

Terms and Conditions of Driver Use

ModalView LLC (“ModalView”), provides a service that connects, via the website at www.modalview.com (the “Site”) and associated mobile application (“Mobile App”), motor carriers (“Carriers”) and their drivers (“Drivers”) to entities arranging for highway transportation of intermodal shipments moving in joint rail/highway transportation (“Intermodal Market Company” or “IMC”) (collectively, with the Site, Mobile App and all services provided therein, the “Service”).

THESE TERMS AND CONDITIONS (“AGREEMENT”), AS AMENDED BY MODALVIEW FROM TIME TO TIME, SET FORTH THE LEGALLY BINDING TERMS GOVERNING DRIVER’S USE OF THE SERVICE. BY ACCESSING OR USING THE SERVICE, YOU, “DRIVER”, ARE ACCEPTING THIS AGREEMENT. YOU MAY NOT ACCESS OR USE THE SERVICE OR ACCEPT THIS AGREEMENT IF YOU ARE NOT AT LEAST 18 YEARS OLD. IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SERVICE. YOUR USE OF THE SERVICE IS CONTINGENT ON YOUR MOBILE TELEPHONE NUMBER BEING ASSOCIATED WITH THE ACCOUNT OF A FOR-HIRE MOTOR CARRIER THAT IS CURRENTLY AUTHORIZED TO USE THE SERVICE. YOU ACKNOWLEDGE AND AGREE THAT IN NO EVENT SHALL MODALVIEW MAKE ANY PAYMENT TO YOU DIRECTLY OR HAVE ANY OBLIGATION TO DO SO. MODALVIEW MAY TERMINATE YOUR ACCESS TO AND ABILITY TO USE THE SERVICE AT ANY TIME, IN ITS SOLE DISCRETION WHETHER WITH OR WITHOUT CAUSE.

1. SERVICE DESCRIPTION

a. General. ModalView’s Service helps to provide transparency between IMCs, Brokers, Agents, Carriers, Drivers, and other providers for the movement of joint rail/highway intermodal shipments (each, a “Shipment”) by providing a platform whereby IMCs can provide Shipment details to Carriers, and Carriers and Drivers can view such Shipments and communicate with one another regarding the same via the Site and Mobile App. “User” means any user of the Service, and includes any Carrier, Driver, and authorized representative of the same.

b. Shipments. IMC may enter information related to an “Shipment” to the Site. ModalView’s services are limited to informational elements only, and do not include the ability to negotiate any terms or to effectuate any payments via the Mobile App. ModalView is not responsible for providing or verifying any Shipment Information. Carriers may via the Site assign a Shipment to a Driver, which permits the Carrier and IMC to track the status and location of the Shipment in real time via the Site. Driver and Carrier also have the ability to access, review, and communicate about Shipments using the Mobile App.

c. Handling the Shipment. For each Shipment it transports, Driver shall accurately input into the Mobile App any and all information required or requested by the Service as prompted, including status updates and information regarding delays, from the time the Shipment is Tendered to the Carrier until transportation of the Shipment by Driver has been completed. DRIVER SHALL NOT USE THE MOBILE APP WHILE DRIVING and shall otherwise comply with any applicable law, rule, or regulation applicable to use (or prohibitions against use) of mobile telecommunication devices. Driver must ensure the Mobile App is activated and running at all times Driver is transporting or is otherwise in possession of a Shipment. Driver and its associated Carrier are responsible for determining the appropriate route for transportation. Routing information, if any, provided in any Shipment Information is for informational purposes only. Where a requirement to provide such information is indicated in the Mobile App, Driver understands that failure to update the Mobile App promptly upon completion of additional accessorial services may result in the Carrier’s inability to recover payment for such accessorial services.

2. ACCOUNT ACCESS

a. Accounts. In order to use the Service, Driver must register for a ModalView account on the Mobile App (“Account”) and provide certain information as prompted by the registration form. Driver represents and warrants that all required registration information it submits is truthful and accurate and that Driver will maintain the accuracy of such information. Driver shall also link, per the directions on the Mobile App, to the account of the Carrier for which Driver transports a Shipment before Driver begins transporting the Shipment. Driver may delete its Account at any time, for any reason, by following the instructions on the Mobile App. Driver shall delete all copies of the Mobile App in its possession upon deletion of Driver’s account. Driver is responsible for maintaining the confidentiality of its Account login credentials and is fully responsible for all activities that occur under its Account.

Driver agrees to immediately notify ModalView of any unauthorized use or suspected unauthorized use of Driver's Account or any other breach of security. ModalView cannot and will not be liable for any loss or damage arising from Driver's failure to comply with the above requirements.

b. Mobile App. Subject to the terms of this Agreement, ModalView grants Driver a non-transferable, non-exclusive, license to install and use the Mobile App, in executable object code format only, solely on Driver's own handheld mobile device and for Driver's internal business use during the term of this Agreement.

c. Certain Restrictions. The rights granted to Driver in this Agreement are subject to the following restrictions: (a) Driver shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Service; (b) Driver shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Service; (c) Driver shall not access the Service in order to build a similar or competitive service; and (d) 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. Any future release, update, or other addition to functionality of the Service shall be subject to the terms of this Agreement. All copyright and other proprietary notices on any Service content must be retained on all copies thereof.

3. NETWORK ACCESS AND DEVICES. Driver is responsible for obtaining the data network access necessary to use the Service. Driver's mobile network's data and messaging rates and fees may apply if Driver accesses or uses the Service from a wireless-enabled device. Driver is responsible for acquiring and updating compatible hardware or devices necessary to access and use the Service and any updates thereto. ModalView does not guarantee that the Service, or any portion thereof, will function on any particular hardware or devices. In addition, the Service may be subject to malfunctions and delays inherent in the use of the Internet and electronic communications.

4. OWNERSHIP.

a. Ownership. Excluding Driver's User Content (defined below), Driver acknowledges that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Service are owned by ModalView or ModalView's licensors. ModalView's provision of the Service does not transfer to Driver or any third party any rights, title, or interest in or to such intellectual property rights. ModalView and its suppliers reserve all rights not granted in this Agreement.

b. Modification. ModalView reserves the right, at any time, to restrict access, modify, suspend, or discontinue the Service or any part thereof with or without notice. Driver agrees that ModalView will not be liable to Driver or to any third party for any restriction, modification, suspension, or discontinuance of the Service or any part thereof.

c. Feedback. If Driver provides ModalView any feedback, suggestions, bug reports, system errors, and other information or ideas regarding the Service ("Feedback"), Driver hereby assigns to ModalView all rights in the Feedback and agree that ModalView shall have the right to use such Feedback and related information in any manner it deems appropriate. Unless otherwise required under this Agreement, ModalView has no obligation to review, respond to, resolve complaints or issues identified in, or otherwise address any Feedback Driver provides. ModalView will treat any Feedback Driver provides to ModalView as non-confidential and non-proprietary. Driver agrees that Driver will not submit to ModalView any information or ideas that Driver considers to be confidential or proprietary. If Driver agrees to participate in any case studies, Driver agrees that information Driver provides in connection with the case study is deemed Feedback and that ModalView may use Driver's name in connection with such Feedback.

5. USER CONTENT.

a. User Content. "User Content" means any and all information, data, and other content that a User submits to, or uses with, the Service. User Content includes Shipment Information and any other information provided in a Shipment. Driver is solely responsible for Driver's User Content. Driver assumes all risks associated with use of Driver's User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of Driver's User Content that makes Driver or any third party personally identifiable. Driver hereby represents and warrants that Driver's User Content does not violate the Acceptable Use Policy (defined below). For the avoidance of doubt, User Content may include third-party content Driver submits. Driver agrees not to submit third-party content unless Driver has the consent of the applicable third-party owner of such content and has complied

with all relevant laws and regulations that may apply to the transfer of such information. Driver may not state or imply that Driver's User Content is in any way provided, sponsored, or endorsed by ModalView. Driver alone is responsible for any liability resulting from Driver's User Content, including, but not limited to, liability resulting from any of Driver's User Content that violates the Acceptable Use Policy. ModalView does not control User Content, and Driver acknowledges and agrees that ModalView assumes no responsibility for any User Content and makes no guarantees regarding the accuracy, currency, suitability, or quality of any User Content.

b. License. Driver hereby grants, and Driver represents and warrants that Driver has the right to grant, to ModalView an irrevocable, nonexclusive, royalty-free and fully paid, sublicensable, worldwide license to use Driver's User Content, solely for the purposes of including Driver's User Content in the Service and to create Anonymous Data. All rights in and to the User Content not expressly granted to ModalView in this Agreement are reserved by Driver.

c. Creation of Anonymous Data. ModalView may create anonymous data records ("Anonymous Data") from Driver's User Content by using commercially reasonable efforts to exclude any and all information (such as company name) that would identify Driver. ModalView may use and disclose Anonymous Data for any purpose, including to improve the Service.

d. Certain Disclosures. ModalView may share Driver's User Content (a) with ModalView's third-party service providers; (b) if another company acquires ModalView's company, business, or ModalView's assets, including through bankruptcy, with such acquiring company; and (c) to comply with relevant laws, to respond to subpoenas or warrants served on us, to protect or defend ModalView's or ModalView's Users' rights or property, and/or to investigate or assist in preventing any violation or potential violation of the law or this Agreement.

e. Privacy. ModalView may collect and share personal information related to the use of the Services. For a complete description of this collection and use, please visit the ModalView privacy policy at www.modalview.com/privacy.

6. ACCEPTABLE USE POLICY. The following sets forth ModalView's "Acceptable Use Policy":

a. Driver agrees not to use the Service to collect, upload, transmit, display, or distribute any User Content (a) that 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 proprietary right; (b) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, 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 to minors in any way; or (c) in violation of any law, regulation, or obligations or restrictions imposed by any third party.

b. In addition, Driver agrees not to use the Service to: (a) upload, transmit, or distribute any computer viruses, worms, or any software intended to damage or alter a computer system or data; (b) 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; (c) harvest, collect, gather or assemble information or data regarding other Users, including e-mail addresses, without their consent; (d) 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; (e) 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; (f) harass or interfere with another User's use and enjoyment of the Service; or (g) 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.

c. ModalView reserves the right (but has no obligation) to review any User Content, investigate, and/or take appropriate action against Driver in ModalView's sole discretion (including removing or modifying Driver's User Content, terminating Driver's Account, and/or reporting Driver to law enforcement authorities) if Driver violates the Acceptable Use Policy or any other provision of this Agreement or otherwise create liability for ModalView or any other person.

7. DISCLAIMERS AND RELEASE. THE SERVICE IS PROVIDED "AS-IS" AND "AS AVAILABLE"

AND MODALVIEW (AND ITS SUPPLIERS) EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. MODALVIEW (AND ITS SUPPLIERS) MAKE NO WARRANTY THAT THE SERVICE: (A) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (B) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE 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. MODALVIEW IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

DRIVER SHALL NOT BE DEEMED TO BE A SUBCONTRACTOR OR EMPLOYEE OF MODALVIEW FOR ANY REASON.

DRIVER HEREBY WAIVES AND RELEASES MODALVIEW (AND ITS SUPPLIERS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS) FROM, AND HEREBY WAIVES AND RELINQUISHES, EACH AND EVERY PAST, PRESENT AND FUTURE DISPUTE, CLAIM, CONTROVERSY, DEMAND, RIGHT, OBLIGATION, LIABILITY, ACTION AND CAUSE OF ACTION OF EVERY KIND AND NATURE (INCLUDING PERSONAL INJURIES, DEATH, AND PROPERTY DAMAGE), ARISING FROM YOUR USE OF THE SERVICE, OR IN ANY WAY RELATED TO OTHER USERS OR THIRD PARTIES.

8. LIMITATION ON LIABILITY. IN NO EVENT SHALL MODALVIEW (OR ITS SUPPLIERS) BE LIABLE TO DRIVER OR ANY THIRD PARTY FOR ANY LOST PROFIT OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR DRIVER'S USE OF, OR INABILITY TO USE, THE SERVICE, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT OR BUSINESS INTERRUPTION, EVEN IF MODALVIEW HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, MODALVIEW'S (AND ITS SUPPLIERS') LIABILITY TO DRIVER FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SERVICE (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO THE GREATER OF (A) FIFTY US DOLLARS (\$50) OR (B) AMOUNTS YOU HAVE PAID MODALVIEW IN THE PRIOR 12 MONTHS (IF ANY). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT.

9. APP STORES.

a. General. Driver acknowledges and agrees that the functionality and ongoing availability of the Mobile App is dependent on the third-party digital distribution platform for mobile apps through which Driver obtained the Mobile App ("App Store"). Driver acknowledges that this Agreement is between Driver and ModalView and not with the any party that owns, operates, or is otherwise affiliated with the App Store. The App Store may have its own terms and conditions to which Driver must agree before downloading the Mobile App. Driver agrees to comply with, and Driver's license to use the Mobile App is conditioned upon Driver's compliance with, all applicable terms and conditions of the App Store.

10. PRESS. Driver hereby grants ModalView permission to reproduce Driver's name on the Site and in any other marketing materials.

11. 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 shall control.

12. COPYRIGHT/TRADEMARK INFORMATION. All trademarks, logos, and service marks ("Marks") displayed on the Service are ModalView property or the property of other third parties. Driver is not permitted to use these Marks without ModalView's prior written consent or the consent of such third party which may own the Marks.

13. ELECTRONIC COMMUNICATIONS. Driver consents to receive communications from ModalView in an electronic form and agree that all terms and conditions, agreements, notices, disclosures, and other communications

that ModalView provides to Driver electronically satisfy any legal requirement that such communications would satisfy if it were to be in a hardcopy writing. The foregoing does not affect Driver's non-waivable rights.

14. DISPUTE RESOLUTION. This Agreement shall be deemed to have been drawn in accordance with the statutes and laws of the state of Pennsylvania. In the event of any disagreement or dispute, the laws of Pennsylvania shall apply except to the extent superseded by applicable federal law. All such disagreements or disputes shall be submitted to the court of proper jurisdiction in the state of Pennsylvania, the Parties hereby agree to the exclusive jurisdiction such courts and waive any defenses to venue in or personal jurisdiction of such courts. Notwithstanding the foregoing, the Parties may mutually agree in writing to submit any such disagreement or dispute to binding arbitration.

15. COMPLETE AGREEMENT. This Agreement constitutes the entire agreement of the Parties with reference to the subject matters herein, and may not be changed, waived, or modified except in writing signed by both Parties. This Agreement, including any supplements to or revisions thereof, exclusively states the rights and obligations of the Parties and supersedes all other oral or written agreements or understandings between the parties as to the subject matter hereof.