



## AMITRUCK LIMITED

### TERMS AND CONDITIONS

#### PART I

By continuing usage of the Amitruck Application, you are consenting to be bound by these Terms and Conditions (T&Cs) for use and access of the Application. You must therefore read and understand the entire content before using any service offered by the application because all the terms and conditions contained herein are binding. Anyone person not agreeable to them should not use the application or any of the services being availed therein.

The company reserves the right to modify these T&Cs or any other policies relating to the software at any time. Any person who continues to use the application shall be bound by the revised terms and conditions as of the effective date.

Persons agreeable to the terms and conditions are hereby granted limited, non-exclusive, non-sublicensable, revocable, non-transferrable license to:

- (i) access and use the Applications on a personal device solely in connection with the use of the Services; and
- (ii) access and use any content, information and related materials that may be made available through the Services, in each case solely for personal, non-commercial use.

USERS MUST READ THE TERMS CAREFULLY BEFORE DOWNLOADING THE APPLICATION OR USING THE WEBSITE.

#### **General Terms and Conditions:**

- **Amitruck** provides a platform that connects users of the website to transportation services with independent third-party service providers of such services, including independent third-party transportation providers and independent third-party logistics providers.
- The services are meant to be applied solely for personal non-commercial use.

AMITRUCK LIMITED IS NOT A TRANSPORTATION, CARRIER OR TAXI COMPANY AND ALL SUCH SERVICES ARE PROVIDED BY THIRD PARTY INDEPENDENT CONTRACTORS AND SERVICE PROVIDERS NOT EMPLOYED BY AMITRUCK LIMITED.

### **User eligibility**

You will be "Eligible" to use the Services only after fulfilment of the following conditions:

- You agree to the terms and conditions laid out herein.
- You have attained at least 18 (eighteen) years of age;
- You have full contractual capacity under Kenyan Laws; and
- You have a valid registered mobile number.

Amitruck relies fully on the information provided by you and shall not be held liable should any unauthorized or ineligible person use your device to access the company's services.

### **Representations and Warranties**

Use of this application is interpreted to mean that you have the full contractual capacity to enter into this agreement. The services are only available to persons over the age of 18 years and as such by using the application you represent and warrant that you are at least 18 years old and have the right, authority and capacity to contract and abide by the terms and conditions laid out in this agreement.

You also warrant that you will use the application purely for personal use and will not permit other persons to misuse your account, and you will neither assign nor transfer your account to other persons under the same identity.

By using the software, you also represent that you will be bound by all the laws regulating the use of online applications within the Republic of Kenya.

The company may terminate or vary this agreement accordingly, should you be using the service with an incompatible or unauthorized device.

You will not use the application in furtherance of any illegal acts or sending or storing any illegal materials or any other fraudulent purposes. The company is at liberty to decline to offer requested services on

suspicion by the courier service provider that anything being transported may pose any kind of danger, such as corrosive, poisonous or explosive devices, or suspicion that items to be delivered are illegal within the borders of the Republic of Kenya. The courier service provider shall decline provision of such services and immediately notify the company.

By using this application, you also warrant:

- i. To use the software solely for personal use and not to resell it to a third party;
- ii. To keep your identification details and password secure and not allow unauthorized persons to access services through your account;
- iii. To Provide relevant identification details whenever required;
- iv. Not to cause misuse of the application in any way or cause nuisance, annoyance or inconvenience to other persons;
- v. Not to copy, distribute any of the software contents without prior written permission from the company;
- vi. Not to cause disruption, in any way, to the normal functioning of the software.

### **License Grant & Restrictions**

All rights not expressly granted to you are reserved by the Company and its licensors. You shall not:

- i. license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Software in any way;
- ii. modify or make derivative works based upon the Service or the Software;
- iii. create Internet "links" to the Service or "frame" or "mirror" any Software on any other server or wireless or Internet-based device;
- iv. reverse engineer or access the Software in order to;
  - a. build a competitive product or service;
  - b. build a product using similar ideas, features, functions or graphics of the Service or Software, or
  - c. copy any ideas, features, functions or graphics of the Service or Software, or

- d. launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Service or Software.

**You may use the Software only for your personal, non-commercial purposes and shall not:**

- i. send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;
- ii. send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights;
- iii. send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
- iv. interfere with or disrupt the integrity or performance of the Software or Service or the data contained therein;
- v. attempt to gain unauthorized access to the Software or Service or its related systems or networks.

## **Payment Terms**

Any payments chargeable for the use of the Software or Services is exclusive of all taxes and levies and the same is due immediately upon use of our services and is nonrefundable. This no refund policy is applicable at all times regardless of termination of usage either by the user or the company, disruption caused on the software or services, such disruption being either planned, accidental or intentional.

The company is not responsible for the tabulation or remittance of any Value Added Tax, or any other taxes payable to the government of Kenya. As such, all payments remitted to Amitruck Limited are exclusive of VAT and all Transporters are responsible for remittance of taxes on monies gained.

The company reserves the right to determine the prevailing prices for services rendered on a need basis. Users are advised to frequently check the company's website for information on how we charge for our services.

By using this application, you agree to make prompt payment for all services rendered under the application and give unlimited power to Amitruck to enforce payment of any unpaid amounts without prior notice to you. AMITRUCK shall be entitled to take any such further steps for recovery of the debt as

may be necessary. By using this application you also accept to be responsible for all costs and disbursements incurred by AMITRUCK during the recovery process of unpaid amounts.

### **Intellectual Property Ownership**

Amitruck Limited (and its licensors, where applicable) shall possess exclusive proprietary rights and shall therefore own all title, right and interest related to the software. All web content, which shall include but not be limited to the company name, logo and product names associated with the software, images, photographs, links, texts, graphics shall be exclusively owned by Amitruck Limited and no right or license is granted.

### **Indemnification**

The Company shall be held blameless against any claims, costs, losses, legal fees or liabilities whatsoever that may arise out of or in connection to violation of any terms of this agreement or any governing laws, use of the software otherwise other than as provided by this agreement, breach of any third party rights including providers of courier services arranged through the software.

### **Disclaimer of Liability**

Amitruck is not under any obligation to:

- Put in place measures to control any malicious software or viruses and will not be liable for any damage to users' hardware or software devices that may be caused by such. Users are advised to install the requisite tools to protect their devices from such potential harm.
- Prevent any kind of loss that may be occasioned by network failures, limitations, delays or disconnections that may cause services to be suspended, cancelled or blocked before, during or after provision of services.
- Except as may be expressly provided in this agreement, the company will not be liable to users for any claims arising as a consequence of using the application, including but not limited to personal injury, loss of data, revenue or profits.

- The company is also under no obligation to guide users on proper usage of the application or devices and will not be held liable for any loss occasioned as a result of improper use of the application.
- Verify the suitability, legality or ability of courier service providers and by using this application you expressly waive and release the company from any and all liability, claims or damages arising from or related to disputes involving courier service providers or any other third parties. Any risk or loss incurred as a result of such interaction with the third parties shall not be the liability of the company to any degree whatsoever.

### **Insurance**

All passenger, courier and logistics service providers must ensure that they have valid insurance covers as well as any other requisite permits as provided for by the laws of the Republic of Kenya. This shall include but not be limited to motor vehicle insurance, personal accident cover and/or carrier's liability cover as applicable. Such insurance covers must cushion users against loss or damage for any packages delivered via Amitruck Application. Users shall only be entitled to compensation as provided for by the referenced insurance covers and no further liability shall be borne by the company.

### **General Customer behavior while using transport service through the Service Provider**

By requesting for services through the Amitruck Website or Mobile Applications you warrant that:

- i. You will take full responsibility of your items. In case of lost items during the journey, we will try to locate the items on a "best-effort" basis but We shall not be responsible for the same in case of any losses or damages arising out of such lost items.
- ii. You will report promptly on time at the pick-up location;
- iii. You will avoid unbecoming behavior while using the services such as use of foul or disrespectful language, sharing of personal information with the service provider, consuming alcoholic beverages or tobacco products or any illegal substances while in the vehicle.

You also warrant not to:

- Ask the Service Provider to over speed or break any Traffic/Transport/City Police and/or government rules for any purpose (especially reaching the destination earlier).
- Pressurize the Service Provider to overload the vehicle.

### **Waiting policy**

Users shall not subject the service providers to unreasonable delays. The waiting period shall be 5 minutes at the pickup location, following which the service provider may be at liberty to cancel the trip and leave the pickup location.

Users shall compensate Amitruck for the waiting period, which costs shall be calculated at a rate similar to the rate of rendering services for the first 30 minutes. Compensation for a waiting period beyond 30 minutes shall be calculated at the rate of Kshs. 1,000/= per every half hour.

### **Cancellation policy**

You may cancel the booking as early as possible prior to the dispatching of the Vehicle and commencement of the Ride, without any cancellation charges.

### **Luggage policy**

Users of the application seeking services for transportation of goods which may be dangerous such as goods that are flammable, explosive or corrosive shall fully disclose the information about the nature of the goods to the service provider, and also take all reasonable measures to mitigate any risk that may be faced in transporting the goods. Such goods must also be packed in line with the requisite safety standards. The company shall not be held liable for any loss or damage either to the goods or to third parties in case of any incidences that may result from handling of such goods.

Users shall desist from seeking transport for goods considered illegal within the Republic of Kenya.

### **Termination and expiry of the account**

We reserve the right to modify, terminate or suspend Services to You at any time without prior notice due to any changes in internal policy or the Applicable Laws or any breach of these T&Cs by You or for any reason whatsoever. You can exit or terminate Your Account by submitting a request to us via the email address provided on the website. We will make every effort to respond

to Your request for termination at the earliest. You will remain responsible for all Transactions that occurred prior to termination of Your Account.

### **Privacy and Security**

All parties to this agreement shall be bound to the company's privacy policy and shall make every effort to ensure that all the provisions laid out therein are adhered to without any breach.

### **Force Majeure**

Force Majeure shall be interpreted to mean any event arising due to any cause beyond Amitruck's reasonable control.

The company shall not be held liable for any failure to perform an obligation occasioned by a force majeure event. In the event of a force majeure event, obligation to perform or deliver services shall stand suspended for the period of continuance of the said event and Amitruck shall be held blameless for any losses that may be incurred.

### **Waiver**

Our failure, delay or omission to exercise or enforce any rights or provisions of these T&Cs will not constitute a waiver of such rights or provisions. A waiver on any one occasion will not be construed as a bar or waiver of any rights or remedies on future occasions. Any claim in relation to Services or T&Cs should be filed within 3 (Three) months from when the cause of action arose. Any claims filed beyond this time period shall be barred.

### **Revision of T&Cs**

Amitruck reserves the right to revise, amend and/or substitute and of the terms and conditions contained herein and any person, by continuing to use the website after the said variance to the terms and conditions shall be bound by them as of the effective date.

### **Severability**

If any part of these T&Cs is determined to be invalid or unenforceable pursuant to the Applicable Laws then the invalid or unenforceable provisions will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these T&Cs will continue in effect.

## **2. Governing Law and Dispute Resolution**

Any dispute relating to these terms and conditions as the use of this application shall be governed by the laws of the Republic of Kenya.



## **PART II**

### **TRANSPORTERS**

#### **AMITRUCK LIMITED**

#### **TERMS & CONDITIONS**

By continuing usage of the Driver and Fleet Application, you are consenting to be bound by these Terms and Conditions in addition to all other applicable terms as contained hereinabove (T&Cs)

#### **1. Definitions and Interpretations**

- 1.1 “Goods” means all cargo, deliveries, or shipments and includes perishables handed over to the Transporter for delivery.
- 1.2 “Transporter” shall refer to the owner of the vehicle registered on the Amitruck platform.
- 1.3 “Transport services” means the physical carriage of goods as provided by this agreement.
- 1.4 “Client” means any person submitting a request for transport services on the Amitruck Platform.

#### **2. SCOPE**

2.1 Amitruck Limited appoints the Transporter as a non-exclusive transport services provider to diligently provide the services as shall be requested by a Client on the Platform or as described in his contract with Amitruck where there exists a contractual agreement.

2.1 The Client reserves the right to change the job requirements as need be.

2.2 In delivering the services, the Transporter shall ensure all action is taken to minimize any delays or losses to the Client and further shall ensure that the Client does not suffer any loss of business or damage to goods.

#### **3. SERVICE SPECIFICATIONS**

##### **3.1 Vehicles**

3.1.1 The Transporter shall provide the vehicles registered on the platform and never use an unapproved vehicle, subcontract or substitute an approved vehicle for another.

3.1.2 The vehicle shall be registered on the Amitruck platform and approved upon submitting the logbook, Insurance certificate, Driver License and Drivers National Id.

3.1.3 The Transporter agrees not to use another vehicle or driver other than those registered and approved without the prior approval in writing by Amitruck.

##### **3.2 Drivers**

- 3.2.1 Drivers shall be punctual and shall observe safety rules provided at the cargo owners premises and while performing transport services.
- 3.2.2 Drivers are required to examine the condition of goods received and make any reservations and disclosures prior to accepting the goods for loading and to contact Amitruck immediately in case of any such concerns and shall also note the same in the Delivery note.
- 3.2.3 Drivers, where required by Amitruck Limited, shall verify the gross weight and labels of the goods received.
- 3.2.4 Proof of delivery signatures must be obtained from the consignee once delivery has been made.

4. Reports

- 4.1 The Transporter is required to ensure that internet data of the mobile phone with the Amitruck Application installed is enabled and is with the vehicle making the delivery at all times once a delivery has started.
- 4.2 The Transporter shall provide timely updates to Amitruck Limited at all times during the period of transportation.
- 4.3 Where the Transporter is unable to perform or otherwise make delivery, Amitruck Limited shall be notified immediately without fail. Amitruck Limited shall stand indemnified from all action and claims arising from any breach of this sub-clause.

5. TRANSPORT

LICENSES

The Transporter acknowledges that they have all the required licenses and permits to enable provision of transport services under this agreement and shall be personally liable for any claims arising from non-compliance with this provision.

6. RESPONSIBILITIES OF THE TRANSPORTER

- 6.1 To arrange for the safe and timely transport services required for transportation of goods whenever instructed by Amitruck Limited.
- 6.2 To ensure the vehicle provided is regularly maintained to avoid breakdown and ensure regulatory and safety compliance with all government and related authorities during delivery.
- 6.3 Check the accuracy of the statements made in the Delivery note as regards the number of packages and the general description of the goods and shall enter any reservations and make all necessary disclosures prior to accepting a load with the Client and Amitruck.
- 6.4 To check the gross weight and quantity where instructed by Amitruck Limited
- 6.5 To notify Amitruck immediately when the Transporter is unable to provide the transport services under this agreement.
- 6.6 Where the Transporter recruits a driver to provide the transport services, the driver shall be deemed to be an employee of the Transporter and the Transporter shall be vicariously liable for any acts or omissions of the driver in connection with provision of the said services. The Transporter shall therefore indemnify Amitruck for any acts or omissions by the driver.

7. RESPONSIBILITIES OF AMITRUCK LIMITED

- 7.1 To notify and advise the Transporter on the place of collection and handover of the goods to be transported.

7.2 To notify and advise the Transporter on the place of delivery of the goods or otherwise the intended consignee.

#### 8. DELIVERY NOTE

8.1 When required by the client, transport services shall be made pursuant to a Delivery note being issued for the transportation

8.2 The Client has the right to have different Delivery notes where goods for delivery are to be carried in different vehicles or as required to carry out the Clients operations.

8.3 Upon delivery of goods to the intended recipient, the delivery note must be signed and stamped by the intended recipient and a copy retained by the Transporter together with any other required documents as proof of delivery.

8.4 Amitruck Limited shall reserve the right to withhold payment where the Transporter fails to provide a signed original hard copy of the delivery note and or any other required documentation.

#### 9. RATES, CHARGES & PAYMENT

9.1 The Transporter shall be paid only when the delivery and all its required tasks as described in the platform have been completed and confirmed by the client on the application.

9.2 The Transporter shall not subsequently revise the rate accepted by a client on the platform

9.3 Any required changes in charges shall be agreed upon in writing by Amitruck and updated to reflect on the platform

9.4 The Transporter shall not collect payment on behalf of Amitruck and shall ensure all payments by clients are made through the Amitruck platform.

9.5 The Transporter hereby acknowledges that Amitruck shall not be liable in any way in the unfortunate event that a client refuses to make payment after the Transporter makes a successful delivery.

#### 10. INSURANCE

10.1 The Transporter shall maintain insurance at its own cost relating to the following; -

10.1.1 General comprehensive liability cover against injury and/or death of persons and for damage occasioned in connection with the transport services provided pursuant to this agreement and comprehensive liability cover against any and all liability due to theft, hijacking and/or damage in transit. The Transporter shall be personally liable for any claims resulting from non-compliance with this provision.

#### 11. DELIVERY TIME

11.1 The delivery time shall be provided for specifically in the Delivery note and on the Amitruck Platform.

11.2 Where the Transporter takes longer than the agreed delivery time, Amitruck Limited shall stand indemnified by the Transporter of all extra costs and expenses incurred due to the delay of the Transporter.

11.3 Deliveries shall be made within the agreed and reasonable delivery time and the Transporter shall be liable for any loss occasioned by the driver's fault or neglect.

11.4 Amitruck shall be absolved of any liability caused by any event of force majeure, authority of laws, strikes, lockouts and other causes beyond control but only to the extent caused by such event. The Transporter shall use due diligence to remedy any such default.

## 12. CONFIDENTIAL INFORMATION

- 12.1 The Transporter hereby agrees to honor their obligations while maintaining confidentiality in their day to day business.
- 12.2 The Transporter hereby agrees to maintain in strict confidence, and not disclose to any unauthorized third party or otherwise use or license any proprietary or confidential information, including strategies, business plans and rates, of the parties that may be received in the course of providing the required services. without the prior written consent from the involved parties.
- 12.3 The provisions of this clause shall remain binding on the Transporter even after the Transporter ceases to provide services to Amitruck.

## 13. LIABILITY

- 13.1 The Transporter shall be liable for loss or damage (or part thereof) of the goods which occurs between the time of collection or handover and the time of delivery.
- 13.2 The Transporter shall be liable for any defective vehicle used to provide transport services and any damage it may cause to the Clients goods or Third parties.

## 14. CLAIMS AND ACTIONS

Amitruck Limited shall notify the Transporter of any damage or loss (or part thereof) within 30 days of notification by a Client.

## 15. NOTICES

- 15.1 Amitruck reserves the right to update this terms and conditions as and when it deems fit to do so, and the terms and conditions shall become binding immediately as per any such amendments Transporters are therefore advised to regularly check the Amitruck website for any revisions to these terms and conditions.

## 16. DISPUTE RESOLUTION

- 16.1 In the event of any dispute or difference arising between the parties in relation to or arising out of this Agreement, including the interpretation, rectification, termination or cancellation of this Agreement, the parties shall forthwith meet to attempt to settle such dispute or difference, and come to an amicable agreement within a period of Fourteen (14) business days.
- 16.2 Should the parties fail to resolve such dispute, the parties may refer the dispute to a single arbitrator to be appointed by agreement between the parties or in default of such agreement within fourteen (14) days of the notification of the dispute, upon the application of either party to the Chairperson for the time being of the Law Society of Kenya. Such arbitration shall be conducted in Nairobi in accordance with the provisions of the Arbitration Act (1995).

- 17. Parties hereby agree that nothing in this clause shall limit either party's right to file suit in any court of competent jurisdiction in regard to any dispute where the arbitration proceedings fail to kick off within a reasonable time or at any time before the commencement of the arbitration proceedings, or to appeal in court any awards issued by an arbitrator where either party is not satisfied by the said award.

## 18. APPLICABLE LAW

This Agreement shall be subject to and governed by and interpreted and construed in accordance with the laws of Kenya.