

# Loadshift Terms of Use

Welcome to **Loadshift Transport System**. A neutral online noticeboard marketplace, for the buying and selling of road transport.  
(NOTE: Loadshift is NOT a Broker, Agent, Transport Carrier nor Freight Forwarder).

Please read this document carefully. It governs Your commercial relationship with Us and sets out legally binding provisions which regulate Your use of Our website platform (including any desktop and mobile versions of it, and any of Our associated smartphone applications) and the services that We make available through Our platform.

To assist You, We have prepared summaries of Our Terms of Use. Our summaries are in the right hand column below. The summaries are not a substitute for reading the operative provisions of Our Terms of Use (i.e those in the left hand column below). The operative provisions of Our Terms of Use are legally binding. Our summaries are not legally binding, and do not limit the scope or operation of the operative provisions.

| <u>Operative Provisions</u>  | <u>Summary</u>  |
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| <p><b>1. Acceptance and modification of these Terms of Use</b></p> <p><b>1.1.</b> You may only access, browse and use our website platform (including any desktop and mobile versions of it, and any of Our associated smartphone applications) and the services that We make available through Our platform if You accept these Terms of Use. By accessing, browsing and/or using Our platform, You will be deemed to have confirmed that you have read and understand, and wholly and unconditionally agree to be legally bound by, and accept, these Terms of Use and any information linked to from these Terms of Use (including any Privacy Policy).</p> <p><b>1.2.</b> We may modify and/or replace these Terms of Use from time to time without notice (except where You are a Registered User of Our Platform – in which case We will notify You of the update using the email address that You enter into Your Platform Account).</p> <p><b>1.3.</b> We will always upload the latest version of these Terms of Use to this webpage.</p> <p><b>1.4.</b> If You do not wish to accept these Terms of Use, You must not and cannot use the Platform or any part of it.</p> | <p><b>By using Our platform,<br/>You agree to Our<br/>Terms of Use.</b></p> <p><b>We may change Our<br/>Terms of Use at any<br/>time.</b></p> |

## 2. Definitions and Interpretation

### 2.1. Definitions

In these Terms of Use:

**Australian Consumer Law** means schedule 2 to the *Competition and Consumer Act 2010* (Cth).

**Business Day** means Monday – Friday excluding public holidays in NSW.

**Business Hours** means 9:00am – 5:00pm on Business Days.

**Cargo** means a tangible item that can be transported.

**Carrier** means a person that accesses the Platform as a provider of transport services. A Carrier is also defined as a Registered User.

**CoR** Chain of Responsibility

**Efreight Website** means an online platform that facilitates the buying, selling &/or arranging of cargo transport.

**GST** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Guest User** means a Shipper that uses the Platform without registering. All Guest Users are governed by the Terms & Conditions for Registered Users..

**Intellectual Property Rights** means all copyright, trademark rights, patent rights, and design rights, whether registered or unregistered, and all other rights to intellectual property as defined under article 2 of the convention establishing the World Intellectual Property Organization, and all rights to enforce any of the foregoing rights.

**Moral Rights** has the meaning given in the *Copyright Act 1968* (Cth).

**Non-Excludable Guarantee** means a non-excludable guarantee implied by the Australian Consumer Law.

**One Month** means a period of 30 days.

**Personal Information** has the meaning given in the *Privacy Act 1988* (Cth).

**Personal Property Securities Register** means the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth).

**Platform** means the Loadshift website platform owned and/or provided by Us, the homepage URL of which is [www.loadshift.com.au](http://www.loadshift.com.au) and also includes the Platform Services and any content, images, text and other information appearing on any page or screen of the website platform and any source code and object code in the platform, and also refers to any desktop and mobile versions of the website platform and any of Our associated smartphone applications.

**Platform Account** means Your account on the Platform that is setup when You register on the Platform or subscribe to the Platform Services.

**Platform Services** means as set out in the Platform Services Description.

**Platform Services Description** means as set out at <http://www.loadshift.com.au/how-it-works/>.

**Preferred Partner** means an authorized Third Party Service Provider.

**Privacy Policy** means Our Privacy Policy located at <http://www.loadshift.com.au/Privacy-Policy/privacy-policy.aspx> .

**Shipper** means a person that accesses the Platform as a cargo owner, for the purpose of procuring transport services. A Shipper may use the Platform as a Registered User or as a Guest User.

**Registered User** means as set out in clause 5.1.

**Registered User Data** means as set out in clause 7.1.

**Terms of Use** means the terms and conditions set out on this webpage as amended by Us from time to time.

**We, Our and Us** means Load Point Pty Ltd as Trustee for Supercat Trust T/as Loadshift Transport System [ABN 79003633224] of Suite 2, Level 1, 238 George Street, Windsor.

**You** means you, the person who accesses the Platform for any reason, whether or not You are a Registered User of the Platform.

**Capitalised terms in these Terms of Use are defined in this clause.**

**2.2. Interpretation**

In these Terms of Use:

- (a) Headings and underlinings are for convenience only and do not affect the construction of these Terms of Use.
- (b) A provision of these Terms of Use will not be interpreted against a party because the party prepared or was responsible for the preparation of the provision, or because the party's legal representative prepared the provision.
- (c) Currency refers to Australian dollars.
- (d) A reference to a statute or regulation includes amendments thereto.
- (e) A reference to a clause, subclause or paragraph is a reference to a clause, subclause or paragraph of these Terms of Use.
- (f) A reference to a subclause or paragraph is a reference to the subclause or paragraph in the clause in which the reference is made.
- (g) A reference to time is to time in NSW.
- (h) A reference to a person includes a reference to an individual, a partnership, a company, a joint venture, government body, government department, and any other legal entity.
- (i) The words "includes", "including" and similar expressions are not words of limitation.

**3. Access and use of the Platform by unregistered users**

**3.1.** Unregistered users of the Platform may not use the Platform Services.

**You can't use most of the functionality provided by the platform until you register.**

**4. Registration**

**4.1.** We reserve the right to accept or reject any person's registration on the Platform in Our absolute discretion.

**4.2.** If You submit an application to register on the Platform, You:

- (a) will be deemed to have irrevocably warranted that during the application process You provided truthful and accurate information only;
- (b) will be deemed to have irrevocably warranted that You applied for registered on the Platform on behalf of and with the authority and consent of any business entity that you entered into the Platform Account registration form;
- (c) will be deemed to have irrevocably agreed to be jointly and severally liable for any breach of these Terms of Use by that business entity.

**4.3.** You must ensure that You provide a valid email address at the time of registration.

**4.4.** We reserve the right to send an email to You with a hyperlink which requires You to verify that You are the owner or operator of the email address entered by You during registration and to cancel/not

**Your registration on Our platform is subject to Our approval. You and your company are both responsible for your or their breach of Our Terms of Use and for the security of your login credentials.**

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| <p>approve Your registration on the Platform if Your rights to the email address are not so verified, or where You do not satisfy any of Our other eligibility criteria.</p> <p><b>4.5.</b> If any of Your contact details or other information which You provide during the application process change, You must promptly update those details in Your Platform Account with Your up-to-date details and information.</p> <p><b>4.6.</b> You must not provide Your Platform Account name or the password for Your Platform Account to any person. You agree and acknowledge that You shall be solely responsible for the confidentiality of Your username and password and any use of Your Platform Account (including unauthorised use).</p> <p><b>4.7.</b> You must immediately notify Us if You become aware of any unauthorised use of Your Platform Account.</p>  |   |
| <p><b>5. Registered User plans and Service Charges</b><br/> <b>(NOTE: It is FREE to post a Cargo Transport Quote Request Listing – Get Quotes)</b></p> <p><b>5.1.</b> Only users who have registered on the Platform and have a Platform Account ("<b>Registered Users</b>") may access the Platform Services.</p> <p><b>5.2.</b> You agree and acknowledge that if You become a Registered User You will have a non-exclusive, non-assignable, non-sublicensable, revocable right to access the Platform Services for the purposes expressly described in the Platform Services Description.</p> <p><b>5.3.</b> Where applicable a Registered User (<i>Carriers</i> only) must pay the fees and charges set out in the Platform Services Description (or as otherwise agreed between Us and the Registered User in writing) for the plan selected during signup for a Platform Account, in consideration for the Registered User's subscription to the Platform Services ("<b>Service Charges</b>") at the time and in the manner set out in the Platform Services Description, plus any GST that is applicable in respect of the supply of the Platform Services to the Registered User. Any applicable GST is payable at the same time as the Service Charges. All amounts are quoted in Australia Dollars.</p> <p><b>5.4.</b> If the Platform Services Description specifies a minimum term for any subscription plan, then the subscription of a Registered User for the Platform Services is for that minimum term ("<b>Minimum Term</b>") and, unless otherwise specified in the Platform Services Description, cannot be cancelled or terminated by the Registered User prior to the expiry of the Minimum Term.</p> <p><b>5.5.</b> A Registered User may only access the Platform Services solely for the purpose(s) specified in the Platform Services Description and subject to the provisions set out in the Platform Services Description and in these Terms of Use.</p> <p><b>5.6.</b> You must pay all costs associated with accessing the Platform, including internet access costs, web browser and computer and smartphone equipment costs, telecommunications costs, data costs, roaming charges and, if You are a Registered User, Service Charges.</p> <p><b>5.7.</b> Without limiting Our rights and any other provision of these Terms of Use, if a Registered User fails to pay the Service Charges in accordance with the requirements of these Terms of Use, We may suspend and/or terminate the Registered User's access to the Platform Services and its Registered User Data hosted in the Platform Services.</p> | <p><b>If you register on Our platform you must pay any applicable fees, including any early termination fees. If you don't pay us we can terminate your access to our services.</b></p> |
| <p><b>6. Payment Gateway</b></p> <p><b>6.1.</b> We utilise a third party payment gateway provided by Card Access Services ("<b>Payment Gateway</b>") to</p>   | <p><b>We don't control the</b></p>  |

- process payments made to Us via the Platform.
- 6.2.** If You are, or if You become a Registered User, each time You make a payment using the Payment Gateway You will be deemed to have acknowledged, understood and agreed:
- (a) that the Payment Gateway may be affected by delays, defects, faults and/or other matters which render the Payment Gateway unusable. These matters may be caused by factors including technical difficulties with the performance or operation of Our or the Payment Gateway's software or hardware or due to problems or malfunctions with the Internet or other telecommunications networks;
  - (b) that except in respect of any Non-Excludable Guarantees, We do not warrant, guarantee or represent that unauthorised access to information and data cannot occur, and that We are not responsible for the performance or non-performance of the Payment Gateway;
  - (c) that You have relied on Your own independent assessment and judgment in determining whether the Payment Gateway meets Your requirements; and
  - (d) acknowledged, understood and agreed to comply with the applicable terms and conditions of, and privacy policy of, the Payment Gateway provider (collectively, the "**Payment Gateway Agreement**"), copies of which are available on the Payment Gateway provider website at [www.cardaccess.com.au](http://www.cardaccess.com.au).
- 6.3.** You indemnify Us in respect of all and any loss or damage We incur as a result of any breach by You of the Payment Gateway Agreement.

**payment gateway used on the platform and we are not responsible for it or its security practices.**

**7. Responsibility for and ownership of Registered User Data**

- 7.1.** If You are a Registered User, We agree that as between You and Us, We own all data that You upload into the Platform Services ("**Registered User Data**").
- 7.2.** You agree and acknowledge that We may not own or operate the infrastructure upon which the Platform Services and/or the Registered User Data is hosted.
- 7.3.** If You are a Registered User, You warrant, agree and represent that:
- (a) You will only upload, input and transfer Registered User Data into and/or via the Platform Services or disclose Registered User Data to Us, which You are fully entitled and authorised to upload, input, transfer and disclose; and
  - (b) Your Registered User Data and Our collection, use, storage and/or disclosure thereof in the course of providing the Platform Services, will not breach any applicable law or right of any person.
  - (c) We reserve the right to edit and/or delete any Get Quotes listing or Find Trucks Listing that you have uploaded, posted, submitted and/or listed.
- 7.4.** If You are a Registered User, You license us on an irrevocable, non-exclusive, royalty-free, worldwide basis to use and publish your Registered User Data on the Platform as required by Us to provide the Platform Services.
- 7.5.** Each Registered User is solely responsible for the accuracy, legality and quality of all its Registered User Data and for obtaining any permissions, licenses, rights and authorisations necessary for Us to use, host, transmit, store and disclose the Registered User Data in connection with the provision of the Platform Services.
- 7.6.** If You are a Registered User, except in respect of any Non-Excludable Guarantee, You agree that You, not Us, are solely responsible for backing up and archiving all Registered User Data.
- 7.7.** If You are a Registered User, You acknowledge that Your access to Your Registered User Data that is hosted by the Platform Services is subject to Your compliance with these Terms of Use, including

**You own the data that you upload into Our platform. You have to get permission, where relevant, from the owner of the data before uploading it. We are not responsible if anything happens to that data.**

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| <p>payment of any applicable Service Charges.</p> <p><b>7.8.</b> Except in respect of any Non-Excludable Guarantee, You agree that We are not responsible for any loss, corruption or hacking of any Registered User Data.</p> <p><b>7.9.</b> You indemnify Us in respect of any loss and damage We or any of Our suppliers incur in respect of any claim that any of Your Registered User Data is lost, unavailable or corrupted or the transmission, storage, disclosure, or access to any of Your Registered User Data infringes the Intellectual Property Rights or other rights of any person or breaches any law, regulation, code or standard.</p>   |  |
| <p><b>8. Availability of Platform Services</b></p> <p><b>8.1.</b> Subject to clauses 8.2, 8.3 and 8.4, while You are a Registered User of the Platform, We agree to use Our best endeavours to procure hosting of the Platform Services and the Registered User Data and to ensure that the Platform Services are available.</p> <p><b>8.2.</b> The availability of the Platform Services to You will be subject, in addition to any other provisions set out in these Terms of Use, to any bandwidth limitations, database size limitations, throughput limitations and other technical and non-technical limitations or restrictions set out in the Platform Services Description, and any planned and unplanned maintenance of the Platform and/or Our hosting providers and/or Platform activity monitoring security software.</p> <p><b>8.3.</b> You agree and acknowledge that the accessibility and use of the Platform, the Platform Services and the Registered User Data hosted by the Platform Services is highly dependent on the proper function of the Internet and any other computer and telecommunications networks and infrastructure upon which the Platform and/or Platform Services and/or Registered User Data operate, interface with or connect to, and that We are not responsible for any non-performance of the Platform associated with any of those matters.</p> <p><b>8.4.</b> Except in respect of any Non-Excludable Guarantee, We do not guarantee that the Platform, Platform Services or Registered User Data or access thereto will be uninterrupted or error-free and You release and indemnify Us in respect of any loss and damage that We may incur and/or claims and/or complaints You or your customers may have against Us in respect of any interruption, error or unavailability of the Platform, Platform Services or any Registered User Data.</p> | <p><b>Our platform might go offline from time to time.</b></p>                                   |
| <p><b>9. Usage Restrictions</b></p> <p><b>9.1.</b> You may not make any use of the Platform except as permitted by these Terms of Use and may not do or authorise the commission of any act that would or might invalidate or be inconsistent with Our Intellectual Property Rights in the Platform. Without limiting the foregoing provisions, You must not, under any circumstances, sell or resell access to the Platform or scrape, data mine, republish, mirror or otherwise rent, lend, lease, sell, redistribute, sublicense, copy or duplicate the Platform or any content You obtain via the Platform (other than Your Registered User Data). In addition, You must not, nor may You permit any person to:</p> <p>(a) copy, alter, modify, adapt, reproduce, republish, frame, translate, reverse assemble, reverse engineer, reverse compile, transfer, sell, licence, create derivative works from or enhance the Platform and/or any content in the Platform (except any of Your Registered User Data) (except as expressly permitted by the <i>Copyright Act 1968</i> (Cth));</p> <p>(b) do any act that would or might invalidate or be inconsistent with Our Intellectual Property Rights or those of Our licensors;</p>   | <p><b>We own the platform and all IP in the platform. You cannot infringe our IP rights.</b></p> |

- (c) use the Platform in any way that infringes Our rights or the rights of any third party;
  - (d) use the Platform to create any product or service that competes with the Platform;
- or
- (e) take any steps to circumvent any technological protection measure or security measures in the Platform.

- 9.2.** You must not use the Platform or any part of the Platform in any way which is in breach of any statute, regulation, law or legal right of any person.
- 9.3.** We do not permit the use of the Platform by alternate and/or competitor Efreight Websites or systems (including their Directors, Employees, Investors, Associates and/or other related business entities).
- (a) Any usage and/or access either directly (Registered User), by an alias or by a third party will be immediately terminated without notice, any fees and/or charges forfeited and legal action considered.
- 9.4.** You must not use the Platform or any part of the Platform in breach of these Terms of Use.

**10. Acceptable Use Policy**

**10.1.** You agree that:

- (a) using the Platform to violate all or any legal rights of any person or company or other entity in any jurisdiction is strictly prohibited by these Terms of Use;
- (b) using the Platform in relation to crimes such as theft and fraud is strictly prohibited by these Terms of Use;
- (c) using the Platform in breach of laws relating to the protection of copyright, trade secrets, patents or other intellectual property and laws relating to spam or privacy and whether such violation is by way of the installation or distribution of "pirated" software or otherwise, is strictly prohibited by these Terms of Use;
- (d) introduction of malicious programs into Our network or servers (e.g., viruses, worms, Trojan horses, e-mail bombs) is strictly prohibited by these Terms of Use;
- (e) revealing Your account password to others or allowing use of Your Platform Account by others is strictly prohibited by these Terms of Use;
- (f) using another person's name, username or password or otherwise attempting to gain access to the Platform Account of any other person is strictly prohibited by these Terms of Use;
- (g) using the Platform to make fraudulent offers of goods or services is strictly prohibited by these Terms of Use;
- (h) using the Platform to carry out security breaches or disruptions of network communication is strictly prohibited by these Terms of Use. Security breaches include, but are not limited to, accessing data of which You are not an intended recipient or logging into a server or account that You are not expressly authorized to access or corrupting any data. For the purposes of this paragraph, "security breaches" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes;
- (i) using the Platform to execute any form of network monitoring which will intercept data not intended for You is strictly prohibited by these Terms of Use;
- (j) using the Platform to circumvent user authentication or security of any of Our hosts, networks or accounts or those of Our customers or suppliers is strictly prohibited by these Terms of Use;
- (k) using the Platform to interfere with or deny service to anyone is strictly prohibited by these Terms of Use;
- (l) using any program/script/command, or sending messages of any kind, with the intent to

**You cannot use the platform for any illegal purpose or to violate any person's legal rights.**

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| <p>interfere with, or disable, any person's use of the Platform is strictly prohibited by these Terms of Use;</p> <ul style="list-style-type: none"> <li>(m) sending unsolicited email messages through or to users of the Platform in breach of the <i>Spam Act 2003</i> is strictly prohibited by these Terms of Use;</li> <li>(n) using the Platform to send any form of harassment via email, or any other form of messaging, whether through language, frequency, or size of messages is strictly prohibited by these Terms of Use; and</li> <li>(o) use of the Platform in breach of any person's privacy (such as by way of identity theft or "phishing") is strictly prohibited by these Terms of Use.</li> <li>(p) All Carriers that choose to use Loadshift SMS and /or Email Alert Message, acknowledge that they are an alert message only. All Transport Request Listings should be read in their entirety prior to offering quotation, by logging into <a href="http://www.loadshift.com.au/load-board/">http://www.loadshift.com.au/load-board/</a></li> </ul>  |   |
| <p><b>11. Intellectual Property Rights</b></p> <ul style="list-style-type: none"> <li><b>11.1.</b> You agree and acknowledge that these Terms of Use do not transfer or assign any Intellectual Property Rights to You.</li> <li><b>11.2.</b> As between You and Us, We own all Intellectual Property Rights in the Platform.</li> <li><b>11.3.</b> You have no rights in the Platform or in any part of it or in any modification or enhancement thereof, other than the rights temporarily granted to You pursuant to these Terms of Use.</li> <li><b>11.4.</b> You agree that any Intellectual Property Rights in any comments that You may provide to Us in connection with the Platform or requests for new Platform features (each, an "Improvement Suggestion") becomes Our sole and exclusive property immediately upon You uploading or posting that Improvement Suggestion to the Platform or otherwise providing the Improvement Suggestion to Us, and You hereby assign all Intellectual Property Rights in all and any such Improvement Suggestions to Us effective as soon as You provide each Improvement Suggestion to Us or upload or post an Improvement Suggestion to the Platform, pursuant to section 197 of the <i>Copyright Act 1968</i> (Cth) and in equity. You consent to the infringement by Us and any third party We authorise, of all Moral Rights that You may have in any Improvement Suggestions.</li> <li><b>11.5.</b> You must not take any step to invalidate or prejudice Our (or Our licensors') Intellectual Property Rights in the Platform or otherwise. Without limiting the foregoing provisions, You must not register any security interest or purchase money security interest on the Personal Property Securities Register, or otherwise encumber or charge Your rights in respect of Your Registered User Data or with respect to the rights granted to You by these Terms of Use to use the Platform.</li> <li><b>11.6.</b> The word <i>Loadshift</i> is protected by registered trademark #1231161 (see IP Australia). No unauthorised use of the word <i>Loadshift</i> is permitted.</li> </ul> | <p><b>We own the platform and all IP in the platform. We also own all improvement suggestions that you make regarding the platform.</b></p> |
| <p><b>12. Responsibility for other users</b></p> <ul style="list-style-type: none"> <li><b>12.1.</b> We do not accept responsibility for the conduct of any users of Our Platform.</li> <li><b>12.2.</b> If You believe that another user of Our Platform has breached these Terms of Use please contact Us.</li> <li><b>12.3.</b> We are not a party to any transaction for the supply of goods or services advertised by any user of the Platform. Before entering into any transaction with any other user of the Platform, You should carefully consider the applicable terms and conditions applicable to the transaction, obtain all</li> </ul>  | <p><b>We cannot be held responsible for the conduct of Our users.</b></p>   |



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| <p>appropriate advice and take all appropriate precautions.</p> <p><b>12.4.</b> All Shippers acknowledge that when engaging the services of a Carrier, that they have the capacity and intention to pay in a timely manner and/or as agreed with the Carrier for the transport services offered/supplied.</p> <p><b>12.5.</b> All Carriers acknowledge that when providing transport services they will do so in a safe, professional and industry compliant manner.</p> <p><b>12.6.</b> All Users acknowledge their responsibility and required compliance of the <i>Chain of Responsibility (CoR)</i>.</p> <p><b>12.7.</b> Any dispute You have with another user of Our Platform is between You and the other user. You release Us from any claims that You may otherwise have against Us in relation to any conduct of any user of Our Platform and in respect of any content uploaded by or on behalf of any user into the Platform.</p> <p><b>12.8.</b> We check content entered into or uploaded into the Platform from time to time, but We do not review or moderate all content. If We become aware of content that breaches our Acceptable Use Policy (see clause 10) We will remove the content and if necessary send an email to the person who uploaded or entered it explaining why it was removed. If You become aware of any content that You think breaches the Acceptable Use Policy set out in clause 10 above, please contact Us.</p> <p><b>12.9.</b> Any alleged illegal behaviour and/or activity should be immediately reported to the Police.</p>                 |  |
| <p><b>13. Responsibility for third party claims</b></p> <p><b>13.1.</b> You agree and acknowledge that You are solely responsible for and You indemnify Us in respect of any loss and damage We may incur in connection with any claims and/or complaints made by any third party where the claim is caused directly or indirectly by:</p> <p>(a) Your use of the Platform; and/or</p> <p>(b) Your goods and/or services and/or your advertising and/or sales and/or marketing practices.</p>  | <p><b>We are not responsible for any claims made by third parties.</b></p>   |
| <p><b>14. App-Specific Provisions</b></p> <p><b>14.1.</b> The provisions of this clause 14 apply only to Your use of any Platform smartphone application that You download from the Apple App Store or Google Play (each, an app).</p> <p><b>14.2.</b> You agree that this Terms of Use is an agreement between You and Us and not between You and Apple, or You and Google. As between Us and Apple Inc., and as between Us and Google Inc., We are solely responsible for any product warranties pertaining to the app, whether express or implied by law, to the extent not otherwise effectively disclaimed under these Terms of Use.</p> <p><b>14.3.</b> In the event of any failure of the app to conform to any applicable warranty and where the warranty relates to Your use of a version of the app downloaded through the Apple App Store You may notify Apple, and Apple will refund the purchase price for the app to You (if any); and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the app, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure of the app to conform to any warranty will be Our sole responsibility.</p> <p><b>14.4.</b> You and We each acknowledge that, subject to clause 14.5, as between You and Us, We, and not Apple or Google, are responsible for addressing any of Your claims relating to the app or Your possession and/or operation of the app, including, but not limited to: (i) product liability claims</p> | <p><b>Apple and Google are not responsible for any smartphone apps that you use in connection with the Platform.</b></p> |

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| <p>made in respect of the app; (ii) any claim that the app fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation in respect of the App.</p> <p><b>14.5.</b> Notwithstanding the provisions of clause 14.2, 14.3 and 14.4, and for the avoidance of doubt, You agree:</p> <p>(a) to release and indemnify Us from any claims that You or any other person might otherwise have (including any claims arising under consumer protection or similar legislation in respect of the app and any other claims, losses, liabilities, damages or expenses) which relate to Your acts or omissions;</p> <p>(b) You, and not Us, will be solely responsible for any of the matters referred to in clauses 14.2, 14.3 and 14.4 to the extent they are caused or contributed to by You.</p> <p><b>14.6.</b> We and You each acknowledge that neither Apple nor Google have any obligation whatsoever to furnish any maintenance or support services with respect to the app.</p> <p><b>14.7.</b> You represent and warrant that (i) You are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) You are not listed on any U.S. Government list of prohibited or restricted parties.</p> <p><b>14.8.</b> We and You each acknowledge and agree that Apple and Google, and Apple's and Google's respective subsidiaries, are third party beneficiaries of these Terms of Use, and that Apple and Google will each have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against You as a third party beneficiary of these Terms of Use.</p> |   |
| <p><b>15. Hyperlinks</b></p> <p><b>15.1.</b> We do not represent, recommend or endorse any websites to which We have linked from the Platform via hyperlink or otherwise.</p>  | <p><b>We are not responsible for third party sites.</b></p> |
| <p><b>16. Liability</b></p> <p><b>16.1.</b> Except in respect of any Non-Excludable Guarantees, We do not represent that the information on this Platform is accurate, correct, up-to-date or error free.</p> <p><b>16.2.</b> The information on the Platform is not professional advice. You agree that You will seek all appropriate financial, legal and other advice as applicable before relying on any information You obtain from the Platform.</p> <p><b>16.3.</b> To the extent possible by law, We are not liable to You for any indirect, special or consequential loss or damage incurred by the other party, including liability for loss of profits, loss of business opportunity, loss of savings, or loss of data.</p> <p><b>16.4.</b> Except in respect of any Non-Excludable Guarantees, to the maximum extent permitted by law (and if permitted by law), We will not have any liability to You for any loss or damage howsoever incurred in relation to Your use of or inability to use the Platform, or with respect to any of the circumstances addressed in clause 13.1.</p> <p><b>16.5.</b> Any goods and services supplied by Us through the Platform (which for the avoidance of doubt, includes the Platform Services supplied by Us, but does not include goods or services supplied by any user or Registered User of the Platform to any person) may come with implied non-excludable guarantees which are regulated by the Australian Consumer Law. The extent of the implied</p>   | <p><b>Our liability is limited in many ways.</b></p>        |

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| <p>guarantees depends on whether You are a 'consumer' of goods or services within the meaning of that term pursuant to the Australian Consumer Law as amended.</p> <p><b>16.6.</b> If the goods or services supplied by Us to You through the Platform (which for the avoidance of doubt, includes the Platform Services supplied by Us, but does not include goods or services supplied by any user or Registered User of the Platform to any person) are supplied to You in Your capacity as a 'consumer' of goods or services within the meaning of that term in the Australian Consumer Law as amended You will have the benefit of certain non-excludable guarantees in respect of those goods or services and nothing in these terms and conditions excludes or restricts or modifies any guarantee which pursuant to the <i>Competition and Consumer Act 2010</i> (Cth) is so conferred. However, if the goods or services are subject to a non-excludable guarantee implied by the Australian Consumer Law and the goods or services are not ordinarily acquired for personal, domestic or household use or consumption, then pursuant to s 64A of the Australian Consumer Law, We limit Our liability for breach of any such non-excludable guarantee implied by the Australian Consumer Law (other than a guarantee implied by sections 51, 52 or 53 of the Australian Consumer Law) or expressly given by Us to You, in respect of each of the goods and services, where it is fair and reasonable to do so, at Our option, to one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) if the breach relates to goods: <ul style="list-style-type: none"> <li>(i) the replacement of the goods or the supply of equivalent goods;</li> <li>(ii) the repair of such goods;</li> <li>(iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or</li> <li>(iv) the payment of the cost of having the goods repaired; and</li> </ul> </li> <li>(b) if the breach relates to services: <ul style="list-style-type: none"> <li>(i) the supplying of the services again; or</li> <li>(ii) the payment of the cost of having the services supplied again.</li> </ul> </li> </ul> <p><b>16.7.</b> Any warranty against defects provided by Us to You in Your capacity as a 'consumer' under the Australian Consumer Law is in addition to Your other rights and remedies under a law in relation to the goods or services to which the warranty relates.</p> <p><b>16.8.</b> Except in respect of any Non-Excludable Guarantees, all conditions, warranties and guarantees implied in these Terms of Use are excluded, to the extent possible by law.</p> <p><b>16.9.</b> To the extent that Our liability is not otherwise excluded by these Terms of Use, subject to any Non-Excludable Guarantees, Our liability to You is limited to the aggregate sum of the Service Charges paid by You to Us.</p> |  |
| <p><b>17. Termination (including Refund Policy)</b></p> <p><b>17.1.</b> If you are not a Registered User, We may terminate these Terms of Use and Your access to the Platform or any part of it at any time without notice.</p> <p><b>17.2.</b> If You are a Registered User, We may terminate these Terms of Use and Your access to the Platform by notice to You if:</p> <ul style="list-style-type: none"> <li>(a) You breach any material term of these Terms of Use; or</li> <li>(b) where reasonably necessary to protect Our legitimate commercial interests.</li> </ul> <p><b>17.3.</b> We may take down the Platform or any part of it or take the Platform or any part of it offline at any time without notice where reasonably necessary to protect Our legitimate commercial interests.</p> <p><b>17.4.</b> Termination of these Terms of Use and access to the Platform does not affect any accrued rights of either party.</p> <p><b>17.5.</b> Except in respect of termination pursuant to clause 17.2(a), if You are a Registered User and We</p>   | <p><b>You and We can terminate your access to the platform under certain conditions. We will give you a refund in certain circumstances.</b></p> |

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| <p>terminate these Terms of Use and/or Your access to the Platform Services, We will refund to You 50% of the value of any whole months remaining from your purchase.</p> <p><b>17.6.</b> If you desire to terminate your use of the Platform, written confirmation (email accepted) of this request will be required. We will refund to You 50% of the value of any whole months remaining from your purchase.</p>  |  |
| <p><b>18. Notices</b></p> <p><b>18.1.</b> Any notice issued to You from Us or from Us to You shall be in writing and sent by hand delivery, post or email. Where sent from Us to You, We shall use Your contact details for your Platform Account.</p> <p><b>18.2.</b> You may contact Us or send a notice to Us using Our contact details that are specified on Our website at <a href="http://www.loadshift.com.au/contact-us/">http://www.loadshift.com.au/contact-us/</a>.</p> <p><b>18.3.</b> Any notice issued by hand shall be deemed delivered upon delivery.</p> <p><b>18.4.</b> Any notice issued by post shall be deemed delivered 3 Business Days after posting if posted domestically, or 10 Business Days after posting if posted internationally.</p> <p><b>18.5.</b> Any notice issued via email shall be deemed to be delivered upon receipt by the sender of an electronic read receipt or delivery receipt, or upon receipt of confirmation from the recipient that the recipient received the email.</p> <p><b>18.6.</b> We may send You email or other electronic messages concerning Your Platform Account and the Platform from time to time.</p>   | <p><b>Notices between you and us are deemed to be delivered at different times, depending on how and when they are sent.</b></p> |
| <p><b>19. Third Party &amp;/or Preferred Partner Services</b></p> <p><b>19.1</b> The Platform is not responsible or liable for the actions and/or services provided by any Third Party and/or Preferred Partner.</p> <p><b>19.2</b> Insurance services (available for purchase) are supplied by Shielded Insurance ABN 92612044630 (authorized representative of Community Broker Network ABN 60096916184). Located at 5-8 Henzells Plaza, 51 Minchinton St, Caloundra QLD 4551.</p> <p><b>19.3</b> To ensure a standard of industry professionalism, Shielded Insurance is authorized to contact newly registered Carrier Users to discuss, review and advise on their level of insurances. This may include offers of industry relevant insurance.</p> <p><b>19.4</b> The Platform does not offer any advice regarding insurance or financial services. All enquires and queries should be directed to the relevant Preferred Partner &amp;/or Third Party.</p> <p><b>19.5</b> Before buying a policy, you should consider if the policy suits your needs by reading the policy wording, known as the Product Disclosure Statement (PDS), in the light of your personal circumstances.</p> <p><b>19.6</b> The Platform may receive benefit from Third Parties &amp;/or Preferred Partners.</p> | <p><b>We are not responsible for Third Parties, Preferred Partners and/or the services they provide.</b></p>                     |

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| <p><b>20. General</b></p> <p><b>20.1.</b> <u>Other rights:</u> All rights not expressly granted to Us in these Terms of Use are expressly reserved by Us.</p>  | <p><b>We reserve our rights.</b></p>  |
| <p><b>20.2.</b> <u>Amendment:</u> These Terms of Use may be amended by Us at any time. If you are a Registered User, We will notify You of the amendments by providing notice in writing or via email(<b>Amendment Notice</b>) and if You do not agree to the amendments You can cancel Your subscription to the Platform Services if the amendment is detrimental to You by providing written notice to us within 7 days of your receipt of the Amendment Notice. If You provide us with that notice, We will initiate our refund policy as defined in clause 17.6.</p> | <p><b>We can change these Terms of Use at any time. If you are unhappy about the changes, you can terminate your subscription.</b></p>                        |
| <p><b>20.3.</b> <u>Assignment:</u> You may not assign, transfer, license or novate Your rights or obligations under these Terms of Use without Our prior written consent. We may assign, transfer, licence or novate Our rights or obligations under these Terms of Use at any time, subject to Our Privacy Policy.</p>  | <p><b>You cannot transfer your rights under these Terms of Use unless we approve the transfer. We can transfer our right and obligations at any time.</b></p> |
| <p><b>20.4.</b> <u>Severability:</u> If any part of these Terms of Use is deemed invalid by a court of competent jurisdiction, the remainder of these Terms of Use shall remain enforceable.</p>   | <p><b>If part of these Terms of Use are not legally binding, the rest still are.</b></p>  |

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| <p><b>20.5.</b> <u>Relationship:</u> You and Us are independent contracting entities and these Terms of Use do not create any relationship of partnership, joint venture, fiduciary, or employer and employee or otherwise.</p>   | <p><b>We are not partners, employers or employee or any other special commercial relationship.</b></p> |
| <p><b>20.6.</b> <u>Australian Consumer Law:</u> The exclusions and limitations of liability set out in these Terms of Use shall apply to the fullest extent permissible at law, but We do not exclude or limit liability which may not be excluded or limited by law. Without limiting the foregoing provisions, We do not exclude liability under the Australian Consumer Law which is prohibited from being excluded.</p> | <p><b>Our liability is only limited to the extent permitted by law.</b></p>                            |
| <p><b>20.7.</b> <u>Entire Agreement:</u> These Terms of Use and any information linked to from these Terms of Use constitute the entire agreement between You and Us and to the extent possible by law, supersede all prior understandings, representations, arrangements and agreements between You and Us regarding its subject matter.</p>   | <p><b>These Terms of Use set out our entire agreement.</b></p>   |
| <p><b>20.8.</b> <u>Jurisdiction:</u> These Terms of Use will be interpreted in accordance with the laws in force in NSW. You and Us irrevocably submit to the non-exclusive jurisdiction of the courts situated in NSW.</p>   | <p><b>These Terms of Use will be subject to the law of NSW.</b></p>                                    |