

# Rate-Highway, Inc. Terms of Use

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**PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING THE RATE-HIGHWAY, INC. ("RH") WEBSITES (the "RH Sites" or "Sites").** By using the Sites, you signify your agreement to these Terms of Use, in addition you agree that you have read, understand and accept the terms of the Rate-Highway, Inc. Privacy Policy (the "Privacy Policy").

If you do not agree to these Terms of Use, you may not use the Sites. Rate-Highway, Inc. reserves the right, in its sole discretion, to change, modify, add or delete portions of these Terms of Use at any time in accordance with the procedures set forth below, in the section labeled "Amendment."

## Accepting the Terms

**NOTE!** In order to use the services of the Sites, you must first agree to the Terms of Use. You may not use the services if you do not accept the Terms of Use. You can accept the Terms of Use by: (A) clicking to accept or agree to the Terms of Use, where this option is made available to you by Rate-Highway; (B) by agreeing to the Rate-Monitor End User License Agreement ("EULA"); or (C) by actually using the services or the websites. In this case, you understand and agree that Rate-Highway will treat your use of its services as acceptance of the Terms of Use from that point onwards. You may not use the services and may not accept the Terms Of Use if (a) you are not of legal age to form a binding contract, or (b) you are a person barred from receiving the services under the laws of the United States or other countries including the country in which you are resident or from which you use the services. Before you continue, you should print off or save a copy of the Terms of Use for your records.

## CONSIDERATION

You acknowledge that these Terms of Use are supported by reasonable and valuable consideration, the receipt and adequacy of which are hereby acknowledged. Without limiting the foregoing, you acknowledge that such consideration includes, without limitation, your use of the Sites and receipt of data, materials and information available at or through the Sites.

## RESTRICTIONS ON USE OF MATERIALS

In the event that you use or download software from the Sites, the software, including any files, images incorporated in or generated by the Service, and data accompanying the software (collectively, the "Service") are licensed to you by us for your use only. In addition, you agree to be bound by the Rate-Monitor EULA a copy of which was provided prior to the registration and log-in for the Services and made available on the secure Sites for the registered users. We do not transfer title to the Software to you. You may not redistribute, sell, auction, decompile, reverse engineer, disassemble or otherwise reduce the Software to a human-readable form. Software from the Sites is further subject to United States export controls. Without limiting the generality of the foregoing, no Service from any Sites may

be downloaded or otherwise exported or re-exported (a) into (or to a national or resident of) Cuba, Libya, North Korea, Iran, Syria, or any other country to which export is subject to control or licensing by the U.S.; or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. By downloading or using the Service, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list or otherwise in violation of export control laws or regulations.

#### **COPYRIGHT, TRADEMARK AND OTHER PROPRIETARY RIGHTS**

All information, content and materials contained on the Sites are our copyrighted property or the copyrighted property of our licensors or licensees. All trademarks, service marks, trade names, and trade dress are proprietary to us and/or our licensors or licensees. You may not use the Sites in any way that is unlawful, or harms us or any other person or entity, as determined in our sole discretion.

The Content consists of copyrighted works proprietary to Rate-Highway, Inc., its licensors or suppliers. Any Content you download or print may not be altered in any way and must contain the following copyrighted notice: "Copyright © 2009-2014 Rate-Highway, Inc., All Rights Reserved" and all other copyright and proprietary rights notices which were contained in such Content. Any other use of the Content is expressly prohibited without the prior written permission of Rate-Highway, Inc. and any rights or licenses to any tangible or intangible Rate-Highway, Inc. materials not expressly granted herein are expressly reserved to Rate-Highway, Inc. Any unauthorized use of any of the Content is a violation of law and subjects you to all civil and criminal penalties provided for under domestic and international laws covering such unauthorized use.

#### **REGISTRATION INFORMATION AND SECURITY**

In order to use the Services on the RH Sites you must agree to the Rate-Monitor EULA (the "EULA") and register on the Sites. You agree to provide, maintain and update true, accurate, current and complete information about yourself as prompted by our registration processes (the "Registration Data"). If you provide any information that does not satisfy this provision, or we have reasonable grounds to suspect as much, we have the right to suspend or terminate your account and refuse any and all current or future use of the Sites (or any portion thereof).

You also agree (a) to promptly notify us of any unauthorized use of your username, password, other account information, or any other breach of security that you become aware of involving or relating to any Sites. In addition, you agree to exit from your account at the end of each session. We explicitly disclaim liability for any and all losses and damages arising from your failure to comply with this section.

We reserve the right to screen, refuse to post, remove or edit user-generated content at any time and for any or no reason in our absolute and sole discretion without prior notice, although we have no duty to do so or to monitor any public forum. If we elect to screen user-generated content, there may be a delay in the posting of such content in a public forum to allow for a review process. If we have questions

about your user-generated content including, without limitation, the copyright, we may contact you for further information including, for example, verifying that you own the copyright or otherwise obtained permission to post the material.

**HOUSE RULES**

The following is a list of House Rules applicable to the Sites. By using the Sites, you agree that:

You will not submit, post, upload, distribute, or otherwise make available or transmit any content that is illegal or encourages or advocates illegal activity or the discussion of illegal activities with the intent to commit them or infringes or violates any right of a third party or any domestic or international law, rule or regulation including, but not limited to: (i) copyright, patent, trademark, trade secret or other proprietary or contractual rights; (ii) right of privacy (specifically, you must not distribute another person's personal information of any kind without their express permission) or publicity; or (iii) any confidentiality obligation.

You will not impersonate any person or entity or misrepresent your identity or affiliation with any person or entity including, without limitation, using another person's username, password or other account information, or another person's name, likeness, voice, image or photograph. You will not engage in antisocial, disruptive, or destructive acts, including "flaming," "spamming," "flooding," "trolling," and "griefing" as those terms are commonly understood and used on the Internet. You also agree not to conduct any activities on the Sites that would limit the availability of data to the Sites or the other users of the Sites and Services.

We cannot and do not assure that other users are or will be complying with the foregoing House Rules or any other provisions of these Terms of Use, and, as between you and us, you hereby assume all risk of harm or injury resulting from any such lack of compliance.

To the extent that any feature on a Sites requires you to submit your e-mail address or phone number, you must, and you hereby agree to, furnish your actual e-mail address or actual phone number, as applicable.

WE MAY CHANGE THE SITES OR DELETE CONTENT OR FEATURES IN ANY WAY, AT ANY TIME AND FOR ANY REASON OR NO REASON.

**CONTENT LINKED TO THE RATE-HIGHWAY SITES**

You should be aware that when you are on the Sites, you could be directed to other sites that are beyond our control. There may be links to other sites from pages on the Sites that take you outside of our service. You acknowledge that when you click on a link that leaves a Rate-Highway Site, the sites you will land on is not controlled by us and different terms of use and privacy policy may apply. By clicking

on links to other sites, you acknowledge that we are not responsible for those sites. We reserve the right to disable links from third-party sites to the Sites, although we are under no obligation to do so.

We make no representations concerning the content of sites listed in any directories. Consequently, we cannot be held responsible for the accuracy, relevancy, copyright compliance, legality, or decency of material contained in sites listed in our search results or otherwise linked to a Sites.

**DISCLAIMER**

THE INFORMATION, CONTENT AND MATERIALS ON THE SITES ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN INFORMATION, CONTENT AND MATERIALS ON ANY SITES (INCLUDING, WITHOUT LIMITATION, USER-GENERATED CONTENT) WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SITES OR THE SERVERS THAT MAKE SUCH INFORMATION, CONTENT AND MATERIALS AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. MOREOVER, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. WE DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS OR SERVICES CONTAINED ON OR OFFERED, MADE AVAILABLE THROUGH, OR OTHERWISE RELATED IN ANY WAY TO THE SITES, INCLUDING, WITHOUT LIMITATION, USER-GENERATED CONTENT, OR ANY THIRD PARTY SITES OR SERVICES LINKED TO FROM THE SITES IN TERMS OF THEIR CORRECTNESS, ACCURACY, COMPLETENESS, RELIABILITY, SAFETY OR OTHERWISE. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

We explicitly disclaim any responsibility for the accuracy, completeness or availability of information, content and materials found on sites that link to or from the Sites. We cannot ensure that you will be satisfied with any products or services that you purchase from a third-party sites that may link to or from the Sites or third-party information, content or materials contained on our Sites (including, without limitation, content contained in the Services as provided in the EULA). We do not make any representations or warranties as to the security of any information, content or materials (including, without limitation, any sensitive or personal information as described in the Privacy Policy) you might be requested to give to any third party. You hereby irrevocably waive any claim against us with respect to information, content and materials contained on our Sites, on third party sites, and any information, content and materials you provide to any third party sites. We strongly encourage you to make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any third parties.

**INDEMNIFICATION**

You are entirely responsible for maintaining the confidentiality of your username(s), password(s), and your account(s), as well as all activities that occur under your account(s). You hereby agree to indemnify, defend, and hold us, our licensors, licensees, distributors, agents, representatives and other authorized users, and each of the foregoing entities' respective resellers, distributors, service providers and suppliers, and all of the foregoing entities' respective officers, directors, owners, employees, agents, representatives and assigns (collectively, the "Indemnified Parties") harmless from and against any and all losses, damages, liabilities and costs (including, without limitation, settlement costs and any legal or other fees and expenses for investigating or defending any actions or threatened actions) incurred by the Indemnified Parties in connection with any claim arising out of any breach by you of these Terms of Use or claims arising from your account(s). You shall use your best efforts to cooperate with us in the defense of any claim. We reserve the right, at our own expense, to employ separate counsel and assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

**LIMITATION OF LIABILITY**

UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL WE BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS, PERSONAL INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE OF ANY NATURE WHATSOEVER, THAT RESULT FROM (A) THE USE OF, OR THE INABILITY TO USE, THE SITES OR CONTENT, MATERIALS OR FUNCTIONS ON OUR SITES, OR (B) THE CONDUCT OR ACTIONS, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE SITES OR ANY OTHER PERSON OR ENTITY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE) STRICT LIABILITY OR OTHERWISE EXCEED THE AMOUNT PAID BY YOU, IF ANY, OR \$100 (WHICHEVER IS LESS) FOR ACCESSING OR PARTICIPATING IN ANY ACTIVITY RELATED TO THE SITES.

MOREOVER, UNDER NO CIRCUMSTANCES SHALL WE OUR LICENSORS AND LICENSEES, OR ANY OF THE FOREGOING ENTITIES' RESPECTIVE, SERVICE PROVIDERS AND SUPPLIERS BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM AN ACT OF FORCE MAJEURE OR CAUSES BEYOND OUR OR THEIR REASONABLE CONTROL INCLUDING, WITHOUT LIMITATION, ACTS OF GOD, WAR, EQUIPMENT AND TECHNICAL FAILURES, ELECTRICAL POWER FAILURES OR FLUCTUATIONS, STRIKES, LABOR DISPUTES, RIOTS, CIVIL DISTURBANCES, SHORTAGES OF LABOR OR MATERIALS, NATURAL DISASTERS, GOVERNMENTAL ACTIONS, ORDERS OF DOMESTIC OR FOREIGN COURTS OR TRIBUNALS, NON-PERFORMANCE OF THIRD PARTIES, OR ANY REASONS BEYOND THE REASONABLE CONTROL OF US OR OUR LICENSORS AND LICENSEES, OR ANY OF THE FOREGOING ENTITIES' RESPECTIVE RESELLERS, DISTRIBUTORS, SERVICE PROVIDERS AND SUPPLIERS.

You acknowledge that in connection with the Sites, information will be transmitted over local exchange, inter-exchange and internet backbone carrier lines and through routers, switches and other devices owned, maintained and serviced by third party local exchange and long distance carriers, utilities, internet service providers and others, all of which are beyond the control and jurisdiction of Rate-

Highway and its suppliers. Accordingly, Rate-Highway assumes no liability for or relating to the delay, failure, interruption or corruption of any data or other information transmitted in connection with use of the Sites.

The limitations, exclusions and disclaimers in this section and elsewhere in these Terms of Use apply to the maximum extent permitted by applicable law. Applicable law may not allow the limitation or the exclusion, limitation, or disclaimer liability for the certain provisions set forth in these Terms of Use, so such exclusions, limitations or disclaimers may not apply to you.

#### **JURISDICTIONAL AND VENUE ISSUES**

You agree that any action at law or in equity arising out of or relating to these Terms of Use shall be filed, and that venue properly lies, only in state courts located in the County of Orange, State of California, and you hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action, except where preempted by the federal laws of the United States of America, in which case such U.S. federal law will apply. You and Rate-Highway also agree and hereby submit to the exclusive personal jurisdiction and venue of any state court in the State of California, with respect to such matters. Notwithstanding this, you agree that Rate-Highway shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction. We make no representation that information, content or materials on the Sites are appropriate or available for use in any particular location. Those who choose to access the Sites do so on their own initiative and are responsible for compliance with all applicable laws including, but not limited to, any applicable local laws.

#### **AMENDMENT**

We reserve the right, in our sole discretion, to change, modify, add or delete portions of these Terms of Use at any time without notice, and it is your responsibility to review these Terms of Use for any changes. Your use of the Sites following any amendment of these Terms of Use will signify and constitute your assent to and acceptance of such revised Terms of Use.

#### **TERMINATION**

These Terms of Use are effective until terminated by either you or us. You may terminate these Terms of Use at the end of any term or the Software License Agreement by discontinuing use of the Sites and destroying all materials obtained from any and all such Sites and all related documentation and all copies and installations thereof, whether made under these Terms of Use, the Software License Agreement, the Privacy Policy or otherwise. In the event that you terminate these Terms of Use, you agree to notify us of such termination by sending notice of such termination by certified United States mail, postage pre-paid to:

Rate-Highway, Inc., 18001 Cowan, Suite F, Irvine, California 92614-6801 USA.

We may immediately terminate these Terms of Use with respect to you (including your access to the Sites) without cause and without notice to you in our sole discretion. Upon termination, you must cease use of the Sites and destroy all materials obtained from such Sites and all copies thereof, whether made under these Terms of Use or otherwise.

**NOTICE AND PROCEDURE FOR CLAIMS OF COPYRIGHT INFRINGEMENT**

Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement must be sent to Service Contract Administrator. Notifications should be sent to Service Contract Administrator, Rate-Highway, Inc., 18001 Cowan, Suite F, Irvine, California 92614-6801 USA. Or via email to Service Contract Administrator: [zoied@ratehighway.com](mailto:zoied@ratehighway.com).

To be effective, the notification must be a written communication that includes the following:

- i. A physical or electronic signature of person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- ii. A list of copyrighted works at a single online site is covered by a single notification, a representative list of such works at that site;
- iii. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- iv. Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- v. The manner complained of is not authorized by the copyright owner, its agent, or the law; and
- vi. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**GENERAL PROVISIONS**

These Terms of Use shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States, without giving effect to any principles of conflicts of law. If any provision of these Terms of Use shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions. No waiver of any provision of these Terms of Use by us shall be deemed a further or continuing waiver of such provision or any other provision, and our failure to

assert any right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SITES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.

The following provisions of these Terms and Conditions shall survive the expiration or termination of these Terms and Conditions: No Warranties, Exclusion of Liability, Applicable Law and Venue, Severability, Survival, Indemnification, Subscriber Agreement, and Complete Agreement.

Any waiver of any of these Terms and Conditions shall not operate or be construed as a continuing waiver of such term or condition or any other term or condition.

These Terms and Conditions and the Privacy Policy govern your general access of and use of the RH Sites, however, your use of any other services offered by Rate-Highway is also governed by your agreement with Rate-Highway, Inc. relating to the EULA. You must enter into a EULA in order to receive such services. In the event that any provision of these Terms and Conditions conflicts with any provision of the EULA, the EULA will control.

Except for the EULA and the Privacy Policy, incorporated herein by reference, these Terms and Conditions contain the entire agreement between you, and Rate-Highway, Inc. relating to your use of this Website.