

# Shiply User Agreement

## Website Terms Of Use

This Site operates as an online marketplace to enable Users to post Jobs, and Transport Providers to quote for these Jobs, with a view to entering into a Transaction.

### INFORMATION WHICH WE ARE REQUIRED TO GIVE YOU

www.shiply.com is a site operated by Shiply Limited ("**we**" or "**us**"), a company which is registered in Germany, England and Wales under company registration number 06536861. Our registered office is at Lyoner Str. 14, 60528 Frankfurt am Main and Floor 3, 207 Regent Street, London, W1B 3HH. Our email address is [info@shiply-office.de](mailto:info@shiply-office.de) .

Part A (the "**General Conditions**") and Part B (the "**Supplemental Conditions**") of these terms and conditions (together with the documents referred to within) set out the terms and conditions on which we will provide our services to you.

You may access most areas of the Site without the need for Registration in which case only the General Conditions will apply to you. Certain areas of the Site are only open to you if you are a Member and if you decide to register as a Member you will be asked to confirm expressly that you have read and accept the Supplemental Conditions as well as the General Conditions.

The Conditions (as defined below) apply to the access to and use of the Site, and to any correspondence by e-mail between you and us. Please read these terms carefully before using the site. Using the Site indicates that you accept the General Conditions regardless of whether or not you choose to become a Member. If you do not accept the General Conditions, do not use the Site.

We may revise the Conditions at any time by updating this posting. You should check the Site from time to time to review the current version of the Conditions because they are binding on you. Certain provisions in the Conditions may be superseded by expressly designated legal notices located on particular pages of the Site.

Any rights not expressly granted in these terms are reserved.

## PART A

### GENERAL CONDITIONS

#### 1. DEFINITIONS

**Transport Provider** means a Member who has submitted a quotation in respect of a Job;

**"Conditions"** means all conditions applicable to a person accessing the Site in connection with his use of the Site (i.e. for a mere visitor, the General Conditions alone, and for a Member, the General Conditions *and* the Supplementary Conditions);

**"User"** means a Member who has posted a Job on the Site;

**"Job"** means the transportation request posted by the User on the Site;

**"Member"** means a person who has Registered (and **"Membership"** means the status of being a Member);

**"Registration"** or **"Register"** means setting up a membership account having agreed to the Conditions;

**"Site"** means [www.shiply.com](http://www.shiply.com); and

**"Transaction"** means the agreement entered into between a Transport Provider and a User for the performance of a Job.

**"Book Now"** means Jobs which are booked after seeing instant rates rather than undergoing the auction process.

## 2. ACCESS

1. Whilst we endeavour to ensure that the Site is available 24 hours a day, we shall not be liable if, for any reason, the Site is unavailable at any time or for any period.
2. Access to the Site may be suspended temporarily and without notice in the case of a system failure, maintenance or repair or for any reasons beyond our control.

## 3. CONTENT

1. Whilst we endeavour to ensure that the information on the Site is correct, we do not warrant the accuracy or completeness of the material on the Site. We may make changes to the material on the Site at any time and without notice. The material on the Site may be out of date, and we make no commitment to update such material.
2. The contents of the Site are provided "as is", and we provide no warranties in respect of such contents.
3. You are prohibited from posting or transmitting to or from the Site any material:
  1. that is threatening, defamatory, obscene, indecent, offensive, pornographic, abusive, liable to incite racial hatred, discriminatory, menacing, scandalous, inflammatory, blasphemous, in breach of confidence, in breach of privacy or which may cause annoyance or inconvenience;
  2. for which you have not obtained all necessary licences and/or approvals;
  3. which constitutes or encourages conduct that would be considered a criminal offence, gives rise to civil liability, is otherwise unlawful or infringes the rights of any third party, in any country in the world; or

4. which is technically harmful (including, without limitation, computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data).
4. You may not misuse the Site (including, without limitation, by hacking).
5. We will co-operate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity of, or locate, anyone posting any material in breach of this clause 3.

#### **4. LICENCE**

1. You are permitted to view, print and download extracts from the Site for your own use on the basis that:
  1. no documents or related graphics on the Site are modified in any way;
  2. no graphics on the Site are used separately from the corresponding text; and
  3. our copyright notices and this permission notice appear in all copies.
2. Unless otherwise stated, the copyright and other intellectual property rights in all material on the Site (including, without limitation, photographs and graphical images) are owned by us or our licensors. Saved as agreed otherwise, any use of extracts from the Site other than in accordance with clause 4.1 is prohibited, and if you breach clause 4.1, your permission to use the Site automatically terminates and you must immediately destroy any downloaded or printed extracts from the Site.
3. Subject to clause 4.1, no part of the Site may be reproduced or stored on any other website or included in any public or private electronic retrieval system or service without our prior written permission.

#### **5. DISCLAIMER**

1. To the extent permitted by law we hereby exclude:
  1. all conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity; and
  2. any liability for any direct, indirect or consequential loss or damage incurred by any person in connection with the Site or in connection with the use, inability to use, or results of the use of the Site, any websites linked to it and any materials posted on it, including, without limitation any liability for:
    - (a) loss of income or revenue;
    - (b) loss of business;
    - (c) loss of profits or contracts;
    - (d) loss of anticipated savings;
    - (e) loss of data;
    - (f) loss of goodwill;

(g) wasted management or office time; and

(h) for any other loss or damage of any kind, however arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.

2. This does not affect our liability for death or personal injury arising from our negligence, nor our liability for fraudulent misrepresentation or misrepresentation as to a fundamental matter, nor any other liability which cannot be excluded or limited under applicable law.

## **6. INFORMATION ABOUT YOU AND YOUR VISITS TO OUR SITE**

Any information about you that we process will be processed in accordance with our privacy policy. By using the Site you consent to such processing.

## **7. TERMINATION**

1. We may, at our sole discretion, restrict your access to the Site and/or refuse to correspond with you without prior notice where:
  1. there is a regulatory or statutory change limiting our ability to provide access to the Site;
  2. there is any event beyond our reasonable control preventing us from providing access to the Site (for example, and without limitation, technical difficulties, capacity problems and communications failures); or
  3. we consider that you are abusing the Site or are otherwise acting in breach of the Conditions.

## **8. LINKS TO AND FROM OTHER WEBSITES**

1. Links to third party websites on the Site are provided solely for your convenience. If you use these links, you leave the Site. We have not reviewed all of these third party websites and do not control and are not responsible for their content or availability. We do not therefore endorse or make any representations about them, or any material found there, or any consequences of using them. If you decide to access any of the third party websites linked to the Site, you do so entirely at your own risk.
2. If you would like to link to the Site, you may only do so on the basis that you link to, but do not replicate, the home page of the Site, and subject to the following conditions:
  1. you do not remove, distort or otherwise alter the size or appearance of any logos used by us on the Site;
  2. you do not create a frame or any other browser or border environment around the Site;
  3. you do not in any way imply that we are endorsing any products or services other than our own;
  4. you do not misrepresent your relationship with us nor present any other false information about it;
  5. you do not otherwise use any trade marks owned by Shiply (whether these are registered or unregistered) which are displayed on the Site without our express written permission;
  6. you do not link from a website that is not owned by you; and

7. your website does not contain content that we, in our sole discretion, consider to be distasteful, offensive or controversial, in infringement of any intellectual property rights or other rights of any other person or which doesn't otherwise comply with all applicable laws and regulations.
3. We expressly reserve the right to revoke the right granted in clause 8.2 for breach of the Conditions and to take any action that we deem appropriate.
4. You shall fully indemnify us for any loss or damage that we may suffer for breach of clause 8.2.

## **9. DOMAIN NAME PROTECTION**

You agree not to register any domain name that includes the word 'Shiply'; infers it is connected to us or in any way casts aspersions on us.

## **10. GENERAL**

1. Unless otherwise specified, the Site is directed solely at those who access it from England and Wales. Should you choose to access the Site from locations outside England and Wales then you will be responsible for compliance with local laws if and to the extent local laws are applicable.
2. You warrant that it is legal for you to view the Site in the jurisdiction to which you are subject. You are responsible for compliance with all laws of that jurisdiction, in viewing or using its contents.
3. A failure or delay in enforcing compliance with one or more provisions of these Conditions shall not constitute a waiver of any other provision of these Conditions.
4. No provision of the Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any third party.
5. If any provisions of the Conditions shall be unlawful, void or for any reason unenforceable then that provision shall be deemed severable and shall not affect the validity and enforceability of the remaining provisions.
6. The Conditions constitute the entire agreement between ourselves as to your use of the Site and shall supersede any prior agreement or representation in respect thereof.
7. Any and all notices to be given by either one of us to the other pursuant to or in connection with the Conditions shall be deemed sufficiently given when forwarded by e-mail or facsimile transmission in each case addressed to you at any e-mail address or facsimile number you have given us or to us at the e-mail address or facsimile number displayed at the start of these General Conditions.
8. The Conditions are governed by the laws of England and Wales and you agree to submit to the exclusive jurisdiction of the English courts.

## **PART B**

# SUPPLEMENTAL CONDITIONS

(Relevant only to Members)

Please note that these terms and conditions are supplemental to the General Conditions. The Conditions (Parts A and B) form the basis of the agreement that you enter into with us in order to Register and become a Member (the "**Agreement**") and will govern your conduct as a Member.

## 1. REGISTRATION

1. Only those in a position to form legally binding contracts under English law may Register. Registration is not open to persons aged under 18 or to any persons whose Membership has been suspended or terminated. If you are Registering as a business entity, you represent that you have the authority to bind the entity to this Agreement.
2. Each Registration is for a single user only. We do not permit you to share your user name and password with any other person nor with multiple users on a network. Furthermore, your Membership may not be transferred to a third party.
3. Responsibility for the security of any passwords issued rests with you and you are responsible for all actions taken with your user name and password.

## 2. OUR SERVICES - NEUTRAL VENUE

1. We act as an intermediary in the field of transport services, provide guarantees for transports, and offer an escrow service. Our platform enables transport companies and users to connect and initiate negotiations for the execution of transport orders. We support the processing of transactions, particularly by securing payments and ensuring the quality of services. Our mission is to ensure a secure, transparent, and reliable framework for both parties.
2. If you are a Transport Provider you hereby agree that the Site is for shipping/transportation related services only and that work that you provide will only involve services. Except with our prior written agreement, you agree that you will not use your Membership as a means to market or sell any goods products or other services unrelated to the Job.
3. It is the responsibility of the User to select a suitable Transport Provider for the provision of the Job and the responsibility of the User and the Transport Provider to negotiate the terms of the Transaction.

## 3. GENERAL DISCLAIMER

1. Save where expressly stated otherwise in the Conditions, and only to the extent so stated, no provision of the Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 and the Conditions do not give rise to any legal contracts, liabilities, obligations, claims or other benefits or protection between Members or in favour of third parties. Your contract in connection with a Transaction will be with the other Member and, as a result, we can give no commitments of any nature about the other Member (whether User, Transport Provider or Successful Transport Provider (as defined hereafter) or the Job, whether as to quality, quantity, delivery or price.

2. We assume responsibility for transactions processed through our escrow service and guarantee compensation for any losses, damages, or delays associated with these transactions. If you notice any discrepancies or omissions, please notify us immediately. We will inform the relevant parties to correct the error and ensure service quality. However, please review all pickup and delivery information we provide with the other party to the transaction for additional security.

#### **4. UNLAWFUL TRANSACTIONS**

1. Members shall not use the Site for unlawful activities. Any Job or aspect of a Transaction carried out, or sought to be carried out unlawfully, by either Transport Provider or User, is prohibited.
2. Certain Transactions may be governed by statutory or other regulations and cannot therefore be negotiated freely. It is for the Members to identify and adhere to such regulations.

#### **5. TRANSPORTATION**

1. The posting of Jobs for the transportation of certain items is prohibited or restricted. These include hazardous or dangerous goods. Additionally there are certain items that do not generally pose a danger to health, safety, or property while being transported but are regulated or banned for public policy reasons from being transported. Generally, Jobs for the transportation of goods that cannot be sent through Royal Mail (excluding living creatures) are not permitted to be listed on the Site. However some hazardous goods can lawfully be transported provided they are properly packaged and labelled. Such Jobs may be listed on the Site provided that the shipment listing contains a clear notice of the hazardous nature of the material and a description of the planned method of shipping that complies with the law. If you are unsure of the legality of your shipment, we recommend you contact our customer services team via the contact details at the end of these Supplemental Conditions, prior to listing the Job. A member of our team will be able to refer you to the appropriate authority to answer your question.
2. Full responsibility for compliance with all laws and regulations that relate to the transportation of hazardous and restricted goods rests with the parties to the Transaction. Anyone who sends, or causes to be sent, a prohibited or restricted item or improperly packaged hazardous material may be subject to severe regulatory, or indeed criminal penalties.
3. In order to assist Members we provide distance calculations and driving directions (or links to 3rd party driving directions) as part of our service (the "Directions"). However the Directions should be used as a guide only and you should always drive in accordance with national rules, regulations, and highway codes. The Directions may not take into consideration issues such as road closures, direction of traffic, one-way systems, emergency access roads, height regulations, road conditions or restrictions on manoeuvrability. No representation is made or warranty given as to the content or usability of the Directions or their appropriateness for any particular journey or vehicle. We assume no responsibility for any loss, damage, or delay howsoever resulting from use of these Directions. However, if you do find an error or omission, please let us know so we can

notify the relevant persons to enable them to correct the error or omission and improve the service. We recommend that you verify any pickup and delivery information that we provide with the other party to the Transaction.

## 6. FEES

1. Shiply is free to join either as a transport provider or user and it is free to request quotes. We charge a success fee (the "Fee") to Transport Providers who have secured a Job ("Successful Transport Providers"). A Job will be considered to be secured if after quoting, messaging or contacting the User via the Site a Transport Provider is paid the Deposit (as defined hereafter).
2. When you become a Member you will be allocated an account into which Deposits will be paid and from which Fees (in each case as defined hereafter) will be deducted by us in accordance with this clause 6 (the "Account")
3. The Fee is based upon a tiered percentage of the Successful Transport Provider's accepted quote price. The Fee is dynamically calculated at the time of placing a quote and differs category by category. Transport Provider's may quickly and easily view the Fee amount charged on a Job by visiting their sales report.
4. The incurring of the Fee is independent of the actual performance of the Job. Subject to clause 7, the obligation to pay the Fee therefore still applies if a Job is placed via the Site but is not subsequently carried out and/or the Transaction is later terminated. We may waive our right to receive the Fee as a gesture of goodwill; however the grant of any such waiver is entirely within our discretion and if so granted is always without accepting any legal obligation to do so.
5. As a User, when you accept a quote, you will pay a deposit in the amount of the Fee (the "**Deposit**") into your Account which is immediately transferred to the Successful Transport Provider's Account from which we then debit the sum as payment of the Fee.
6. If you are a Transport Provider you are responsible for collecting and remitting any and all VAT associated with a Transaction. Your quote amount for the Job is inclusive of VAT in accordance with clause 12.1.2. You shall not submit a quote amount excluding VAT and then charge VAT on top of your quote price once your quote has been accepted.
7. We reserve the right to waive or change the basis for the calculation of the Fee at any time. We may also temporarily change or suspend the Fee for a promotional period. Any such changes will be described on the Site.

## 7. CANCELLATIONS

1. If a Job is cancelled by a Successful Transport Provider AFTER a quote was accepted but BEFORE any work on the Job commenced (a "Cancellation") the user may seek to file a "Cancellation Request" and have the Deposit returned to them either as Credit to use on future Shiply deposit payments or a direct Refund to the funding payment method used. A cancellation request must be filed within 28 days of quote acceptance, requests made after this time will be invalid. If a cancellation request is accepted (see 7.x clauses below), the user can choose to receive either a Credit or Refund and this will be issued in the amount of the Deposit already paid.



2. Credit may be used to accept future quotes on Shiply within 2 years of the **"Cancellation Request"** date. After a period of 2 years from the date of the **"Cancellation Request"**, this credit will expire and be un-usable. Shiply credit is non with-drawable / refundable and may only be used for accepting quotes on Shiply.
3. Refunds of Deposits will be made within 5 working days of the **"Cancellation Request"** being accepted. Refunds can only be sent to the same source from which the funds originated.
4. Users and Successful Transport Providers will negotiate directly once there has been a successful quote. Either party can make a Cancellation Request; however it should only make one once all reasonable attempts to reach an agreeable solution have been exhausted and it is clear that the Job will not be performed. You may not make a Cancellation Request until at least 7 days after the date on which the quote was originally accepted. When you make a Cancellation Request the other party to the proposed Transaction will be notified and will have 72 hours to respond by either:
  1. accepting the Cancellation Request and your reason; or
  2. rejecting the Cancellation Request and requesting review by our staff.
5. If your Cancellation Request is accepted by the other party the accepted quote can be retracted and the Job can either be relisted or deleted. If the request is rejected by the other party, then it is sent to us for review and a decision will be made on whether to approve or not to approve the Cancellation Request. Once we have given our verdict on whether to approve the Cancellation Request we will not enter into any further correspondence - our decision is final.
6. If the other party does not respond within the 72 hour grace period, your Cancellation Request and reason will automatically be accepted. Depending on the reasons for the Cancellation Request, any amounts associated with the Deposit or the Fee may be credited to your Shiply account at our sole discretion and in line with clause 7.1.
7. We take abuse of the procedure for Cancellation Requests very seriously. Abuse includes submitting false or exaggerated reasons, attempting to retract accepted quotes, or colluding with other Members to abuse the procedure. If a Member is found abusing or is suspected of abusing the procedure in this clause 7 his Cancellation Request will automatically be denied and his Membership may be revoked without further notice and/or he may also be subject to additional fees.

## 8. **FEEDBACK**

1. Whilst we are unable ourselves to conduct any due diligence on our Members, we do enable Users and Successful Transport Providers to provide feedback evaluations on each other's performance in the course of the Transaction including but not limited to the performance of the Job (or, as the case may be, their failure to enter into a Transaction and/or perform the Job). The evaluations seek to provide Members with guidance on the skills and/or reliability of other Members prior to quoting or, in the case of Users accepting a quote from a Transport Provider.

2. The feedback process involves leaving a rating along with a short comment about the performance of the Member. There are three feedback scores that you can give: +1 (positive,) 0 (neutral), and -1 (negative). A Member's overall feedback score is the average score of the ratings that he or she has received.
3. You accept that by posting a Job or by quoting on a Job it is probable that another Member will leave feedback about you and you acknowledge that your feedback consists solely of comments left by other Members and the overall feedback score calculated in accordance with clause 8.2. You agree that you will not use any feedback received on the Site on any venue or website that is not the Site. Do always use common sense and respect when leaving feedback on another Member as unwarranted, potentially libellous feedback could result in legal claims being made against you. We do not censor feedback or investigate it for accuracy, and you acknowledge that we are in no way legally responsible for any feedback that is left.
4. Any use of profanity, libellous behaviour, illegal activity, or any other form of abuse of the feedback function or any other part of the Site may result in a ban from further use of the Site and, if applicable, being reported to any relevant authorities.

## **9. ESCROW AGENT**

We act as an escrow agent and provide this service to our clients. In this capacity, we act as a neutral intermediary between the transaction parties, securing payments and ensuring the proper completion of the transaction. Members may utilize our escrow agent role, but may not create the impression of a joint venture, shareholder, or other corporate relationship with us.

## **10.ACCOUNT FLAGGING / REPORTING SYSTEM**

The Site is policed by the visitors to it through a flagging system. The flagging system is used to ensure that insofar as possible the Site complies with the Conditions. Visitors are able to 'flag' aspects of the Site that do not comply with the Conditions. White flags are located in areas that can be reported. These include: messages, the quote details section, member profiles, and shipment listing information. To flag any part of the text you may click on the white flag following the text in question and the white flag will turn yellow. A yellow flag is sent to our team for review. Following the review, the team will either grant a 'green flag', meaning there was no violation, or a 'red flag', meaning there was a violation and the content has been removed. We reserve the right to suspend the Membership of any Member who has received a red flag on more than one occasion.

## **11.INFORMATION YOU SUPPLY**

1. You are solely responsible for the information you provide to us and/or other Members in the Registration, shipping, or transportation process (which shall include anything posted on the Site) ("**Information**"). The Information must be true, legal, accurate, and non-fraudulent.
2. Other than personally identifiable information, which is covered under our Privacy Policy any Information shall be considered non-confidential and non-proprietary. We shall have no obligations with respect to such material. We shall be free to copy, disclose, distribute,

incorporate and otherwise use the Information and all data, images, sounds, text and other things embodied therein for any and all commercial or non-commercial purposes.

3. You agree to use common sense and good judgment when conducting or posting any Information. We insist that all Members abide by netiquette and communicate with each other in a respectful manner.

## **12.FRAUD**

### **1. FEEDBACK**

1. An important aspect of the Site is the ability of Members to leave feedback about each other (whether positive, neutral or negative). As described in clause 8, the feedback you receive is likely to influence the choices that other Members make as to whether to negotiate a Transaction with you. Accordingly, to preserve the integrity of the feedback system, you agree not to:
2. improperly influence in any manner, or cause another to improperly influence in any manner, the feedback of a Member; or
3. post or attempt to post, in any manner or by any means, a feedback review on your own account.

## **13.REJECTION OR REMOVAL OF MEMBERS**

1. We reserve the right to reject your Registration or cancel your Membership at any time and for any reason or for no reason and without notice to you.
2. We reserve the right to notify other Members of any actions that we, in our sole discretion deem serious, and which have led to the cancellation of your Membership.
3. If you are so removed or rejected you may appeal for reinstatement. Your appeal must include a written statement as to why you should be reinstated along with your contact information. Your appeal may be reviewed at our discretion and any determination as to your reinstatement will be at our sole discretion. Your submission of an appeal does not, in any manner, guarantee that you will be reinstated or that the appeal will necessarily be reviewed. We will contact you as to our decision to reinstate you. We are not obligated to give you any reasoning as to our decision. All decisions are final.

## **14.CONFIDENTIALITY/NON-DISCLOSURE**

During the course of your Membership we may disclose to you, or you may otherwise learn of or discover, our documents, business practices, object code, source code, management styles, day-to-day business operations, capabilities, systems, current and future strategies, marketing information, financial information, software, technologies, processes, procedures, methods and applications, or other aspects of our business. You hereby agree that any and all of this information is confidential and shall be our sole and exclusive intellectual property. Any disclosure of our information to a third party (specifically including a direct competitor) is strictly prohibited. All obligations contained herein will survive the termination of this Agreement.

## **15.NON-SOLICITATION**

During the term of this Agreement, you shall not solicit to employ nor employ any of our employees of whom you become aware through the performance of this Agreement. Furthermore, you shall not otherwise hinder any of our other business relationships including those with our Members.

#### **16.USE OF SHIPLY**

You agree that you shall not acquire the word "Shiplly" or any variant that includes the word "Shiplly" or may be confused with it on Google Adwords or any similar internet advertising service.

#### **17.NO CONVICTIONS**

You represent that you, and any individuals associated with you who will be involved in a Transaction have not been convicted of a crime which is related in anyway to the shipping and/or transportation or haulage business. Furthermore, you warrant and represent that there are currently no legal proceedings instituted against you that would prevent you from performing a Transaction to which you are a party or your obligations under the Conditions.

*Last Revised Date:11<sup>TH</sup> Jan, 2016*