

Terms & Conditions

1. Introduction & Acceptance of Agreement

Subtrux Pty Ltd (ACN 623 495 063) ("**Subtrux**") is a technology services provider, which makes available an application that assists with matching Drivers and Senders for the transportation of goods. Through its application, Subtrux creates a marketplace for Senders to advertise Job Briefs and to enable independent third-party Drivers to accept and complete those jobs. The Services are provided to the Sender only as set out in the Agreement. Subtrux does not provide Transportation Services, nor is it in the business of doing so. This document sets out the terms and conditions of the legally binding agreement between you ("**you**"), or the **Driver** and Subtrux ("**Agreement**"). Upon your execution (electronic or otherwise) of this Agreement, you agree to be bound by the terms of this Agreement. If you do not agree to the Agreement, you may not access or use the Subtrux App or the Services. Any prior agreements or arrangements with you are expressly superseded by this Agreement. Subtrux may terminate this Agreement or any Services with respect to you at any time for any reason. The terms and conditions of this Agreement must be read carefully. Aspects of the Services may be subject to additional conditions, guidelines, policies, terms, rules, or procedures which will be provided to you in conjunction with this Agreement. All such additional conditions, guidelines, policies, terms, rules, or procedures are incorporated by reference into this Agreement.

By entering into this Agreement, you acknowledge and agree that Subtrux is a technology services provider and that Subtrux does not provide Transportation Services. Subtrux enables interactions, communications, bookings and payments between Drivers and Senders via the Subtrux App. However, Subtrux is not a party to any Jobs between Drivers and Senders and does not verify the suitability or ranking of the Driver or Sender, the transportation services or the Job.

2. Drivers and Senders are wholly responsible for ensuring that their use of the Subtrux App and Jobs enabled by it comply with applicable Laws and third-party agreements. Such Laws and third-party agreements include but are not limited to premises leases, road transport and traffic legislation including heavy vehicle national law, vehicle standards and licensing including fatigue management requirements and best practice, dangerous goods legislation, health and safety requirements, and taxation regulations and laws. You will be wholly responsible for any additional fees and charges incurred by you in connection with the Subtrux App and/or the Transportation Services (whether arising directly or indirectly).

(a) The following definitions apply unless the context requires otherwise:

- (i) **Act** means the Corporations Act 2001 (Cth).
- (ii) **ADC** means the Australian Disputes Centre Ltd (or, if that organisation ceases to exist, a similar organisation nominated by the party referring the Dispute to mediation).
- (iii) **ADC Guidelines** means ADC Guidelines for Commercial Mediation (or if the ADC ceases to exist, the guidelines for mediation of any similar organisation nominated by the party referring the Dispute to mediation) in force from time to time, the terms of which are incorporated into this Agreement.
- (iv) **Affiliate** means, in relation to any entity, any other entity that is a Related Body Corporate of the first mentioned entity, or controls, or is controlled by, or under common Control by the first mentioned entity.
- (v) **App Store** means the third-party from which the Driver obtains the Subtrux App.
- (vi) **Authority to Leave** means a written document obtained by the Driver from the Sender setting out the Sender's authority to leave the Goods to be delivered for a Job to a Delivery Site that is unattended
- (vii) **Business Day** means a day other than a Saturday, Sunday or public holiday in Victoria, Australia, and the capital city of the state in which the Goods are to be delivered or the Services are to be performed.
- (viii) **Cancellation Fee** means the amount equivalent to the call out rate for the Vehicle from the time that the Driver commences the Job Brief until the time that the Job has been cancelled.
- (ix) **Claim** means, in relation to a party, means any claim, demand, action, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy, whether by original claim, cross claim, counterclaim or otherwise whether arising at common law, in equity, under statute or otherwise wherever arising, whether known or unknown, whether present, unascertained, immediate, future or contingent made or brought by or against the party.
- (x) **Collection Fee** means the fee paid by the Driver to Subtrux in accordance in the amount notified by Subtrux to the Driver, as notified by Subtrux to the Driver from time to time.
- (xi) **Commencement Date** means the date the parties enter into this Agreement.
- (xii) **Completed Job** means that a Job will be complete if an Invoice is not disputed within the Dispute Period
- (xiii) **Confidential Information** means all information of a confidential nature, in any form whether tangible or not and whether visible or not, disclosed or communicated by a party to the other, or learnt or accessed by, or to which the other

party is exposed as a result of entering into this Agreement and includes, without limitation, any information and material concerning the contractual or commercial dealings, financial details, products or services (current or proposed), customers, employees, internal policy, the Intellectual Property Rights of a party, any other information which a party gives to another party under or in connection with the Agreement that is non-public, or dealings under this Agreement including the terms and conditions of this Agreement and the fact of its existence and all information regardless of form that relates to Subtrux and its Affiliates, its businesses or affairs and that, either before or after the date of this Agreement, is disclosed directly or indirectly by any means to you by Subtrux or its Affiliates or any of their officers, employees, agents or advisers, or otherwise comes to your knowledge, and any notes, reports and documents which contain or refer to the information described in this paragraph herein

- (xiv) **Consents** means any licences, clearances, permissions, certificates, permits, authorities, declarations, exemptions, waivers, approvals or consents.
- (xv) **Consequential Loss** means any:
 - (A) loss of expected savings, loss of use, loss of opportunity, loss of profits, loss of revenue, loss of income, loss of data, loss of or damage to reputation, loss of or damage to goodwill, loss of business opportunities (including opportunities to enter into or complete arrangements with third-parties), loss of management of time, damage to credit rating, loss of business, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise; and
 - (B) any loss, not arising naturally (that is according to the usual course of things), from the relevant breach, whether or not such loss is reasonably supposed to have been in the contemplation of both parties, at the time they made the Agreement, whether foreseeable, as the probable result of the relevant breach.
- (xvi) **Control** means control as defined by section 50AA of the Act.
- (xvii) **Credentials** means the necessary security measures and information provided by Subtrux to the Driver to enable the Driver to access its Driver Account.
- (xviii) **Dangerous Goods** means any good that is classified as a dangerous good in any Australian Laws.
- (xix) **Data** means data (excluding Personal Information) that the Driver or Sender inputs into the Subtrux App or provides to Subtrux or its Personnel by any other means or that is otherwise obtained by or on behalf of Subtrux or its Personnel via the Subtrux App or by any other means.
- (xx) **Delivery Site** means any physical location to which Goods must be delivered by the Driver in order to complete a Job.
- (xxi) **Delivery Time** means the time by which the Goods must be delivered in accordance with the Job Brief as specified by the Sender.
- (xxii) **Resulting Information** means materials, data and insights derived or created by or on behalf of Subtrux or its Personnel in accordance with clause 20, which are based on, or created or derived from, the Data.
- (xxiii) **Device** means the device provided and used by the Driver to access the Subtrux App.
- (xxiv) **Dispute** means a dispute between the parties arising in connection with this Agreement.
- (xxv) **Dispute Period** means the period of time in which the Sender may dispute the Job Calculation, as notified by Subtrux to the Driver and the Sender from time to time.
- (xxvi) **Driver** means an independent third-party driver who is registered to a Driver Account, who meets the Driver Conditions, is matched to a Sender using the Services, and who provides Transportation Services for a Sender.
- (xxvii) **Driver Account** means the provision of a registered driver account by Subtrux to the Driver to enable the Driver to access and use the Services.
- (xxviii) **Driver Conditions** means the following requirements, and as amended by Subtrux from time to time:
 - (A) The Driver must be capable of operating each Vehicle registered to the Driver's Driver Account safely and in accordance with any applicable Laws, including being medically fit by reference to any Laws and in the reasonable opinion of Subtrux;
 - (B) The Driver must comply with all Laws in relation including in relation to fatigue management, speeding, restraint of goods, occupational health and safety and any other Laws that may impact upon a Driver's ability to comply with this Agreement.

- (C) The Driver must obtain and maintain all Consents necessary to enable it to perform its obligations under this Agreement without infringing any Law or the rights of any person.
- (D) At Subtrux's request, the Driver must provide, at their own cost and expense, a current medical report produced for the purpose of demonstrating that they meet the medical requirements under any applicable Laws;
- (E) The Driver must maintain all licenses required to operate each Vehicle registered to the Driver's Driver Account and must provide a copy of the Driver's license(s) to Subtrux;
- (F) The Driver must authorise Subtrux to perform any license checks or State and National Police checks of the Driver.
- (G) The Driver must provide Subtrux a current police check, or any police checks when requested by Subtrux at the Driver's own expense.
- (H) The Driver must inform Subtrux of any information which may have an effect on the Driver's ability to satisfy the Driver Conditions, including actual or potential changes:
- to the Driver's health that may or does affect their ability to operate a Vehicle;
 - to the status (including loss of licence) or type of licence that Driver holds;
 - to Driver's criminal record; or
 - to Driver's ability to operate a vehicle in accordance with any applicable Law.
- (I) The Driver must be registered for GST and must provide the Driver's ABN to Subtrux in writing. The Driver must also give written notice to Subtrux if the Driver ceases to be registered for GST;
- (J) The Driver must provide personal details to Subtrux including name, address, business details, email address, bank information and any other information that may be reasonably requested by Subtrux from time to time;
- (K) The Driver must carry a minimum of gloves, hardhat and high visual shirt personal protective equipment with them at all times;
- (L) The Driver must be able to demonstrate that the Driver has the required skill to carry out Transportation Services, which includes demonstrating that the Driver holds the appropriate licenses, accreditation or certification required to operate the Vehicle registered to the Driver's account.
- (xxix) **Driver Ratings** means the provision by the Sender of a rating of the Driver for each Completed Job and, optionally, the provision of comments or feedback about the Driver.
- (xxx) **Driver Status** means either that the Driver's availability is set to "Online" in the Subtrux App, or "Offline" in the Subtrux App.
- (xxxi) **Feedback** means any feedback, suggestions, bug reports, system errors and other information or ideas in relation to the Subtrux App or the Services.
- (xxxii) **Force Majeure Event** means an event or circumstance, which is beyond the reasonable control and without the fault or negligence of the party claiming force majeure and which by the exercise of reasonable diligence the party affected was unable to prevent provided that event or circumstances is limited to of the following:
- (A) act of God, lightning, storm, flood, fire, earthquake or explosion;
 - (B) strike, lockout or other labour difficulty;
 - (C) act of public enemy, war (declared or undeclared), terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic;
 - (D) riot, invasion, act of foreign enemies, hostilities (whether war be declared or not), military or usurped power, requisition or compulsory acquisition by any governmental or competent authority;
 - (E) ionising radiation or contamination, radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component;
 - (F) the effect of any applicable Laws, orders, rules or regulations of any government or other competent authority;

- (G) embargo, power or water shortage, lack of transportation, lack of public or private telecommunications networks;
- (H) breakage or accident or other damage to machinery;
- (I) strikes or industrial disputes at a national level, or strikes or industrial disputes by labour not employed by the affected party, its Personnel, sub-contractors or its suppliers, and which affect an essential portion of the works, but excluding any industrial dispute which is specific to the performance of the works or this contract.
- (xxxiii) **Goods** means items desired by a Sender to be delivered by a Driver.
- (xxxiv) **Governmental Agency** means any government or any governmental, semi-governmental or judicial entity or authority. It also includes any self-regulatory organisation established under statute or any stock exchange.
- (xxxv) **GST** means any tax calculated by reference to the value of goods or services provided, calculated and levied at the point of sale or supply of the goods or services and includes GST within the meaning of that abbreviation in the GST Act.
- (xxxvi) **GST Act** means A New Tax System (Goods and Services) Tax Act 1999 and includes other GST related legislation and regulations under the legislation, as amended from time to time.
- (xxxvii) **Indemnified Parties** means Subtrux, its Affiliates, Related Bodies Corporate, Personnel, successors, and assigns.
- (xxxviii) **Insolvency Event** means:
- (A) For the Driver, being in liquidation or provisional liquidation, bankruptcy or under administration, having a controller (as defined in the Act) or analogous person appointed to the Driver or any of the Driver's property, being taken under section 459 F (1) of the Act to have failed to comply with a statutory demand, being unable to pay the Driver's debts, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing the Driver's own affairs for any reason, taking any step that could result in the Driver becoming an insolvent under administration (as defined in section 9 of the Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of the Driver's members or creditors, or any analogous event.
- (B) For any party:
- a party ceases, suspends or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of a substantial part of its assets;
 - a party becomes unable to pay its debts when they fall due, or stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
 - a party becomes or is (including under legislation) deemed or presumed to be insolvent;
 - a party has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of it or the whole or any part of its assets or business;
 - any composition or arrangement is made with any one or more classes of its creditors;
 - except for the purpose of solvent amalgamation or reconstruction, an order, application or resolution is made, proposed or passed for its winding up, dissolution, administration or liquidation;
 - a party enters into liquidation whether compulsorily or voluntarily; or
 - any analogous or comparable event takes place in any jurisdiction.
- (xxxix) **Intellectual Property Rights** means all industrial and intellectual property rights of any kind including but not limited to copyright (including rights in computer software), trade mark, service mark, design, patent, logo, trade secret, semiconductor or circuit layout rights, trade, business, domain or company names, moral rights, rights in Confidential Information, technical information, know how, drawings, inventions, discoveries, research developments, rights in data bases, source codes or other proprietary rights (whether or not any of these are registered and including any application, or right to apply, for registration) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world, and any application or right to apply for registration of any of the rights in this definition and all renewals and extensions of those rights.
- (xl) **Invoice** means a tax invoice setting out the Job Calculation, any applicable Cancellation Fees, the Service Fee and details about the Driver and the Job.

- (xli) **Job** means a Job Brief that has been accepted by a Driver, which sets out further information about the Sender's requirement for the delivery of Goods.
- (xlii) **Job Amendment** means if the Sender wants to add additional Goods to a Job or other Delivery Sites.
- (xliii) **Job Calculation** means the cost of the Job, which is calculated by Subtrux once the Driver has delivered the Goods and has obtained Proof of Delivery.
- (xliv) **Job Brief** means a request by a Sender to transport Goods which has been matched with a Driver, and which can be accepted or declined by a Driver using the Subtrux App.
- (xlv) **Law** means all laws including rules or requirements of common law, principles of equity, statutes, regulations, proclamations, order in council, ordinances, by-laws, rules, regulatory principles, requirements and determinations, mandatory codes of conduct, writs, orders, injunctions and judgments, whether commonwealth, state, territorial, local, or otherwise.
- (xlvi) **Liability Cap** means the amount equal to the fees paid to the Driver in the preceding three-month period from the time the event occurred that gave rise to the Claim.
- (xlvii) **Loss** means any loss, liability, Claim, damage, cost, charge, fine or penalty imposed by a statutory or other authority, expense or diminution in value, however arising, and whether present or future, fixed or unascertained, actual or contingent.
- (xlviii) **Manager** means an entity, whether individual or otherwise, that employs, contracts, procures or makes other arrangements with Manager Personnel in relation to their use of the Subtrux App and the Services.
- (xlix) **Manager Account** means the provision of a registered Manager Account by Subtrux to the Manager to enable Manager Personnel to use the Subtrux App and Services on behalf of the Manager.
- (l) **Manager Personnel** means Drivers that are employed by contract with or make other arrangements with Managers in relation to their use of the Subtrux App and Services.
- (li) **Minimum Driver Rating** means the average rating given by Senders to a Driver that exceeds the minimum average acceptable rating established by Subtrux, as may be updated from time to time by Subtrux in its sole discretion.
- (lii) **Notice** means any notice, demand, consent or other communication.
- (liii) **Officer** has the meaning given in the Act.
- (liv) **Offline** means the Driver is not available to accept any Job Briefs
- (lv) **Online** means the Driver is available to accept Job Briefs
- (lvi) **Permitted Timeframe** means the period of time in which Driver may accept or decline a Job Brief once it has been notified to the Driver, as notified by Subtrux to the Driver from time to time.
- (lvii) **Personal Information** means:
 - (A) information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion; or
 - (B) information or a document that relates to the affairs or personal particulars of another person (such as a company or a business), which is received or learnt from any source as a consequence of or in the performance of this Agreement;
 - (C) "personal information" as defined in the Privacy Act that either party has collected, received or otherwise has access to in connection with this Agreement.
- (lviii) **Personnel** means in respect of a person any employee, contractor, servant, officer, agent, or other person under the person's direct or indirect control and includes any subcontractors.
- (lix) **Pick-up Location** means any physical location from which the Goods must be picked-up by the Driver in order to commence and complete a Job.
- (lx) **Privacy Act** means the Privacy Act 1988 (Cth).

- (lxi) **Privacy Policy** means the privacy policy of available at www.subtrux.com.au/privacy, as amended from time to time.
- (lxii) **Proof of Delivery** means the proof of delivery document signed by the Receiver or the Sender (or as otherwise expressly provided in this Agreement). For the avoidance of doubt, this proof of delivery document includes an electronic version of the document signed by the Receiver or the Sender on the Driver's Device.
- (lxiii) **Receiver** means the person responsible for receiving the delivery of the Goods of a Job.
- (lxiv) **Registration Process** means the process undertaken by the Driver to become familiar with the Services and any other policies or guidelines that may be applicable as set out and determined by Subtrux from time to time.
- (lxv) **Regulatory Event** means an amendment, repeal or change in Law, the enactment of a new Law, or a change in the interpretation or application of a Law (including privacy Laws), or a direction, notice or order of a Governmental Agency which is binding on Subtrux or the Driver.
- (lxvi) **Related Body Corporate** has the meaning given in the Corporations Act 2001 (Cth).
- (lxvii) **Sender Rating** means the provision by the Driver of a rating of the Sender for each Completed Job and, optionally, the provision of comments or feedback about the Sender.
- (lxviii) **Services** means that Subtrux:
 - (A) makes the Subtrux App available to the Driver to facilitate the matching of a Driver with a Sender when the Sender requires the transportation of Goods, with drivers who are available to transport those Goods;
 - (B) may provide its on-demand lead-generation services that enable Drivers to seek, receive and satisfy Job Briefs made by Senders; and
 - (C) acts as a collection agent on behalf of the Driver for the amount charged to the Sender for the transportation of Goods
- (lxix) **Service Records** means the records or other documents that set out the servicing history of the Vehicle.
- (lxx) **Service Fee** means the amount calculated as a fixed percentage of the amount of the Job Calculation exclusive of GST, or the GST-exclusive amount charged for the Cancellation Fee (as applicable), which the Driver has no recourse to for any reason whatsoever.
- (lxxi) **Subtrux App** means the mobile or desktop application (as updated from time to time) or any other application (approved by Subtrux) used to provide the Services.
- (lxxii) **Tax** includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding that is levied or imposed by a Governmental Agency, and any related interest, penalty, charge, fee or other amount.
- (lxxiii) **Term** means the period being the commencement of the Agreement from the Commencement Date and until the Agreement is terminated in accordance with its terms.
- (lxxiv) **Third-Party Content** means links to third party websites, services or advertisements for third parties, which may be contained in the Subtrux App and/or Services.
- (lxxv) **Transportation Services** means the transportation of Goods by a Driver for a Sender (including, if applicable, the loading and unloading of the Goods under the instruction of a Sender or a Receiver).
- (lxxvi) **Vehicle** means any vehicle registered to a Driver Account by a Driver, that meets the Vehicle Conditions, used by a Driver to provide Transportation Services.
- (lxxvii) **Vehicle Conditions** means the following requirements, as amended by Subtrux from time to time:
 - (A) Each Vehicle must be maintained, and in good working condition and order, at all times, and serviced in accordance with the relevant Laws.
 - (B) The Vehicle must comply with all relevant Laws in relation to that Vehicle;
 - (C) At Subtrux's request the Driver must produce Service Records in relation to any and each Vehicle registered or proposed to be registered to a Driver Account.
 - (D) Each Vehicle must meet the specific requirements for its vehicle type and size classification.

- (E) Each Vehicle must have a minimum of \$5,000.00 load insurance, \$20,000,000.00 of third-party liability insurance, and any other insurance required by applicable Laws.
- (F) Each Vehicle must contain sufficient equipment that a reasonable person would expect to have on board a Vehicle to be able to move the types of goods that may be reasonably matched to a Vehicle of its classification and size, as evidenced by a visual inspection of the equipment by Subtrux or its Personnel as part of the Vehicle safety inspection. At a minimum (and without limiting the foregoing):
- Each Vehicle must have a dashboard-mounted hands-free, which must not inhibit the Driver's vision;
 - Each Vehicle must at all times have a mobile phone power bank or charger;
 - each Vehicle must carry a sufficient number of graded restraints and ratchets in their Vehicles for the size of the Vehicle and the types of goods that the Vehicle may be reasonably requested to move. All Vehicles must have a minimum of two 2.5 tonne graded restraints per pallet that can be moved by a Vehicle of its size;
- (G) The Driver must ensure that each Vehicle maintains and carries appropriate equipment on board the Vehicle at all times for the purposes of moving the types of goods that may fit into a Vehicle of its classification and must have (where applicable) for the purposes of tying and securing the goods down such as rated tie downs, hardwood gluts, gates or side pins, fully operations tail lifts, moving blankets, hand held trolleys and locking mechanisms.
- (lxxviii) **Update** means any update or upgrade to the Subtrux App issued by from time to time.
- (lxxix) **User Content** means any and all information, data and other content that a Driver or Sender submits to, or uses with, the Subtrux App or Services.

3. Interpretation

- (a) The following rules apply unless the context requires otherwise, or expressed to the contrary:
- (i) headings are for convenience only and do not affect interpretation in this Agreement;
 - (ii) any gender includes the other gender
 - (iii) words in the singular include the plural, and the converse also applies;
 - (iv) nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it;
 - (v) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - (vi) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
 - (vii) a reference to a clause, paragraph, annexure or schedule is a reference to a clause of, paragraph of, annexure to, or Schedule to, this Agreement;
 - (viii) a reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document;
 - (ix) a reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives);
 - (x) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
 - (xi) a reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in visible or tangible form;
 - (xii) a reference to conduct includes an omission, statement or undertaking, whether or not in writing; a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind;

- (xiii) mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included;
- (xiv) a reference to dollars and \$ is to Australian currency or such other currency set out in the relevant Order;
- (xv) a reference to time is local time in Melbourne; and
- (xvi) a month means a calendar month.

4. Driver Accounts

- (a) The Driver acknowledges and agrees that Subtrux does not, nor is deemed to, direct or control the Driver generally or in its performance under this Agreement specifically, including in connection with the Driver's provision of Transportation Services, its acts or omissions, or its operation and maintenance of its Vehicle, otherwise as set out under this Agreement.
- (b) Subtrux will provide a Driver Account to a Driver if.
 - (i) in relation to Manager Personnel, the Driver is registered to a Manager Account;
 - (ii) one Driver is registered to the Driver Account;
 - (iii) the Driver meets the Driver Conditions; and
 - (iv) One or more Vehicles have been registered:
 - A. to the Driver Account;
 - B. in relation to Manager Personnel, to the Manager Account and the Driver Account
 - (v) each Vehicle registered to satisfies the Truck Eligibility Requirements.
- (c) A Driver Account is personal to a Driver and can only be accessed and used by the Driver to which the Driver Account is registered.
- (d) Once a Driver Account has been activated by Subtrux, the Driver will also be provided with Credentials. The Driver must keep their Credentials secure and confidential. Personnel (if any) are not permitted to use that Driver's Driver Account. A Driver must not use another Driver's Credentials.
- (e) All activity, including activity in breach of the provisions of this Agreement, undertaken using the Driver's Credentials will be deemed to be the activity of the Driver.
- (f) The Driver must notify Subtrux immediately if it becomes aware of any unauthorised use, or suspected unauthorised use, of the Driver Account.
- (g) Subtrux may suspend or deactivate the Driver Account in the following circumstances:
 - (i) a breach of the terms of this Agreement by the Driver;
 - (ii) the Driver commences a Job and fails to proceed directly to the Job's pickup location;
 - (iii) the Driver fails to provide the Transportation Services, or deliver the Goods, by the Delivery Time in accordance with the Job Brief;
 - (iv) The Driver selects routes to complete the Job that are considered to be unreasonable in the circumstances;
 - (v) The Driver commences a Job with a Vehicle that contains goods that are unrelated to the Job;
 - (vi) The Driver accepts a Job and picks up goods that are unrelated to the Job during the course of the Job;
 - (vii) The Driver fails to complete a Job;
 - (viii) The Driver fails to follow the Job Brief;
 - (ix) The Driver does not meet the Driver Conditions;
 - (x) The Vehicle does not meet the Vehicle Conditions;

- (xi) The Driver fails to inform Subtrux of any circumstance that may affect the Driver's ability to comply with the Driver Conditions or the Vehicle Conditions;
- (xii) the Driver receives negative ratings or reviews from a Sender, and/or the Driver consistently receives Driver Ratings considered unacceptable by Subtrux.;
- (xiii) The Driver uses the Services to be matched to a Sender and then obtains or attempts to provide Transportation Services independently of the Subtrux App and/or Services, for any other reason;

5. Driver Conditions & Vehicle Conditions

- (a) Without limiting the provisions of this Agreement, the Driver must always meet the Driver Conditions. Subtrux has sole and absolute discretion to determine whether a Driver meets the Driver Conditions
- (b) The Driver represents and warrants that the Driver meets the Driver Conditions during the time that that Driver uses the Services and the Subtrux App. Without limiting the provisions of this Agreement, a Vehicle can only be registered to a Driver Account if the Vehicle meets the Vehicle Conditions and the Driver represents that the Vehicle meets the Vehicle Conditions. Subtrux has sole and absolute discretion to determine whether a Vehicle meets the Vehicle Conditions and whether it will allow a Vehicle to be registered to a Driver Account.
- (c) Driver must not drive a Vehicle for the purposes of utilising the Services if the Vehicle does not meet the Vehicle Conditions at that time.
- (d) The Driver represents and warrants that the Driver is the owner or lessee, or is otherwise in lawful possession, of the Vehicle and has all necessary rights and Consents (as applicable) to provide Transportation Services, and the Driver will provide any information, as and (when it occurs, including updated Service Records, updated changes to insurance or renewal of insurance details that may affect compliance with the Vehicle Conditions, at Subtrux's request.
- (e) If the Driver has set the Driver Status to Online, the Driver must only use the Device in compliance with all applicable Laws (including in relation to the use of the Device while driving)

6. Job Briefs

- (a) If a Driver is matched to a Sender, the Driver will receive a Job Brief setting out:
 - (i) the approximate pick-up location of the Goods and the type of Goods;
 - (ii) the Delivery Site;
 - (iii) the time by which the Goods are to be delivered.
- (b) The Driver must not set the Driver Status to Online unless the Driver has completed the Registration Process.
- (c) The Driver must accept or decline a Job Brief within the Permitted Timeframe. If the Driver does not respond to the Job Brief within the Permitted Timeframe, the Driver will be deemed to have declined the Job Brief.
- (d) The Driver is not obligated to accept any Job Brief, and Subtrux is under no obligation to provide any minimum number of Job Briefs to the Driver.
- (e) The Driver acknowledges and agrees that the Driver will enter into a separate agreement, which may or may not be in the form of a consignment note with the Sender (or if the Sender is not the Consignor, with the Consignor) for the carriage of the Goods once they have been matched using the Services.
- (f) If the Driver is not ready, willing, and able to accept any Job Briefs, the Driver must set the Driver Status to Offline and log out of the Subtrux App.
- (g) The Driver acknowledges and agrees that any agreement or consignment note entered into with the Sender or Consignor pursuant to this clause will not be inconsistent with the terms of this Agreement.

7. Undertaking a Job & Location-based services

- (a) Undertaking a Job will typically include, but is not limited to:
 - (i) Subtrux providing notification, if necessary, to the Sender of arrival of the Vehicle at the pick-up location;
 - (ii) timely submission of all documentation required by Subtrux and the Sender (including Proof of Delivery); and

- (iii) Subtrux providing notification, if necessary, to the Sender of delivery of the Goods at each delivery location.
- (b) Once a Driver commences a Job after that Driver has been matched with a Sender, the Driver will proceed to the pick-up location for the Job. If the Sender cancels a Job between the time the Driver commences a Job and the time Driver arrives at the pick-up location to undertake a Job, the Sender will be charged a Cancellation Fee.
- (c) The Driver is not responsible for loading or unloading the Goods, unless they have the requisite equipment required for doing so and can do so in a safe and responsible manner which is compliant with all applicable Laws (including Laws in relation to occupational health and safety). The Driver is responsible for ensuring that the load is secure and that the load has adequate load restraint in accordance with applicable Laws.
- (d) The Driver is solely responsible for all costs and expenses associated with the provision of the Transportation Services and the undertaking of Jobs, including but not limited to fees and Taxes, wages, cost of fuel, tolls and fines insurance, and licensing.
- (e) The Driver must not cause or permit any Goods to be transported by any other person, or any other mode of transport, than the Driver and the Vehicle which have been matched to the Job.
- (f) If the dimension of the Goods and the weight of the Goods at the pickup location do not match the Goods described in the Job Brief or the Job, and as a consequence the Goods exceed the permitted carrying capacity of the Vehicle, or a Driver reasonably considers that the goods are illegal or Dangerous Goods or that the goods are unsafe to carry, a Driver is entitled to reject the Job and Sender will be charged a Cancellation Fee.
- (g) The Driver may accept a Job Amendment, but not before the Driver first conferring with Subtrux and obtaining Subtrux's approval to the Job Amendment.
- (h) If the Driver does not accept a Job Amendment before commencing the Job and the Sender does not wish to continue with the Job, the Driver is entitled to reject the Job
- (i) If the Driver does not accept a Job Amendment after commencing the Job and the Sender does not wish to continue with the Job, the Driver is entitled to reject the Job and the Sender will be charged a Cancellation Fee.
- (j) The Driver acknowledges and agrees that the Driver's geo-location information must be provided to Subtrux via a Device in order to provide Transportation Services. The Driver acknowledges and agrees that the Driver's geo-location information may be obtained by Subtrux while the Subtrux App is running and the approximate location of the Driver's Vehicle will be displayed to the Sender before and during the provision of Transportation Services to such Sender. In addition, Subtrux, its Related Bodies Corporate and its Affiliates may monitor, track and share with third-parties the Driver's geo-location information obtained by the Subtrux App and Device for safety and security purposes.
- (k) The Vehicle used by Driver may be tracked using the global positioning system on the device used by Driver at all times whilst the Driver is using the Services and providing the Transportation Services. Subtrux may also provide information about the Driver's global position from the time a Job Brief is accepted until the Driver has submitted the final Proof of Delivery.
- (l) The Driver agrees and acknowledges that Subtrux may ask for permission to access certain hardware or software features of the Device (such as location services). Subtrux will only access these features with the consent of Driver, and only for the purpose of enabling the particular functions of the Subtrux App. If the Driver does not consent, the Driver may not be able to use or receive the benefit of some or all of the functionality of the Subtrux App or the Services. The Driver acknowledges and agrees that information collected about their location may be disclosed to third parties including the Sender for the relevant Job.
- (m) The Driver will be solely responsible for any and all liability which results from the provision of the Transportation Services, including any Loss, damage, injury or delay. To the extent permitted by Law, Subtrux disclaims any liability to Sender or any third party arising from or in connection with the provision of Transportation Services.
- (n) To the extent permitted by applicable Laws, traffic conditions and loading and unloading times, the Driver must not take any unnecessary breaks, or make any unauthorised stops, from the time the Driver commences a Job until the Driver has submitted a Proof of Delivery.
- (o) If the Driver is required by Law to stop or take a break during the performance of a Job, the Driver must alert Subtrux using the contact options in the Subtrux App at the commencement of the break and at the end of the break.
- (p) The Driver will be solely responsible for any and all liability which results from the provision of the Transportation Services, including any Loss, damage, injury or delay.

8. Completed Jobs

- (a) The Driver must ensure that the Receiver provides Proof of Delivery once the Goods have been delivered to the Delivery Site.
- (b) If a Delivery Site is unattended, and only if the Sender or the Receiver has provided permission for the Goods to be delivered when the Delivery Site is unattended, the Driver must deliver the Goods, photograph the Goods, and alert Subtrux (via the Subtrux App) as the Proof of Delivery to complete the Job The Driver must also produce to Subtrux the Authority to Leave.

- (c) If a Delivery Site is unattended, and the Sender or Receiver has not provided permission for the Goods to be delivered to the Delivery Site when unattended, the Driver must make reasonable efforts to contact the Sender and/or the Receiver in order to deliver the Goods. In the event that the Goods cannot be delivered or returned to the Sender, the Driver must deliver the Goods the following Business Day unless otherwise agreed between the Driver and the Sender. The Driver must contact and alert Subtrux to this course of action.
- (d) The algorithm for the Job Calculation may include any parameters considered relevant by Subtrux may change from time to time and Subtrux may change the Job Calculation at any time.
- (e) On behalf of the Driver, Subtrux will issue the Sender by email with an Invoice, which will be charged to the Sender upon production of Proof of Delivery to Subtrux.
- (f) The Sender may dispute the Invoice within the Dispute Period.

9. Damage and injury claims

- (a) The Driver will notify Subtrux of any damage to Goods or other property or injury caused or incurred in the course of providing Transportation Services as soon as practicable after the damage or injury occurs.
- (b) Without limiting the provisions of this Agreement, the Driver agrees and acknowledges that the Driver will be responsible for any damage to Goods or other property or injury caused or incurred in the course of providing Transportation Services, and the Driver will need to resolve any Claim directly with the Sender or a third-party (including any dispute over insurance coverage).
- (c) The Driver agrees to fully co-operate with the Sender and/or Subtrux to resolve damage or injury claims as quickly as possible.

10. Ratings

- (a) You acknowledge and agree that:
 - (i) from time to time, after providing the Transportation Services, the Driver will provide Sender Ratings for each Completed Job and in good faith, and the Sender may provide Driver Ratings for each Job.
 - (ii) The Driver Ratings and the Sender Ratings will be used by Subtrux to monitor and improve the standard and provision of the Services.
 - (iii) Subtrux desires that Senders have access to high-quality services via the Subtrux App. In order to continue to receive access to the Subtrux App and the Services, the Driver must maintain a Minimum Driver Rating. The Driver Rating is intended to reflect the Senders' satisfaction with the Driver's provision of the Transportation Services.
 - (iv) In the event the Driver's average rating falls below the Minimum Driver Rating, Subtrux will notify the Driver and may provide the Driver, in Subtrux's discretion, a limited period of time to raise the Driver's average rating above the Minimum Driver Rating. If the Driver does not increase the Driver's average rating above the Minimum Driver Rating within the time period allowed (if any), Subtrux reserves the right to deactivate the Driver's access to the Subtrux App and the Services.
 - (v) The Driver acknowledge that the Driver's repeated failure to accept Job Briefs while the Driver Status is set to Online creates a negative experience for Senders. If the Driver does not wish to accept Job Briefs, Driver must log off from the Subtrux App. If the Driver consistently receives Driver Ratings considered unacceptable by Subtrux, Subtrux may, at its sole and absolute discretion, deactivate a Driver Account and/or terminate this Agreement.
 - (vi) Where the Driver is dissatisfied with the Driver Ratings provided by a particular Sender for a particular Job, the Driver may contact Subtrux and the parties will engage in good faith discussions in order to resolve the issue. This clause is not subject to the dispute resolution procedure set out in this Agreement. Subtrux is under no obligation to amend or remove Sender Ratings following such discussions and will not do so where such amendment is contrary to Law, including the Australian Consumer Law.
 - (vii) Subtrux and its Affiliates reserve the right to use, share and display the Driver Ratings and comments in any manner in connection with the business of Subtrux and its Affiliates without attribution to the Driver.

11. Managers

- (a) This clause only applies to Managers, but nothing in this clause is intended to exclude the operation of any other clause of this Agreement. In the event of a conflict, inconsistency or ambiguity between this clause and any other provision of this Agreement, this clause will prevail.
- (b) A Manager:
 - (i) must procure that all Manager Personnel who are intending to access the Subtrux App or Services enter into and comply

with this Agreement.

- (ii) will be solely responsible for all Manager Personnel who provide Transportation Services, including responsibility for wages, benefits, taxes and expenses, insurance and any other obligations under applicable Laws.
 - (iii) must ensure that all Vehicles that are registered to their Manager Personnel comply, and continue to comply during the Term, with the Vehicle Conditions.
 - (iv) must comply with all applicable Laws, including any Laws that may impact upon a Driver's ability to comply with this Agreement.
 - (v) must obtain and maintain all Consents necessary to enable it to perform its obligations under this Agreement without infringing any Law or the rights of any person.
 - (vi) shall defend, hold harmless and indemnify the Indemnified Parties from and against any Loss suffered or incurred by the Indemnified Parties arising out of or in connection with:
 - A. any breach of this Agreement or any applicable Laws by the Manager or Manager Personnel;
 - B. the death or injury of any person arising out of or otherwise in connection with any negligence or wrongful act or omission of the Manager or Manager Personnel;
 - C. any fraud (including fraudulent misrepresentation), criminal activity, negligence or wilful misconduct of the Manager or Manager Personnel;
 - D. any Claim by any person (including the Manager) in connection with any Feedback, User Content or data used or disclosed by Subtrux in connection with this Agreement;
 - E. any Claim by any person (including the Manager) that is connected with use by Manager Personnel of the Services;
 - F. any Claim by any person that is connected with the provision by the Manager or Manager Personnel of Transportation Services; or
 - G. any loss or damage to property arising out of or otherwise in connection with any wrongful act or omission of Manager or Manager Personnel.
 - (vii) must not transfer, assign, charge, sub-contract or otherwise dispose of this Agreement, or any of its rights or obligations arising under it, without Subtrux's prior written consent.
- (c) Subtrux's consent under this clause does not relieve a Manager of its obligations to Subtrux under this Agreement, and the Manager will be fully responsible to Subtrux for the acts or omissions of its sub-contractors, contractors, assigns and all their employees, as if it were the acts and omissions of the Manager.

12. Financial

- (a) The parties agree and acknowledge that the Sender will be charged for Completed Jobs in accordance with the Job Calculation.
- (b) Subtrux is responsible for the collection of payment of the payment for Completed Jobs and Cancellation Fees from Senders as a collection agent for the Driver.
- (c) Subtrux shall remit payment to the Driver by electronic funds transfer on at least a fortnightly basis (or other period as decided by Subtrux from time to time) any amounts collected by Subtrux on behalf of the Driver, but less any fees payable to Subtrux under this Agreement.
- (d) In consideration of Subtrux's provision of the Subtrux App and the Services under this Agreement, and Subtrux acting as the collection agent for the Driver, the Driver agrees to pay Subtrux the Collection Fee.
- (e) If GST is payable on a supply made under or in connection with this Agreement, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable on that supply.
- (f) Unless otherwise stated, any amounts referred to in this Agreement are stated on a GST exclusive basis.
- (g) Where any indemnity, reimbursement or similar payment under this Agreement is based on any cost, expense or other liability, it shall be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.
- (h) If an adjustment event occurs in relation to a supply made under or in connection with this Agreement, the GST payable on that supply will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.

- (i) If required to provide an invoice, a party shall provide proper tax invoices if GST is applicable.
- (j) This clause will not merge upon completion and will continue to apply after expiration or termination of this Agreement.
- (k) Terms which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* shall have that meaning in this Agreement.

13. Insurance

- (a) The Driver (and Manager where applicable) must maintain where applicable:
 - (i) workers compensation insurance as required by applicable Laws;
 - (ii) public and product liability insurance providing a minimum indemnity limit of \$20 million for each and every claim;
 - (iii) if the Contract includes the supply of any professional services, professional indemnity insurance, on a 'claims incurred' basis, providing a minimum indemnity limit of \$5 million for each and every claim, or such other amount as specified in the Contract;
 - (iv) for any Vehicles brought onto a Delivery Site, third-party property damage motor vehicle insurance;
 - (v) any such insurance that would be held by a reasonably prudent in the position of the Driver and Manager; and
 - (vi) any other insurance specified in the Agreement.
- (b) On request by Subtrux, the Driver must produce a certificate of currency provided by the insurer. The Driver acknowledges that it may be required to inform its insurers of the provision of Transportation Services and the Driver will ensure that the insurance policy provides adequate coverage for such Transportation Services.
- (c) The Driver and Manager must take out and maintain insurance covering the Goods under an all risks policy for their replacement value against loss or damage, including loss or damage in transit to the Delivery Site and during unloading.

14. Use of Subtrux App and Services

- (a) The Driver must:
 - (i) not do any act that we would deem to be inappropriate, is unlawful or is prohibited by any laws applicable, including but not limited to:
 - A. any act that would constitute a breach of either the privacy or any other of the legal rights of individuals;
 - B. defaming or libelling us, our Personnel, Affiliates, Related Body Corporate, or other individuals;
 - (ii) not copy the Subtrux App except where such copying is incidental to normal use of the Subtrux App;
 - (iii) not rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Subtrux App;
 - (iv) not make alterations to, or modifications of, the whole or any part of the Subtrux App, or permit the Subtrux App or any part of it to be combined with, or become incorporated in any other programs;
 - (v) not disassemble, decompile, reverse engineer or create derivative works based on the whole or any part of the Subtrux App or attempt to do any such thing;
 - (vi) not provide or otherwise make available the Subtrux App in whole or in part (including object and source code), in any form to any person without the prior written consent of Subtrux; and
 - (vii) not infringe Subtrux's Intellectual Property Rights or those of any third-party in relation to Driver's use of the Subtrux App or Services;
 - (viii) not transmit or submit using the Subtrux App or Services any material or User Content that is defamatory, offensive or otherwise objectionable;
 - (ix) not use the Subtrux App or Services in a way that could damage, disable, overburden, impair or compromise Subtrux's systems or security or interfere with other users; and
 - (x) not collect or harvest any information or data, or attempt to decipher any transmissions to or from the servers used by Subtrux.

- (b) Subtrux may, at any time and in Subtrux's sole discretion, prohibit, suspend or otherwise restrict Driver from accessing the Subtrux App or the Services for any reason whatsoever.

15. Audit

- (a) During the Term and for a period of 12 months after the end of the Term, Subtrux will have the right to, or engage an independent third-party auditor to, carry out an audit and inspection of the Driver to determine that the Driver has properly complied and is complying with the terms of this Agreement (including the review of any licences, permits or other information required to comply with the Driver Conditions, the Vehicle Conditions or any applicable Law), the associated costs of which will be at Subtrux's expense.
- (b) The Driver must allow Subtrux or Subtrux's Personnel to carry out safety inspections of each Vehicle, including at the time of registration to confirm that the Vehicle matches the Vehicle described in the registration and Service Records. The cost and expense of a Vehicle safety inspection may be charged back, whether partly or wholly, to the Driver at Subtrux's sole discretion.
- (c) Each audit must be conducted during normal business hours and in a manner designed to not unreasonably interfere with the Driver's ordinary business.

16. Intellectual Property Rights & Ownership

- (a) The parties acknowledge that, unless otherwise indicated, Subtrux and/or its licensors owns or licenses from third-parties all rights, title and interest (including copyright, designs, patents, trademarks, improvements and other Intellectual Property Rights in the Subtrux App and Services) in the Subtrux App and Services and in all of the material (including all text, graphics, logos, audio and software) made available by the Subtrux App and Services, and remains with Subtrux and/or its licensors at all times and nothing in this Agreement is intended to transfer such right, title or interest to the Driver.
- (b) The Driver's use of the Subtrux App and Services does not grant or transfer any rights, title or interest to the Driver. However, subject to the Driver's compliance with this Agreement, Subtrux grants to the Driver a non-transferable and non-exclusive license to install, view, use and display the Subtrux App on the Device during the term for personal and business purposes only provided that the business purpose is solely and directly related to the provision by the Driver of the Transportation Services to the Sender.
- (c) Any reproduction or redistribution of the Subtrux App or Services is prohibited and may result in civil and criminal penalties.
- (d) The licence granted under this clause does not include a right to sub-license or otherwise provide the Subtrux App or Services to any third-party.
- (e) The Driver acknowledges and agrees that the availability of the Subtrux App is dependent on the App Store. Each App Store may have its own terms and conditions which the Driver agrees to comply with, and the licence granted under this clause is conditional on the Driver's compliance with any such terms and conditions.

17. Feedback

- (a) The Driver agrees and acknowledges that any Feedback may be used by Subtrux in any manner it deems appropriate (and will not be regarded as being confidential or proprietary information).
- (b) The Driver will ensure that any existing or future Intellectual Property Rights in any Feedback vest in Subtrux absolutely. The Driver agrees to assign, and procure the assignment of, such Intellectual Property Rights in any Feedback to Subtrux immediately on their creation.

18. User Content & Third-Party Content

- (a) The Driver agrees and acknowledges that it is solely responsible for any User Content. To the extent permitted by Law, Subtrux will not be responsible for any User Content and provides no guarantees regarding the accuracy, currency, suitability or quality of any User Content.
- (b) The Driver grants Subtrux a perpetual, worldwide, transferable, non-exclusive right to access, use, adapt, modify, reproduce, reformat, transform, process, commercialise and exploit, and create Resulting Information from, User Content to the extent necessary to undertake such activities.
- (c) Subtrux may disclose User Content to third-party service providers, if Subtrux merges with or is acquired by a third-party, or to comply with applicable Laws. Subtrux may also use User Content to investigate or prevent any breach or potential breach of any applicable Law or this Agreement.
- (d) The Subtrux App and/or Services may contain Third-Party Content. Those links are provided for convenience and may not remain current or be maintained. Unless expressly stated otherwise, Subtrux does not endorse and is not responsible for any Third-Party Content and has no control over or rights in Third-Party Content.

19. Data and Resulting Information

- (a) The Driver grants Subtrux a perpetual, worldwide, transferable, non-exclusive right to access, use, adapt, modify, reproduce, reformat, transform, process, commercialise and exploit, and create Resulting Information from, the Data to the extent necessary to undertake such activities.
- (b) The Driver agrees and acknowledges that Subtrux intends to use and/or aggregate the Data in conjunction with other information collected or obtained by Subtrux, and the Driver agrees that Subtrux is permitted to make full use of, commercialise and exploit the Data for those purposes.
- (c) The Driver will ensure that any existing or future Intellectual Property Rights in any Resulting Information immediately vest in Subtrux absolutely. The Driver agrees to assign, and procure the assignment of, such Intellectual Property Rights in any Resulting Information to Subtrux immediately on their creation.
- (d) Without limiting the foregoing, the Driver agrees and acknowledges that Subtrux may disclose Data and Resulting Information to any third party in its sole discretion.

20. Confidentiality

- (a) A party must not disclose, unless for a purpose contemplated by this Agreement, the existence of and terms of this Agreement or any other Confidential Information.
- (b) However, a party may disclose any Confidential Information:
 - (i) to the other party to this Agreement;
 - (ii) under corresponding obligations of confidence as imposed by this clause, to persons which control or are controlled by the party within the meaning of the *Corporations Act 2001* (Cth), and the employees, legal advisors or consultants of such persons;
 - (iii) for the purpose of enforcing this Agreement;
 - (iv) if required by Law (but only to the extent required);
 - (v) to its legal advisers, its insurers and its consultants; or
 - (vi) with the prior written consent of the other party to this Agreement.
- (c) The Driver remains at all times responsible for ensuring the confidentiality of the Confidential Information. The Driver (or in the case of a Manager, the Driver and the Manager) will be deemed to have breached their obligations under this Agreement if any officer, employee, agent or adviser of Driver or any Affiliates of the Driver, commits any act or omission that, if committed by the Driver, would be a breach of this document.
- (d) The Driver and the Manager acknowledges that monetary damages may not be a sufficient remedy for a breach of this Agreement and Subtrux, its Affiliates or Related Bodies Corporate may seek and are entitled to remedies such as injunctive relief to prevent the breach and orders of specific performance to compel compliance.
- (e) If the Driver is required by Law to disclose the Confidential Information to a third person, the Driver must:
 - (i) Immediately notify Subtrux in writing and provide any assistance reasonably requested by Subtrux to oppose disclosure of the Confidential Information;
 - (ii) Use all reasonable endeavours when making disclosure to prevent disclosure of the Confidential Information into the public domain; and
 - (iii) Only disclose so much of the Confidential Information as is legally required.
- (f) The Driver agrees to indemnify and keep indemnified Subtrux against:
 - (i) any Claim, action, liability, loss, damage, cost and expense that Ristovski suffers, incurs or is liable for, whether directly or indirectly, as a result of:
 - A. a breach by the Driver of its obligations under this document; or
 - B. any act or omission by an Officer, employee, agent or adviser of the Driver which is deemed to be a breach of this document by the Driver;
 - (ii) all costs and expenses (including legal costs and disbursements on a full indemnity basis) incurred by Subtrux in enforcing its rights under this document.

- (iii) Each indemnity is a continuing obligation, constitutes a separate and independent obligation of the party giving the indemnity from its other obligations under this Agreement and it survives termination of this Agreement.

21. Publicity & Privacy

- (a) The Driver agrees that Subtrux may:
 - (i) disclose to third-parties the fact that the Driver has entered into this Agreement with Subtrux; and
 - (ii) use de-identified information about the Driver, in any marketing or other material used by Subtrux.
- (b) Subtrux and its Affiliates may collect personal information about the Driver or its Personnel in order to provide the Services and for other purposes set out in the Privacy Policy.
- (c) The Driver agrees and acknowledges that personal information may be disclosed to third-parties (including to Drivers to assist in the resolution of any dispute between the Driver and a Sender), and that the Privacy Policy sets out how Subtrux collects, uses, stores and discloses personal information and the consequences if that information is not provided.
- (d) Without limiting any other part of this clause, any information collected by Subtrux under this Agreement, including any information required to assess initial or ongoing compliance with the Driver Conditions or the Vehicle Conditions, will be collected, used and disclosed in accordance with the Privacy Policy.

22. Insurance

- (a) You agree to maintain during the terms of this Agreement on all Vehicles operated by you under this Agreement all necessary insurance as provided in this Agreement and as required by Law.
- (b) You agree to provide Subtrux and its Affiliates a copy of any applicable insurance policy, certificate of currency, and proof of premium payment of the insurance policy upon request. You, or your Personnel, must be a named insured or individually rated Driver, for which a premium is charged and an insurance policy in relation to each Vehicle and insured is applicable at all times.
- (c) Subtrux may maintain during the term of this Agreement insurance related to your provision of Transportation Services as determined by Subtrux in its reasonable discretion provided that Subtrux and its Affiliates are not required to provide you with any specific insurance coverage for any loss to you or your Vehicle. You are required to promptly notify Subtrux of any accidents that occur while providing Transportation Services and to cooperate and provide all necessary information related thereto.

23. Representations and Warranties

- (a) Each party represents and warrants that:
 - (i) it has full power, authority and legal capacity to enter into this Agreement and perform its obligations under this Agreement;
 - (ii) execution and performance of this Agreement will not result in a breach of any terms or conditions of any instrument or agreement to which it is a party; and
 - (iii) it shall obtain and maintain all Consents applicable or necessary in order to perform its obligations under this Agreement.
- (b) The Driver represents and warrants to Subtrux that:
 - (i) it has the required level of competency and professionalism expected of a professional truck driver to access the Services for the type of Truck or Trucks registered in the Driver Account in accordance with Law;
 - (ii) Driver does not have a criminal record or any pending criminal charges in any jurisdiction in Australia (including any offences in relation to drink-driving, drug possession or supply, fraud or theft);
 - (iii) each Truck used to provide Transportation Services is in good working condition and order and has been serviced in accordance with all applicable Laws;
 - (iv) the Driver will take all reasonable steps to prevent breaches of any applicable Laws (including in relation to road transport mass, dimension, loading, speed compliance, work hours and occupational health and safety).
 - (v) it has the knowledge and capability to handle (v) the types of goods which can be carried by the types of Trucks it intends to register, with care and diligence in a manner expected by a reasonable Sender; and
 - (vi) it has the knowledge and ability to liaise and (vi) interact with Senders and Receivers in a customer focused manner.

24. Updates

- (a) Subtrux may make Updates available to the Driver from time to time. The Driver must install any Updates as soon as reasonably practicable upon receipt. Once installed, Updates will be deemed to form part of the Subtrux App.
- (b) To the extent permitted by Law (including the Australian Consumer Law if applicable), Subtrux shall not be liable for any failure of the Subtrux App or the Services to operate in accordance with this Agreement, or to otherwise meet any warranties or representations set out in this Agreement or required under Law, unless the Driver has installed all Updates pursuant to this clause.

25. Force Majeure

- (a) Subject to the requirement to give notice under this clause, if the performance by any party (“**Affected Party**”) of all or any of its obligations under this Agreement is prevented or delayed in whole or in part due to any Force Majeure Event, this Agreement will continue and remain in effect but the Affected Party will not be in breach of this Agreement for that reason only, and the Affected Party will be granted a reasonable extension of time to complete performance of its affected obligations.
- (b) The Affected Party must promptly after becoming aware of a Force Majeure Event, give written notice to the other party of the nature of the Force Majeure Event and the way and the extent to which its obligations are prevented or delayed and notify the other party of any material change in these matters and use its reasonable endeavours to limit the effects of the Force Majeure Event, and promptly carry out its obligations as soon as, and to the extent that, it is able to do so.
- (c) After 14 days (or earlier if agreed by the parties) of being given notice, either party may terminate the Agreement or negotiate to allow part fulfilment or deferment of the obligations of either party under this Agreement.
- (d) Upon completion of a Force Majeure Event, the Affected Party must, as soon as reasonably practicable, recommence the performance of its obligations under this Agreement.
- (e) A Force Majeure Event does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.
- (f) The Driver has no entitlement to, and Subtrux has no liability for:
 - (i) any costs, losses, expenses, damages or the payment of any part of the contract price during a Force Majeure Event;
 - (ii) any delay costs in any way incurred by the Driver due to a Force Majeure Event.

26. Termination

- (a) Either party may terminate this Agreement with immediate effect by giving written notice to the other party at any time if either party breaches a provision of this Agreement, which is incapable of being remedied. However, where a breach is capable of remedy, and party fails to remedy the breach within seven days after receiving notice from the terminating party requiring it to do so.
- (b) Where an Insolvency Event occurs, either parties may terminate this Agreement.
- (c) At any time, by mutual agreement, the parties may terminate this Agreement.
- (d) Without limiting this Agreement, Subtrux may suspend the Driver’s access to the Services or terminate this Agreement with immediate effect if the Driver makes any intentional or fraudulent misrepresentation in connection with the Driver Conditions or Vehicle Conditions;
- (e) If a Regulatory Event that, in the reasonable opinion of Subtrux, may affect the subject matter of this Agreement occurs or is likely to occur during the Term, Subtrux may immediately suspend the performance of this Agreement or terminate this Agreement without liability to the Driver.
- (f) If the Driver elects not to accept variations to this Agreement, the Driver will be deemed to have terminated this Agreement with immediate effect.
- (g) Either party may terminate this Agreement for convenience and without incurring liability to the other party at any time by giving at least 30 days’ written notice to the other party.

27. Consequences of Termination

- (a) On termination of this Agreement for any reason:
 - (i) all rights granted to the Driver under this Agreement shall cease;
 - (ii) any Driver Account will be deactivated and any User Content may be deleted;

- (iii) the Driver must cease all activities authorised by this Agreement;
 - (iv) the Driver must return all Confidential Information and Intellectual Property (if any) and
 - (v) the Driver must immediately delete or remove the Subtrux App from all Devices, and immediately destroy all copies of the Subtrux App in its possession.
- (b) The Driver must, within 14 Business Days of termination, pay to Subtrux all fees incurred and/or owing under the Agreement up to and including the date of termination or expiry.

28. Disclaimer

- (a) The Driver agrees and acknowledges that, to the extent permitted by Law, and without limiting the provisions of this Agreement, Subtrux does not represent, warrant or accept any liability in relation to the accuracy, currency, security, reliability or quality of the Subtrux App or the Services.
- (b) Subtrux disclaims any warranties, representations or endorsements, express or implied, with regard to the Subtrux App or the Services, including all implied warranties of merchantability, fitness for a particular purpose, or non-infringement.

29. Indemnities, Releases & Limitation of Liability

- (a) Subtrux shall defend, hold harmless and indemnify the Driver from and against any Loss suffered or incurred by the Driver arising out of or in connection with any Claim that the Services infringe any Intellectual Property Right or other right of any third-party, except to the extent that such Loss is caused or contributed to by an act or omission of Driver.
- (b) The Driver shall defend, hold harmless and indemnify the Indemnified Parties from and against any Loss suffered or incurred by the Indemnified Parties arising out of or in connection with:
 - (i) any breach of this Agreement or any applicable Laws;
 - (ii) the death or injury of any person arising out of or otherwise in connection with any negligence or wrongful act or omission of the Driver or its Personnel;
 - (iii) any fraud (including intentional and/or fraudulent misrepresentation), criminal activity, negligence or wilful misconduct of the Driver or its Personnel;
 - (iv) any Claim by any person (including the Driver) in connection with any Feedback, User Content or data used or disclosed by Subtrux in connection with this Agreement;
 - (v) any Claim by any person (including the Driver) that is connected with use by the Driver of the Services;
 - (vi) any Claim by any person that is connected with the provision by Driver of Transportation Services, including a Sender or Receiver, arising out of or in connection with the provision by Driver of those Transportation Services; or
 - (vii) any loss or damage to property arising out of or otherwise in connection with any wrongful act or omission of the Driver.
- (c) Each indemnity is a continuing obligation, constitutes a separate and independent obligation of the party giving the indemnity from its other obligations under this Agreement and it survives termination of this Agreement
- (d) To the extent permitted by Law, under no circumstances will the total liability of Subtrux for any Loss, direct or otherwise, exceed the Liability Cap. The limitation of liability under this clause is cumulative and not per incident or Claim and, to the extent permitted by Law, under no circumstances will Subtrux be liable for any Consequential Loss.
- (e) The limitations and exclusions in this clause shall apply to any liability.
- (f) This clause does not apply to, and shall not limit, any party's liability:
 - (i) for death or personal injury caused by that party or its Personnel;
 - (ii) for fraud (including fraudulent misrepresentation); or
 - (iii) under any indemnity given in this Agreement.

30. Assignment

- (a) The contract between Subtrux and the Driver is binding on the parties and their respective successors and assigns.
- (b) Except as provided in this Agreement, the Driver must not, without the prior written consent of Subtrux, transfer, assign, charge,

subcontract or otherwise dispose of this Agreement, or any of its rights or obligations arising under it.

- (c) Subtrux may transfer, assign, charge, subcontract or otherwise deal with an Agreement, or any of its rights or obligations arising under it, at any time during the term of the Agreement.

31. Dispute Resolution

- (a) Neither party may commence any court or arbitration proceedings relating to a Dispute unless it has complied with the provisions of this clause, except to seek urgent interlocutory relief.
- (b) A party claiming that a Dispute has arisen must promptly notify the other party in writing by giving details of the Dispute (“**Notice of Dispute**”). The parties must use reasonable endeavours to resolve any Dispute.
- (c) If the parties are not able to resolve the Dispute 20 Business after the Notice of Dispute is given to the other party, either party may immediately refer the Dispute to mediation and the parties will use reasonable endeavours to resolve the Dispute following the ADC Guidelines. Each party must bear its own costs in relation to complying with this clause, except for the costs and expenses of the mediation, which will be borne by the parties equally.

32. Notices

- (a) A Notice given to a party under this Agreement must be addressed to the party’s address last notified by the intended recipient of the Notice.
- (b) Notices are deemed to have been given or made:
 - (i) in the case of delivery in person, upon hand-delivery;
 - (ii) in the case of delivery by pre-paid post, on the third Business Day following postage;
 - (iii) in the case of delivery by email:
 - A. provided the email is sent by 4pm on a Business Day and no answer-back message is received within 24 hours indicating the email did not reach its destination or the recipient is not available, then on that Business Day; or
 - B. otherwise on the next Business Day.
- (c) If delivery or receipt occurs on a day that is not a business day in the place to which the Notice is sent or is later than 4:00pm (local time) at that place, it will be taken to have been given at the commencement of business on the next business day in that place.

33. Relationship of the Parties

- (a) The Driver’s relationship with Subtrux under this Agreement is solely one of service provider and service recipient (including, as part of that relationship, a licensor and licensee relationship). Nothing in this Agreement constitutes or shall be deemed to constitute a partnership, employment arrangement, joint venture or agency between the Driver and Subtrux for any purpose whatsoever and except as provided in this Agreement, neither party has the authority or power to bind the other or to contract in the name of and create a liability against the other in any way or for any purpose.
- (b) The Driver acknowledges and agrees that the provision of Transportation Services to Senders by the Drivers creates a direct business relationship between the Driver and the Sender. Subtrux is not responsible or liable for the actions or inactions of a Sender in relation to the Driver, the Driver’s activities or the Driver’s Vehicle. The Driver shall have the sole responsibility for any obligations or liabilities to Senders or third-parties that arise from the Driver’s provision of Transportation Services. The Driver acknowledges and agrees that it is solely responsible for taking such precautions as may be reasonable and proper (including maintaining adequate insurance that meets the requirements of all applicable Laws) regarding any acts or omissions of a Sender or third-party.
- (c) The Driver acknowledges and agrees that Subtrux may release the Driver’s contact and/or insurance information to a Sender upon the Sender’s reasonable request. The Driver acknowledges and agrees that, unless specifically consented to by a Sender, the Driver may not transport or allow inside the Vehicle individuals or Goods other than a Sender or Goods and any individuals or Goods authorized by such Sender, during the performance of Transportation Services for such Sender. The Driver acknowledges and agrees that all Goods and Senders should be transported directly to the Delivery Site, as directed by the applicable Sender, without unauthorised interruption or unauthorised stops.
- (d) Subtrux retains the right to deactivate or otherwise restrict the Driver from accessing or using the Subtrux App or the Services in the event of a breach or alleged breach of this Agreement, the Driver’s disparagement of Subtrux or any of its Affiliates, the Driver’s act or omission that causes harm to Subtrux or its Affiliates’, reputation or business as determined by Subtrux in its sole discretion.

34. Authority

- (a) Each party warrants for itself that it has full power and authority to enter into this Agreement and entry in this Agreement by that

party has been duly authorised and represents a proper exercise of power of that party.

35. Counterparts

- (a) This Agreement may be signed in counterparts and all counterparts taken together constitute one document.

36. Variations

- (a) Subtrux may vary or amend the terms and conditions of this Agreement from time to time to reflect changes in market and industry, including changes in technology used to provide the products and services under this Agreement, changes in payment methods, changes in Laws and changes in Subtrux's systems.
- (b) Subtrux will notify the Driver of any variation or amendment to this Agreement in writing. The Driver must accept the amended and/or varied terms to continue its use of the Subtrux App and the Services. If the Driver does not agree to the amended terms, the Driver will be deemed to have exercised its right to terminate the Agreement pursuant to clause 27(f) of this Agreement.
- (c) A provision of or a right created under this Agreement may not be waived or varied except in writing signed by the party or parties to be bound.

37. Time of the essence

- (a) The parties to this Agreement acknowledge and agree that where a time is specified for the performance of any of the obligations in this Agreement, time shall be of the essence.

38. No prejudice

- (a) A provision of this Agreement must not be construed to the disadvantage of a party simply because that party was responsible for its preparation or inclusion.

39. Further Assurances

- (a) Each party must, at its own expense, whenever requested by another party, promptly do or cause to be done everything reasonably necessary to give full effect to this Agreement and the transactions contemplated by this Agreement.

40. Entire Agreement

- (a) This Agreement constitutes the entire agreement between the parties in relation to its subject matter. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by this document and have no further effect.

41. Waiver

- (a) No failure to exercise or delay in exercising any right, remedy or power under this Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, remedy or power does not preclude any other or further exercise of that or any other right, remedy or power. A waiver is not valid or binding on the party granting that waiver unless made in writing.

42. Rights & Remedies Cumulative

- (a) The rights, remedies and powers of the parties under this Agreement are cumulative and not exclusive of any rights, remedies or powers provided to the parties by law.

43. Accrued Rights

- (a) Without limiting any other provision of this Agreement, any clauses which should by their nature survive termination of this agreement, survive termination or expiration of this Agreement for any reason.

44. No Merger

- (a) The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Agreement.

45. Severability

- (a) If a provision of this Agreement which is deemed invalid or unenforceable in a jurisdiction, it is read down and ineffective (to the point of severance if necessary) in that jurisdiction to the extent of the invalidity or unenforceability. That does not:
 - (i) invalidate the remaining provisions of this Agreement; nor

(ii) affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

46. Costs

(a) Except as provided by this Agreement, each party agrees to bear his or her or its own costs and expenses (whether legal or otherwise) arising out of the negotiation, preparation, execution and completion of this Agreement.

47. Governing law and jurisdiction

(a) This Agreement shall be governed by the laws of Victoria and of the Commonwealth of Australia. Each party irrevocably accepts and submits to the jurisdiction of courts and tribunals with jurisdiction there and waives any right to object to the venue on any ground.

By clicking "I accept", you expressly acknowledge that you have read understood, and taken steps to thoughtfully consider the consequences of this Agreement, and that you agree to be bound by the terms and conditions of this Agreement.