

## **VII. WARRANTIES**

THL represents and warrants (to the best of its knowledge) that the underlying NorthStar Software was designed, developed, programmed and coded by THL, and is not based upon any source code, open source software, or any related systems that infringe any third-parties copyrights.

THL PROVIDES THIS NORTHSTAR SOFTWARE TO THE TENANT "AS IS" WITHOUT WARRANTIES OF ANY KIND. THE TENANT AGREES THAT THE RIGHTS GRANTED

HEREUNDER ARE MADE AVAILABLE WITHOUT ANY OTHER WARRANTY OF ANY KIND EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND FURTHER INCLUDING NO WARRANTY AS TO CONFORMITY WITH WHATEVER USER MANUALS OR OTHER DOCUMENTATION ARE DELIVERED TO THE TENANT. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS A REPRESENTATION MADE OR WARRANTY GIVEN BY THL THAT THE USE BY THE TENANT OF THE SOFTWARE LICENSED HEREUNDER SHALL NOT INFRINGE THE PATENT RIGHTS OF ANY THIRD PARTY. IN NO EVENT SHALL, THL, ITS OWNERS, MANAGERS, OFFICERS, EMPLOYEES, AGENTS, AND ASSOCIATES, BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGE OR INJURY TO PROPERTY AND LOST PROFITS, REGARDLESS OF WHETHER THL HAVE BEEN ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT KNOW OF THE POSSIBILITY.

#### **VIII. LIABILITY AND LEGAL DEFENSE**

IN NO EVENT WILL THL BE LIABLE TO THE TENANT FOR DAMAGES, INCLUDING ANY GENERAL, SPECIAL, LOSS-OF-PROFIT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE NORTHSTAR SOFTWARE (INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR DATA BEING RENDERED INACCURATE OR LOSSES SUSTAINED BY THE TENANT OR THIRD PARTIES OR A FAILURE OF THE PROGRAM TO OPERATE WITH ANY OTHER PROGRAMS), EVEN IF THL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

In the event that the TENANT becomes subject to any form of legal dispute, legal proceeding, claim, arbitration, demand, cause of action or any related legal matter based on infringement arising directly upon the TENANT's use of the NorthStar Software (or rights conveyed under these Terms of Service) (hereinafter a "Claim"), THL agrees to (a) identify and select appropriate and competent legal counsel for purposes of defending any such Claim(s) brought against the TENANT, (b) pay for the reasonable attorneys' fees and costs associated with any defense of such Claim(s), and (c) participate and assist with the defense of any such Claim(s). In the event that the TENANT becomes subject to a Claim, the maximum aggregate liability of THL to the TENANT shall be solely and exclusively limited to those license fees paid by the TENANT to THL under these Terms of Service.

#### **IX. TERMINATION**

The duration of these Terms of Service ("Term") will begin when the TENANT starts using the Services and continuing until terminated or expires as set forth herein. THL reserves the right to modify, suspend or discontinue the Services or any part thereof, at any time. Without prejudice to any other right, these Terms of Service will terminate automatically if you (or your Users) fail to comply with any of the limitations or other requirements described in this document such as

making payments. Upon termination you will no longer be authorized to access and use the Services in any way.

Any abuse of the Services will lead to termination of your account. THL reserves the right to decide what is considered abuse of the Services. This includes, but is not limited to, tracking people for unlawful purposes and/or without their knowledge. If your account is terminated, your rights to use the Services will cease immediately. Termination is without prejudice to all other remedies available to THL by law or under these Terms.

All provisions of these Terms of Service relating to disclaimers of warranties, limitation of liability and remedies and damages shall survive termination.

## **X. MISCELLANEOUS**

THL and the TENANT shall not be liable for any loss or delay resulting from any force majeure event, including acts of God, fire, natural disaster, terrorism, labor stoppage, war or military hostilities, inability of carriers to make scheduled deliveries, or inability of any third party to provide its services to THL including, but not limited to, data center related issues and HERE service interruptions, and any payment or delivery date shall be extended to the extent of any delay resulting from any force majeure event.

These Terms of Service shall be construed, governed, interpreted and applied in accordance with the laws of the State of Florida, without reference to its conflicts of law provisions. Venue for any action arising out of or relating to these Terms of Service shall be in Orlando, Florida and the parties expressly waive any objections to such jurisdiction and venue.

Should any dispute or legal action arise out of these Terms of Service or the obligations stated herein, or is based upon these Terms of Service or any of its provisions, the prevailing party in any dispute or action shall be entitled to recover his/her or its reasonable attorney's fees, expenses and costs incurred in connection with such a dispute or action, including attorney's fees and costs through all appeals.

These Terms of Service will be enforced to the fullest extent permitted by applicable law. If for any reason any provision of these Terms of Service is found to be invalid or unenforceable under the law applicable to any measure, then (a) such provision will be interpreted, or amended to the extent reasonably required to make it valid and applicable and consistent with the original intent underlying that provision; and (b) such invalidity or unenforceability shall not affect any other provision of these Terms of Service.