



## **PICK MY LOAD – TERMS AND CONDITIONS**

Welcome! Pick My Load (as defined below) offers on-demand transportation technology allowing for shippers and carriers in Sri Lanka to connect and arrange for the transportation of freight. By using the Service (as defined below), you are agreeing to be bound by these Terms and Conditions (as defined below). Please read them carefully. If you have any questions, please feel free to contact us.

These Terms and Conditions were last updated on **May 24<sup>th</sup>, 2017**.

### **1. Legally Binding Terms and Conditions**

The terms and conditions stated herein (the “Terms and Conditions” or this “Agreement”) constitute the legally binding terms on which Pick My Load (Private) Limited. (“Pick My Load”, “PML”, “we” and “us”), a corporation incorporated under the laws of Sri Lanka, offers access to its [www.pickmyload.lk](http://www.pickmyload.lk) (the “Website”) and the associated mobile application (the “Mobile App”) and provides the Service (as defined below). By using or receiving any services supplied to you by Pick My Load (collectively, the “Service”), downloading, installing or using the Website or the Mobile App, which purpose is to enable you to use the Service, you hereby expressly acknowledge and agree that you, personally, and the company, entity or organization that you represent, as the case may be, will be bound by these Terms and Conditions as updated from time to time. **If you do not agree with all of the provisions of this Agreement, do not access or use the Service.**

Pick My Load reserves the right to enter into other specific agreements with a User (as hereinafter defined at Section 3 below), at the sole discretion of PML. In such a case, the terms and conditions of the specific agreement between PML and a User will govern and supersede the Terms and Conditions set forth in the event of a conflict.

### **2. Change of Use**

PML reserves the right to change, modify or remove (temporarily or permanently) the Website or any part of it without notice and you confirm that PML shall not be liable to you for any such change or removal.

We reserve the right to modify these Terms and Conditions at any time, effective upon posting of an updated version of this Agreement. You are responsible for regularly reviewing these Terms and Conditions. Your continued use of the Service following posted changes to these Terms and Conditions constitutes your consent to such changes.

### **3. Pick My Load**

Pick My Load has developed an on demand transportation technology to allow for greater automation between shippers and carriers, creating an open platform whereby shippers and carriers can interact with each other and arrange for the transportation of freight.

PML acts as a transport services intermediary, and as a broker in arranging for transportation of freight (including household goods).

Through the Website and the Mobile App, PML provides an open platform for third party shippers and third party carriers to connect, exchange information and arrange for the transportation of freight. **PML DOES NOT PROVIDE TRANSPORTATION SERVICES, IS NOT A CARRIER AND DOES NOT TAKE POSSESSION, CUSTODY OR CONTROL OF ANY FREIGHT. PML HAS NO, AND ASSUMES NO, (i) RESPONSIBILITY OR LIABILITY, FOR ANY TRANSPORTATION SERVICES PROVIDED BY SUCH THIRD PARTIES AND ANY OF THEIR AGENTS, CONTRACTORS, SUBCONTRACTORS OR RELATED ENTITIES; OR (ii) FINANCIAL RESPONSIBILITY WHATSOEVER FOR FREIGHT, AND FOR LOSS AND DAMAGE LIABILITY.**



### 3. Users of the Service

In these Terms and Conditions, a “User” means any individual, company, entity or organization who accesses or uses the Service, and includes a Carrier or a Shipper (each as defined below). In order to access many features of the Service, a User must register for an account (a “User Account”) (*for more information see Section 9(a) of this Agreement*).

The User represents and warrants to Pick My Load: (i) that User has full power and authority to enter into this Agreement, create a User Account and use the Service, and if the party entering into this Agreement is doing so on behalf of an entity, such party has the full legal authority to bind such entity to this Agreement; (ii) that User consents to the collection, use and analysis of certain User Information (as hereinafter defined) in connection with use of the Service, (iii) to allow PML to identify User as a customer of PML or as a User of the Services and to reproduce User’s name and logo on the Website, on the Mobile App and in any other marketing materials; (iv) that User be solely responsible for the User’s use of the Service; (v) that the Service is strictly a tool to be used by the User in conjunction with good and reasonable business practice by competent personnel; and (vi) that User is solely responsible to comply with all applicable laws and regulations, including, but not limited to, transportation laws and regulations.

#### (a) Carrier or Service Provider

In these Terms and Conditions, a “Carrier or Service Provider” means a *bona fide* for hire motor carrier or a private motor carrier with all permits, licenses and authorities issued by a governing body (in Sri Lanka) to haul freight for third parties, and includes (i) a Carrier’s drivers (referred to as “Drivers”), whether the drivers are employees or independent contractors; and (ii) a Carrier’s agents/helpers, officers and representatives. **PML DOES NOT ACT AS AN AGENT FOR ANY CARRIER AND/OR NO CARRIER IS AT ANY INSTANCE ACTING AS AN AGENT FOR PML.**

#### (b) Shipper

In these Terms and Conditions, a “Shipper” is an individual, company, entity or organization that legally owns, possesses or otherwise controls the rights to tangible property or freight and seeks the transportation of cargo or freight by a licensed third party motor carrier. **PML DOES NOT ACT AS AN AGENT FOR ANY SHIPPER.**

### 4. Service Description

Pick My Load’s transport on-demand solution, links Shippers, who post their loads on the Mobile App, with Carriers based on their geo-localization and many other parameters. Carriers and Shippers will have the benefit of viewing the User Rating of the respective Carriers and Shippers (*for more information see Section 9*). PML’s Service supports transport of freight within Sri Lanka.

#### (a) Shipments

Upon creating a User Account, a Shipper may post a request for a shipment (“Shipment”) through the Service on the “Post a Load” page. A Shipper must provide the following information about the Shipment as part of requesting a Shipment: (i) origin and destination addresses; (ii) contact information for origin and destination; (iii) the requested dates and times for pickup and drop-off; (iv) a description of the items to be shipped, including approx. weight, number of packages and upload a picture of the goods to be shipped; (v) specific equipment requirements; (vi) the required vehicle type; and (vii) any other relevant information as required by the Service. Once a Shipment is posted on the Service, the Shipment will be viewable to all Carriers of that selected vehicle type. A Shipment may be cancelled or modified by the posting Shipper at any time prior



to a Shipper accepting a Shipment Offer (as defined below). Once a Shipment is accepted for posting by PML, the details of the Shipment will be posted to the Service, and viewable by Carriers of the selected vehicle type (who have created a User Account), within a specific radius to the location of the Shipper. If a Carrier would like to accept a posted Shipment request, they can accept the load on the Service.

A Shipper will be notified of any Carrier accepting the Shipment Offer. A Shipper will have access to the details of the Shipment Offer and a Carrier's User Rating. **PML IS NOT A PARTY TO AND/OR RESPONSIBLE FOR ANY SHIPMENT TERMS ENTERED INTO BETWEEN SHIPPER AND CARRIER.**

The Users acknowledge and agree that they are responsible for verifying and undertake to verify the accuracy of all information available through the Service, including but not limited to information supplied by Shippers and Carriers, information about loads, truck or equipment, and that they are not solely relying on the information available in the Service to arrange for transportation and contract for shipments.

If no Carrier submits a Shipment Offer with respect to a posted Shipment, or if a Shipper chooses not to accept any of the Shipment Offers prior to the specified pickup date, PML will notify the Shipper and allow the Shipper to try posting the Shipment again or allow the shipper to cancel the Shipment Offer. **PML DOES NOT GUARANTEE THAT A SHIPMENT OFFER WILL BE MADE BY A CARRIER FOR A SPECIFIC SHIPMENT, NOR DOES IT GUARANTEE THAT A SHIPMENT OFFER WILL BE ACCEPTED BY A SHIPPER.**

(b) Shipment Process, Load Review and Tracking

The Service provides an opportunity for a Shipper and a Carrier to communicate on size, weight and any price changes prior to pick up of a Shipment. Any changes made by the Users to a Shipment outside of the Service is not the responsibility of PML.

Any routing instructions, or similar information, contained on the Website or within the Mobile App are for informational purposes only and are not to be considered instructional.

(c) Completion of Shipment

Once a Shipment is completed, the Carrier will confirm delivery of the goods on the Mobile App and will request Shipper confirmation, through the Website or Mobile App.

(d) Carrier Selection

PML requests information from Carriers prior to their use of the Service in order to make such information available to Shippers for the purpose of a Shipper's acceptance of a Shipment Offer. PML does not vet for and/or have no duty and/or obligation to monitor and/or evaluate Carriers, but reserves its rights to do so from time to time, and will review Carriers ongoing performance, User Rating, complaints and other matters at its discretion. **Shippers acknowledge that PML is not a governmental agency and therefore cannot and does not in any way guarantee the accuracy of information provided by Carriers, relative fitness, compliance record of, or current or future safety performance of, any Carrier or its drivers.** PML is not responsible in any way for the acts and/or omissions of Carriers or their drivers.

## 5. Carriers – Responsibilities, Terms, Representations and Warranties

(a) General Responsibilities:

Carrier represents and warrants, in addition to the representations and warranties made elsewhere in this Agreement, to PML that: (i) it has completed a User Account on the Service and the information contained therein is true and accurate at all times; (ii) it has provided to PML (A)



pick my load

a copy of its license, permit or operating authority issued by any applicable governmental or regulatory body; (B) a certificate of insurance evidencing policy limits in accordance with no less than the amounts set forth in Section 5(b) (or, if greater than the amounts set out below, the amounts required by applicable law), which certificate will name PML as an additional insured; (C) a waiver of subrogation in form satisfactory to PML; (D) the Carrier specific registration numbers such as Drivers' License, NIC and all other similar or equivalent identification number obtained from the relevant authority(ies); (iii) it will maintain, at all times, at minimum, a satisfactory safety rating in the jurisdiction under which it is registered; (iv) it will not enter into any transaction to transport freight if its license, permit or operating authority is revoked or suspended; (v) it will not enter into a transaction to transport commodities that it is not authorized to transport; (vi) it will not transport individuals; (vii) freight or cargo is kept under surveillance at all times from the time of pickup until completion of the Shipment.

(b) Insurance

(i) Carrier hereby represents, warrants and covenants that it carries and maintains, at its sole cost and expense with licensed, at all times, reputable and financially responsible insurance underwriters.

(c) Subcontractors

**CARRIER SHALL NOT, WITHOUT PML'S AND SHIPPER'S EXPRESS WRITTEN CONSENT, REBROKER, COBROKER, SUBCONTRACT, ASSIGN, OR CAUSE OR PERMIT ANY OTHER PERSON OR ENTITY TO PERFORM ANY OF CARRIER'S OBLIGATIONS HEREUNDER, OR CAUSE OR PERMIT ANY SHIPMENT TENDERED HEREUNDER TO BE TRANSPORTED BY ANY OTHER THIRDPARTY CARRIER, OR ANY OTHER SUBSTITUTE MODE OF TRANSPORTATION. IN CASE OF A BREACH OF THIS SUBSECTION, CARRIER AS SHOWN ON THE SERVICE WILL BE DEEMED TO BE THE CARRIER OF THE SHIPMENT AND INCUR ALL LIABILITIES HEREUNDER IN ADDITION TO THOSE OF ANY OTHER THIRD PARTIES.**

(d) Compliance with Laws

Carrier hereby represents, warrants and covenants that it is duly authorized to provide carriage services as a carrier of goods within the jurisdiction(s) where carriage of a Shipment takes place, and that it holds at all times all applicable licences, permits, registrations, approvals and authority under any applicable federal, provincial, state or municipal legislation to provide the carriage services subject to this Agreement and as required by the commodities, geographical scope, requirements and any special instructions of an accepted Shipment. With respect to the transportation services provided pursuant to this Agreement, Carrier shall comply with all federal, state, provincial, municipal and local laws, rules, regulations and ordinances applying within the jurisdiction(s) where transportation services are provided by Carrier. Carrier shall defend, indemnify and hold PML and its customers (including a Shipper of an accepted Shipment) harmless from and against any and all fines, penalties, judgments, liabilities, expenses and costs of any nature resulting from Carrier's failure to comply with all such laws, rules, regulations and ordinances, including not having the appropriate licences.



(f) Equipment

Carrier represents and warrants that it shall perform all transportation services pursuant to this Agreement with equipment that is in good order, condition and repair and that meets with all applicable laws, rules and regulations, including but not limited to (as applicable) those of the Department of Motor Vehicles (DMV) and similar governmental or regulatory body, as the case may be, and that is in sufficient quality and quantity to meet the transportation needs of each Shipment you accept. Carrier further represents, warrants and covenants that it shall be responsible for the sole cost and expense of providing all equipment required for the performance of any Shipments pursuant to the Service and will be responsible for, and pay, all expenses related to the use or operation and maintenance of such equipment (including any fines, penalties or fees).

(g) Payment and Remedies

Carrier expressly acknowledges and agrees that it shall only look to PML for payment of its Carrier Fee (see clause 8(b) below) and other charges owing pursuant to subsection 8(a) solely to the extent that PML has received payment of the Shipment Fee and all other charges in accordance with subsection 8(a)(i)(A) below from the Shipper or to the extent that a Shipper's PML credit account holds sufficient funds in respect of freight and other charges as set out in Section 9(b) below. In all other cases, Carrier expressly acknowledges, agrees and undertakes that any claim for unpaid freight or other charges pursuant to those Terms and Conditions and further to any other terms agreed between the Shipper and the Carrier shall be made against the Shipper only and that no claim shall be made against PML in respect of same and further agrees to waive any recourses it may have against PML to recover unpaid freight and such related charges. Carrier further agrees that it shall defend, indemnify and hold PML harmless against any and all consequences of its breach of the present Section. Carrier acknowledges that this provision will survive the termination of this Agreement, for any reason.

(h) No Agency Relationship Created

The use by the Carrier of the Service, or the entering of PML and the Carrier into this Agreement does not make Carrier an agent, legal representative, joint venture, or partner of PML for any purpose. It is understood by Carrier that Carrier is to act as an independent contractor and is in no way authorized to make any contract, warranty or representation on behalf of PML, or to create any obligation express or implied on behalf of PML. It is expressly agreed and understood by Carrier that Carrier shall not be considered under this Agreement as having any employment status with PML, or as being entitled to any plans, distributions, or benefits extended by PML to its employees. Carrier shall be solely responsible for all of its employees and independent contractors used by Carrier during the course of a Shipment or during this Agreement, including any acts and omissions of Carrier's drivers and such drivers' compliance with all applicable laws, licensing and regulations. **Carrier shall indemnify PML for any losses or claims made by any of Carrier's employees or independent contractors.**

Carrier represents, warrants and covenants that it only uses, and will only use, drivers and other operating personnel who are licensed to perform all services for which they are engaged by Carrier.



(j) Acceptance of Liability

Carrier hereby represents, warrants and covenants that it shall be solely responsible for any and all liability which results or is alleged to result from the use of the Service and the services Carrier provides under this Agreement, including, but not limited to any and all property damage, cargo loss, consequential losses, any other damages, governmental penalties or delay, personal injury and death (including, but not limited to liabilities related to Carrier's own property, employees and independent contractors) occurring while such property, freight or cargo is in the possession or under the control of Carrier, or resulting from Carrier's performance or failure to perform the service undertaken by Carrier under the terms of this Agreement. Carrier further agrees to defend, indemnify, and hold PML and its customers (including the Shipper), and their officers, directors, representatives, employees, insurers and agents harmless from any and all claims, loss, damage, expenses, or liability, including costs and reasonable attorney fees, due to or arising out of Carrier's, or its agents (i) performance of carriage pursuant to this Agreement; (ii) use or misuse of the Service; (iii) any unlawful or inappropriate interaction with any other User; or (iv) any violation of applicable laws, regulations or terms of this Agreement. Exclusions in Carrier's insurance coverage shall not relieve Carrier from this liability. Carrier hereby waives any claims or demand by it against PML related to any costs, losses, expenses and/or liability arising out of the above listed actions.

Carrier agrees not to settle any matter involving PML without the prior written consent of PML. PML reserves the right, at Carrier's expense, to assume the exclusive defence and control of any matter for which Carrier is required to indemnify PML, including all judicial fees and costs and reasonable attorney fees. Should PML exert this right, Carrier agrees to fully cooperate with PML's defence of any claims. PML will use reasonable efforts to notify Carrier of any such claims, action or proceedings upon becoming aware of them.

**6. Shipper – Responsibilities, Representations, Warranties and Covenants**

(a) Representations and Warranties of Shipper

Shippers hereby represent, warrant, covenant and acknowledge that:

- (i) all information provided by Shipper to PML is accurate and complete at all times;
- (ii) Shipper owns the shipped items, freight or cargo, or has all necessary rights and authorities to ship such items involved in a Shipment;
- (iii) Shipper will not use the Service in furtherance of transportation of freight or cargo that is illegal, offensive or objectionable and will not use the Service to transport individuals;
- (iv) If Shipper uses the Service to ship hazardous material and dangerous goods, it covenants that it sought and obtained all necessary equipment, licenses, permits, authorizations and insurance to have such goods shipped;
- (v) the Service is used by the Shipper at its own risk, and Shipper agrees and acknowledges that PML is not a transport provider, and PML will not be liable for any shipped items or any claims, demands, loss or damages relating thereto;
- (vi) Shippers are solely responsible for obtaining any and all insurance to cover any losses of freight or cargo, including all-risk property insurance for no less than amounts covering the full replacement value of the goods shipped and agrees that all insurance obtained is to the benefit of PML, which Shipper covenants to add as an additional insured under insurance policies covering such freight or cargo. Such insurance policies shall also contain a waiver of subrogation against PML;
- (vii) Requested pickup and delivery dates and hours will not require the Carrier to breach hours of service regulations under any applicable law;
- (viii) Shipper shall not use the Service to ship contraband, illegal, offensive or objectionable items;



- (x) the ability to track the location of Shipments through the Service does not guarantee that such shipments will be delivered at the time specified, or any specific routing has been taken;
- (xi) Shipper shall not request or pressurize the Carrier to break any Traffic and/or Police and/or government rules for any purpose;
- (xii) Shipper shall not request or pressurize the Carrier to overload the Carrier's vehicle with the consignment than the allowed limit.

#### (b) Freight Description and Disclosures

Shipper shall disclose and provide through the Service all information reasonably necessary for the performance or facilitation of the Shipment by a Carrier in compliance with all applicable regulatory, legal and industry standards, including all information required to be included on the Bill of Lading as per applicable legislation. Shipper shall provide PML in a timely fashion all information and documents necessary to the Service and PML's obligations under the Agreement. Shipper shall also be responsible and liable for providing accurate descriptions of freight or cargo including, without limitation, commodity type, dimensions and weight, and any special handling requirements. For any Shipments involving hazardous or dangerous goods, the Shipper shall be solely responsible to be in full compliance with all laws, regulations and industry standards and warrants that it has sought and obtained all appropriate equipment, licenses, permits and authorizations and insurance coverage required under this Agreement and further to applicable legislation. Shipper assumes any and all damage, destruction, loss or liability that arises during transit, to the extent that Carrier's insurance policies and Carriers are unable to do so. Shipper shall obtain allrisk insurance covering the full replacement value of the freight or cargo in transit and in storage, naming PML as an additional insured. Shipper shall also cause all of its insurers to waive subrogation against PML.

#### (c) Freight Securement

Shipper shall bear the sole responsibility to review and accept the Carrier's trailer and equipment used for carriage for cleanliness, odour, leaks, dirt or other conditions that may be unacceptable to Shipper. If a trailer or any equipment is unacceptable, it is Shipper's obligation to prohibit loading. In such event, Shipper shall notify PML immediately and request alternative arrangements through the Service. Unless otherwise agreed in writing, or otherwise specified by law or regulation, it is Shipper's responsibility to develop adequate blocking, bracing and packaging that facilitates the safe handling and stowing of freight and prevents damage during transit. Shipper will be responsible to provide feedback to PML with respect to any conditions unacceptable to the Shipper, by providing the User Rating to a Carrier, among other feedback.

#### (d) PML Is Not Responsible for Freight or Cargo

Shipper acknowledges that PML will never be in possession of any freight or cargo being transported in connection with use of the Service, nor will PML be responsible or have any role in the securement of freight or cargo for transportation. For further clarity, all Users acknowledge that PML provides the Service solely as an intermediary through an electronic platform and other technological means, which excludes any possession or handling of cargo or freight.

#### (e) Shipping Documents

Shipper's insertion of "PML" or "Pick My Load", or any variation of the same, on a receipt of goods, manifest, or any other shipping document, shall be understood by the parties to be for the Shipper's convenience, or due to Shipper's oversight only, and shall not operate to alter PML's status as an independent contractor and/or Broker and/or Intermediary, nor the Carrier's status



pick my load

as the responsible Carrier. The Terms and Conditions set forth in this Agreement shall supersede and take precedence over any other shipping document or reference to other terms and conditions or agreement used between a Carrier or a Shipper. Any such other terms and conditions or agreement shall have no effect whatsoever on PML or on this Agreement or in any way alter, or modify any term of this Agreement and/or shall not impose and/or add any liability and/or responsibility to PML.

(f) Shipper Indemnification

Shipper agrees to defend, indemnify, hold harmless and/or make PML (and its officers, employees and agents) whole with respect to any and all claims, demands, loss, damage, expenses or liability, including costs and attorney fees, made by any party due to or arising out of Shipper's or its agents: (i) use of the Service; (ii) information provided by Shipper to PML through the Service; (iii) interaction with any other User; (iv) violation of these Terms and Conditions; (v) violation of applicable laws or regulations; or (vi) your shipment contents. Shipper also hereby waives any claims or demands by Shipper against PML related to any costs, loss, expenses or liability arising from the above listed actions by Shipper or its agents. PML shall approve, in its reasonable discretion, the selection of any counsel representing its interests.

Shipper's indemnification with respect to PML applies regardless of any provisions in separate contracts between PML and third parties.

Shipper agrees that it shall not settle any matter relating to PML without the prior written consent of PML. PML reserves the right, at Shipper's sole expense, to assume the exclusive defence and control of any matter for which Shipper is required to indemnify PML, and Shipper agrees to fully cooperate with PML's defence of such claims if such right is asserted. PML will use reasonable efforts to notify Shipper of any such claim, action or proceeding upon becoming aware of it.

pick my load





## 7. Cargo Claims

### (a) Carrier Liability

Carrier agrees to assume full liability for the prompt, safe transportation of all Shipments pursuant to the Service and under these Terms and Conditions. Carrier shall be responsible for all loss, damage, delay, destruction, theft or liability of whatever nature arising from the transportation services hereunder, or from Carrier's failure to perform the services as agreed, whether occurring while the shipment is in the custody or control of the Carrier or any party to whom Carrier may entrust the shipment.

Any documents uploaded to the Service by Carrier, and PML's posting of them to the Service, attempting to limit Carrier's liability or change any terms of this Agreement, shall not constitute PML's consent to such changes.

### (b) Limitation of Liability of PML

PML shall have no liability whatsoever to its customer, any involved Shipper or Carrier, and any customer of such Shipper or Carrier, for any loss, damage or injury to property resulting from PML's performance of or failure to perform the broker services provided in this Agreement or as a result of any contract of carriage between Shipper and Carrier. For greater clarity, Users' insurance and indemnification obligations shall be deemed to relieve PML of any loss, damage or injury to property or personal injury arising out of the Agreement.

### (c) Claim Submissions and Settlement

In the event of loss, injury or damage, Shipper shall use best efforts to submit a claim to PML within ninety (90) days of the incident, and in no event later than nine (9) months of the incident. **PML and Users shall make every attempt to facilitate the resolution of the claim without resorting to courts of justice or tribunals. Unless otherwise agreed in writing by PML, the Shipper is not entitled to withhold payment or offset the amount of any claims, which remain unpaid or unresolved against amounts owed by Shipper to PML.**

To be valid, all claims made pursuant to the Service must be filed with PML and against Carrier in writing; must include a clear demand for payment and a specified Rupee amount of the claim; and it must identify the shipment sufficiently to allow Carrier, and PML at its right, to conduct an investigation.

## 8. Payment Terms

### (a) Payment

For each Shipment, Shipper shall pay to PML (i) the fees listed upon acceptance by Carrier of the Shipment Offer which are applicable for Shipment on the Service (the "Shipment Fee") and, (ii) any additional charges Shipper may incur in relation to the Shipment, including, but not limited to, wait time at pickup location after the agreed upon pickup time, overnight storage due to Shipper not being available or able to receive the Shipment from Carrier, and any differences between the actual Shipment and the description of the Shipment created on the Service, including weight of Shipment; and (iii) any additional charges mutually agreed upon in writing by the Shipper and PML. **PML may change the pricing applicable for the use of the Service (from time to time in its sole discretion) by updating the Site and Mobile App and without any additional notice to Users.**

When a Shipment Fee is processed, PML shall display a completed charge screen. This is Shipper's electronic receipt. Shipper should print or save this electronic receipt for its records. Shipper represents and warrants that Shipper has the right to use any credit card(s), or other payment means provided to PML pursuant to the User Account or otherwise and used to initiate any



transaction of the Shipment Fee. All information that Shipper provides to PML must be accurate, current and complete. Shipper agrees to immediately notify PML of any change in Shipper's billing address or the credit card or bank account used for payment hereunder. Shipper represents and warrants that it has all right to use any credit cards, or other payment means used to initiate any transaction through the Service.

When a Shipment Fee is processed, PML shall notify Shipper and make the completed charge visible to Shipper on the Service. Shipper agrees not to circumvent payments for scheduled or completed Shipments in any way.

(b) Remittance of Shipment Fee to Carrier

For each Shipment, PML will pay Carrier the fees listed to Carrier on the Service when the Carrier accepted the Shipment ("Carrier Fee"), as well as additional fees Carrier may earn related to the completion of the Shipment, as set out in 8(a) above, if paid to PML, as the case may be. Carrier acknowledges that the Carrier Fee will be the Shipment Fee less a fee to PML ("PML Fee"). Carrier shall only be entitled to the Carrier Fee after completion of the Shipment as provided for in clause 4(d) above. Carrier will not accept payment from a Shipper directly, as the Shipper's credit card will be debited regardless, **and if Carrier does so, it acknowledges that it holds these funds as bare trustee for PML. In such a case, Carrier will remain liable to pay the PML Fee to PML such that PML may enforce its rights against Shipper or Carrier at its discretion.**

**CARRIER SHALL NOT WITHHOLD ANY SHIPMENTS, FREIGHT OR CARGO AS A MEANS OF OBTAINING PAYMENT. CARRIER'S RIGHTS TO THE PAYMENT OF FREIGHT OR AMOUNTS DUE UNDER THIS AGREEMENT IS EXCLUSIVELY SET OUT AND PROVIDED FOR IN SECTION 8 OF THE PRESENT TERMS AND CONDITIONS.**

(c) General Payment Terms

Each User agrees that it is responsible for the collection and/or payment of all Taxes, which User may be liable for in any jurisdiction arising from your use of the Service. PML is not responsible for collecting, reporting, paying, or remitting to you any such Taxes. "Taxes" means any applicable duties, sales taxes, VAT or other taxes which may be levied in any jurisdiction in respect of a transaction contemplated by this Agreement. All payments will be made in the currency set out in the receipt produced by the Service.





## 9. Licences

### (a) User Account

In order to use the Service, the parties must register for and maintain an account with PML (“**User Account**”) and provide certain information as prompted by the registration form. If you are an individual, you must be at least 18 years of age, or the age of legal majority in your jurisdiction (if older than 18) to register for a User Account. Unless authorized by PML in writing, you or the company you represent, may only have one User Account. User Account registration requires you to submit to PML certain personally identifiable information, as well as at least one valid payment method (either a credit card or setting up an account with an accepted payment partner). You represent and warrant that: (a) all required registration information you submit is truthful and accurate; and (b) you will maintain the accuracy of such information throughout your use of the Service. You may delete your Account at any time, for any reason, by contacting PML or following the instructions on the Service. You are responsible for maintaining the confidentiality of your User Account login credentials and are fully responsible for all activities that occur under your User Account. You agree to immediately notify PML of any unauthorized use, or suspected unauthorized use of your Account or any other breach of security. **PML is not liable for any loss or damage arising from your failure to comply with the above requirements.**

### (b) User Content

“User Content” means any and all information, data and other content that a User submits to, or uses with, the Service, including the User Account, and any Shipment request or acceptance. User is solely responsible for its User Content and assumes all risks associated with it, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that makes you or any third party personally identifiable. You hereby represent and warrant that your User Content does not violate any provision of this Agreement or any applicable law. For the avoidance of doubt, User Content may include third party content you submit, but will not include User Ratings.

You agree not to submit third party content unless you have the consent of the applicable third party owner of such content. You may not state or imply that your User Content is in any way provided, sponsored or endorsed by PML. You acknowledge and agree that PML is not responsible for any User Content and makes no guarantees regarding the accuracy, currency, suitability, or quality of any User Content, and PML assumes no responsibility for any User Content. PML reserves the right, but not the obligation, to review any User Content, investigate, and /or take appropriate action against a User in its sole discretion, including removing or modifying User Content, terminating your User Account, and/or reporting you to law enforcement authorities. Please see subsection (j) herein.

### (c) User Ratings

As part of the Service, all Carriers and Shippers will be able to rate each other using a five-point Scale rating system and give feedback on a Shipment. The purpose of this two-way rating system is to hold all Users accountable for their own behaviour, and can be used by Shippers and Carriers in making or accepting Shipment Offers. Users will be able to see their current rating in the Ratings tab of the Service.

A Users rating is based on an average of the number of post Shipment points given to them (from 1 to 5 points), up to your last 20 rated Shipments or the total number of Shipments you have completed, if less than 20. PML will monitor the ratings of its Users and may provide feedback to those Users or choose to deactivate their account, at PML’s sole option, based on the User Ratings, or any other reason.



Carriers and Shippers each acknowledge and consent to their User Rating being viewable by all Users of the Service.

PML shall incur no liability whatsoever with respect to User Ratings, including any and all loss, injury, damage, consequential or economic loss, claims, actions arising out of the User Ratings. Users are solely responsible of the rating and feedback posted in User Ratings. Users agree and acknowledge that PML has the right, but no duty, to remove, at its sole discretion, any User Ratings or feedback in the event that it is obscene, injurious, libellous, offensive, or that otherwise undermine the Service and appropriate use of the User Ratings as described above.

(d) Licence re User Content

Users hereby grant, and represent and warrant that they have the right to grant, to PML an irrevocable, nonexclusive, royalty free and fully paid, sublicenseable, worldwide license, to use User Content, solely for the purposes of including User Content in the Service.

(e) Anonymous Data

PML may create anonymous data records ("Anonymous Data") from your User Content by using commercially reasonable efforts to exclude any and all information (such as company name) that makes the data identifiable to you. PML may use and disclose Anonymous Data for any purpose, including improving the Service.

(f) Disclosure

PML may share your User Content (a) with third party service providers; (b) if another company acquires PML; and/or (c) to comply with relevant laws, to respond to subpoenas or warrants or other request from governmental agencies to assist in preventing any violation or potential violation of the law or this Agreement.

(g) Mobile App

Subject to these Terms and Conditions, PML grants the User a non-transferable, nonexclusive, license to install and use the Mobile App, in executable object code format only, solely on the Users own handheld mobile device and for the Users internal business use during the term of this Agreement.

(h) Restrictions on Use of the Service

The rights granted to the user in this Agreement are subject to the following restrictions. You shall not: (i) license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the

Service; (ii) modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Service; (iii) use the Service to upload, transmit, display or distribute any User Content that A. violates any third party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity or any other intellectual property or property right, or B. is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory false, intentionally misleading, trade libellous, pornographic, obscene, patently offensive (e.g., material that promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual) or otherwise objectionable material of any kind or nature or which is harmful in any way; (iii) access the Service in order to build a similar or competitive service; (iv) upload, transmit, or distribute any computer viruses, worms, or any software intended to damage or alter a computer system or data; (v) send unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or



otherwise; (vi) harvest, collect, gather or assemble information or data regarding other Users, including email addresses, without their consent; (vii) interfere with, disrupt, or create an undue burden on servers or networks connected to the Service or violate the regulations, policies or procedures of such networks; (viii) attempt to gain unauthorized access to the Service, other computer systems or networks connected to or used together with the Service, through password mining or other means; (ix) harass or interfere with another User's use and enjoyment of the Service; (x) introduce software or automated agents or scripts to the Service so as to produce multiple accounts, generate automated searches, requests and queries, or to strip, scrape, or mine data from the Service; and (xi) except as expressly stated herein, no part of the Service may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. All copyright and other proprietary notices in any Service content must be retained on any copies thereof.

(i) Modifications

PML reserves the right, at any time, to modify, suspend or discontinue the Service or any part thereof with or without notice. All Users acknowledge and agree that PML will not be liable to you or to any third party for any modification, suspension or discontinuance of the Service of any part thereof.

(j) Limited Support

Users may contact PML's technical support centre for any support related issues arising from the use of the Service by following the instructions on the Service.

## 10. Ownership

Excluding your User Content, PML owns, or its licensors own, all intellectual property rights in and to the Service, including but not limited to the Website, Mobile App, including all related software and servers, in and to our trademarks, service marks, trade names, logos, domain names, taglines and trade dress (collectively, the "Intellectual Property"). Users acknowledge and agree that PML owns all right, title, and interest in and to the Service, including all intellectual property rights therein. The provision of the Service does not transfer to you or any third party any rights, title or interest in or to such Intellectual Property. Users understand and agree that without a written license agreement with PML, they may not make any use of the Intellectual Property. Except as expressly granted in this Agreement, all rights, title and interest in and to the Service, and in and to the Intellectual Property are reserved by PML.

If you provide PML any feedback, suggestions, reports, or other information or ideas regarding the Service ("Feedback"), you hereby assign to PML all rights in the Feedback and related information, and agree and acknowledge that PML shall have the right to use such Feedback as it deems appropriate.



### **11. Terms of Agreement**

This Agreement will remain in full force and effect while you use the Service. PML may at any time terminate this Agreement in its sole discretion if (a) you have breached any provision of these Terms and Conditions (or have acted in a manner that clearly shows you do not intend to, or are unable to, comply with this Agreement); (b) PML is required to do so by law (for example, where the provision of the Service to you is, or becomes, unlawful); (c) PML has elected to discontinue the Service; or (d) for your poor performance as a Shipper or Carrier in PML's sole discretion, including based on unsatisfactory User Ratings. Upon termination of this Agreement, your User Account and right to access and use the Service will terminate immediately.

### **12. Third Party Sites**

The Service might contain links to third party websites, services, and advertisements for third parties (collectively, "Third Party Sites"). Such Third Party Sites are not under the control of PML and PML is not responsible for any Third Party Sites. PML does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third Party Sites. You use all Third Party Sites at your own risk. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third Party Sites.

### **13. Indemnification of PML**

In addition to indemnifications set out elsewhere in this Agreement, all Users agree to defend, indemnify and hold PML (and its officers, employees, and agents) harmless, including costs and legal fees, from any claim or demand made by any third party due to or arising out of your (i) use of the Service, (ii) User Content, (iii) interaction with any other User, (iv) violation of this Agreement; (v) violation of applicable laws or regulations; or (vi) your shipment contents (if you are a Shipper) or your shipment services (if you are a Carrier). PML reserves the right, at your expense, to assume the exclusive defence and control of any matter for which you are required to indemnify PML and you agree to cooperate with PML's defence of these claims. You agree not to settle any matter without the prior written consent of PML. PML will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

### **14. Disclaimers**

In addition to the above provisions of this Agreement, PML expressly disclaims any warranties and conditions of any kind, whether express or implied, including the warranties or conditions of merchantability, fitness for a particular purpose, or non-infringement.

Further, PML makes no warranty that the Service: (a) will meet a User's requirements or expectations; (b) will be available on an uninterrupted, timely, secure, or errorfree basis; (c) will be accurate, reliable, free of viruses or other harmful code, complete, legal, or safe; or (d) result in any revenue, profits, or cost reduction.

The Service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. PML is not responsible for any delays, delivery failures or other damages resulting from such problems.

### **15. Dispute Resolution**

In the event of any doubt, difference, dispute, controversy or claim arising from, out of or in connection with this Agreement, or on the interpretation thereof or on the rights, duties, obligation or liabilities of either party hereto or on the operation, breach, termination or invalidity of this Agreement and if the Parties fail to amicably resolve such doubt, difference, dispute, controversy or claim within 30 days of written notice in respect thereof being served by one party to the other, it shall be finally resolved by arbitration held in Sri Lanka in the English language



pick my load

before an arbitral tribunal of 3 arbitrators, to be constituted by one arbitrator appointed by PickMyLoad on the one hand, and one arbitrator appointed by the ..... on the other hand, with the third arbitrator, being the umpire, appointed by the first two arbitrators appointed as aforesaid and which arbitration shall be held in accordance with the Rules of the Arbitration Centre of the Institute for the Development of Commercial Law and Practice (ICLP).

## 16. General Terms.

(a) *Amendments to Terms and Conditions.* We reserve the right to modify and enhance these Terms and Conditions at any time. This Agreement should be reviewed by Users regularly so that they stay aware of any changes thereto. Any modifications made by us to these Terms and Conditions will be uploaded to the Service. PML may, but will not be liable for any failure to, notify you of any changes to these Terms and Conditions by email. Amendments to these Terms and Conditions will be effective upon the posting by PML of such updated terms to the Service. A User's continued use of the Service following such posting shall indicate acknowledgement of such changes and your agreement to be bound by the terms and conditions, as amended.

(b) *Force Majeure.* Any delay in the performance of any duties or obligations of any party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labour dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party.

(c) *Entire Agreement and Interpretation.* This Agreement constitutes the entire agreement between you and PML regarding the use of the Service. PML's failure to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or contractual effect. In these Terms and Conditions, the use of the word "including" means including without limitation. If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

(d) *Independent Contractor.* The relationship of PML and a User of the service is that of an independent contractor, and neither party is an agent, employee or partner of the other. The Users assume complete responsibility for all applicable taxes, assessments, insurance (including, but not limited to, workers' compensation, unemployment compensation, disability, and pension) and any other financial obligations arising out of the transportation services rendered hereunder. No User is, nor will a User be deemed to be, an agent, legal representative, joint venture, franchisor, franchisee, or legal partner of PML for any purpose. No User will be entitled to enter into any contracts, make any representations or warranties in the name of, or accept any obligations whatsoever on behalf of PML.

(e) *Assignment.* This Agreement, and your rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by you without PML's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. PML may assign this Agreement without a User's consent. The terms of this Agreement shall be binding upon assignees.



pick my load

(f) *Press.* You hereby grant PML permission to identify you as a customer of PML or user of our Services and to reproduce your name and logo on the Website the Mobile App and in any other marketing materials.

(g) *Conflict.* If there is any conflict or inconsistency between the terms and conditions set forth in this Agreement and the terms set forth in any Bill of Lading, Proof of Delivery or any other shipping form, the terms and conditions of this Agreement, only as respect PML rights under this Agreement, these Terms and Conditions shall control.

(h) *Copyright/Trademark Information.* Copyright © 2016, PICK MY LOAD All rights reserved. All trademarks, logos and service marks (collectively the “Marks”) displayed on the Service are the property of PML or the property of other third parties. You are not permitted to use these Marks without PML’s prior written consent or the consent of such third party, which may own the Marks.

(i) *Electronic Communications.* The communications between Users and PML use electronic means, whether you use the Service or send us emails, or whether PML posts notices on the Service or communicates with you via email or text. For contractual purposes, you (a) consent to receive communications from PML in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that PML provides to you electronically satisfy any legal requirement that such communications would satisfy if it were being in a hardcopy writing. The foregoing does not affect your non-waivable rights.

(j) *PML’s Contact Information:*

No. 65, Jethawana Road,  
Colombo-14,  
Sri Lanka

General: +94 11 244 9797

Email: [help@pickmyload.lk](mailto:help@pickmyload.lk)  
[info@pickmyload.lk](mailto:info@pickmyload.lk)

pick my load