

# Terms and Conditions

**Kb Employment** (“**Kb Employment Solutions Inc**”, “**Kb Employment**”, “**Kb**” or “**We**”) owns and operates the Kb website, available at [www.kbemployment.ca](http://www.kbemployment.ca) (“**Website**”), which we use to make available a marketplace through which Carriers (“**Carriers**”) solicit for hire independent Drivers or teams of Drivers (a “**Service Provider**” when used independently as the context requires, and collectively with independent Drivers, “**Drivers**”) to provide audio/visual installation, programming and live event production services (“**Platform**”). Kb may also make available mobile applications (collectively, the “**App**”) to access the Platform from tablets, smart phones, and other mobile devices.

PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE Kb WEBSITE, APP OR SERVICES. BY ACCESSING THE Kb WEBSITE, APP OR SERVICES, YOU AGREE TO BE LEGALLY BOUND BY THESE TERMS OF SERVICE, AS WELL AS THE Kb PRIVACY POLICY AND CODE OF CONDUCT. IF YOU DO NOT AGREE WITH ANY OF THE TERMS, YOU CAN NOT USE THE WEBSITE, APP OR SERVICES.

## 1. Kb Platform

### 1.1 Services.

The Platform is a marketplace which (i) offers account registration to Carriers through which the Carriers solicit for hire AZ, DZ or G class Drivers (ii) offers account registration to Drivers seeking hire by Carriers in need of driving services (items (i) and (ii) collectively, the “**Services**”).

### 1.2 Terms of Service.

These Terms of Service (the “**Terms**”) apply to all visitors and users of the Website, App and Services (“**Users**” or, as applicable “**You**”), including Carriers and Drivers. Kb may modify these Terms at any time in our sole discretion by posting a notice on the Website or App. Any changes shall become effective thirty (30) days from the date an update is posted.

# 2. Registration and Profile

## 2.1 Eligibility.

You represent and warrant that You are the age of majority in Your jurisdiction, if You are using the Services on behalf of a company or Service Provider, You represent and warrant that You have full power and authority to act on behalf of the company or Service Provider, including without limitation, the authority to bind the company or Service Provider. By using the Website, App or Services on behalf of any company or on behalf of a Service Provider, You hereby represent and warrant that the individual accepting these Terms is duly authorized to accept the Terms on such third party's behalf and such third party has the full power to enter into these Terms and perform its obligations hereunder.

## 2.2 Account.

In order to use Kb Services, You must register for an account as either an Carrier or Driver ("**Account**"). You represent and warrant that all information as may be prompted by any registration forms ("**Registration Data**") is accurate, current, and complete; and (b) You will not distribute your password to any other person, unless such person is part of your company or Service Provider.

## 2.3 Personal Information.

When registering with Kb, we may require You to provide us information such as your name, e-mail address, employment history, name of your company or companies, work experience and drivers license type. This information will be collected, used and disclosed in accordance with our Privacy Policy. Certain personal information that You choose to make available to other users will be published on Your Platform profile page. If You provide personal information of a third party (such as personal information of any Service Provider member), You represent and warrant that You have obtained consent from that party to provide the personal information to Kb in accordance with our **Privacy Policy**.

## 2.4 Billing Information.

Users shall provide valid credit card information or other acceptable payment information to register (collectively known as "**Billing Information**"), which shall be

provided to Kb's third-party payment processor ("**Payment Processor**") and used for payment of fees owed under for any Services or use of the Platform, as applicable. Users shall promptly advise Kb if their Billing Information changes due to loss, theft, cancellation, expiry or otherwise, and Users shall be liable for any failure to pay Fees caused by out-of-date billing information ("**Payment Failure**") Kb shall not be liable for any Payment Failure, and hereby disclaims all liability for any claim, actions, or charge relating to any Payment Failure.

## **2.5 Profile Page and Rating and Review Feature.**

Kb may collect feedback and ratings from Carriers and Drivers about their experience working with other Users. Kb may use this feedback to provide other Users with information on Carriers and Drivers. Kb may publish feedback and comments about Users on the Services so that Users may review and evaluate the experiences of other Users. Kb disclaims any liability for any such feedback, and expressly disclaims that feedback are the statements and opinions of third-parties, who are in no way associated with, employed or retained by Kb. If You have any concerns about the feedback that is published about You, please contact us at [info@kbemployment.ca](mailto:info@kbemployment.ca).

# **3. Jobs**

## **3.1 Carrier Jobs.**

Carriers seeking Drivers may use the Services to create and publish job pages (known as "**Job Pages**") indicating the job description associated with the job ("**Job**"). Each Job Page shall state the type of employment, drivers license type, years of experience, vehicle type, trailer type, additional skills, location of job, description of job, shift times, wage, quantity of drivers and estimated start and estimated completion date. In addition, the Job Page may specify other terms and conditions for hire of any Driver. Once a Carrier has hired Driver(s) for a specific Job, the compensation information will be included on the Job Page.

## **3.2 Applications.**

Drivers are notified and can view Job Pages on Kb and submit applications for hire ("**Application**"). The first Driver to accept the Job is awarded the work. The Carrier is then provided contact information, ability to view the full profile of the Driver and communicate via the App.

# 4. Driver Contracts for Service

## 4.1 Marketplace.

Each Carrier agrees and acknowledges that it shall contract any and all Drivers through Kb that have been discovered and solicited through the platform. Each Driver agrees and acknowledges that it shall be contracted by Kb for any and all jobs assigned to them through the platform.

## 4.2 Driver.

In using the Website, Platform and/or the Services, as a driver You agree to:

1. I give Kb the permission to send all written communication of temporary assignment details through email notifications.
2. I understand that my length of service or assignments is considered temporary. As an Assignment Worker, my assignment may be terminated at any time without notice or pay in lieu of notice. In the event that my employment is terminated, I will be paid in accordance with but limited to the Employment Standards Act, 2000.
3. I acknowledge that the working relationship begins with Kb and I agree whether or not in writing to assign me to perform and begin work. Any internal working assessment, testing, internal orientation, interviews, resumes submission and training are not to be construed as the commencement of a working relationship.
4. I grant Kb permission to send me all written communication via email. I further acknowledge and confirm that it is my preferred method of communication venue by providing my email address above. Note: If email is not available, I understand all communication will be documented and taken as fact by Kb.
5. I understand that I am employed by Kb and not the Carrier site for which I am working and that all assignments are deemed temporary and can end without notice. There are no guarantees.
6. I acknowledge that all information provided on this form and any other information supplied to be accurate and true. I grant Kb the permission to verify all statements and call any employer for reference information. To this end, I understand that failure to provide accurate information may result in termination with cause.

7. I understand that I am obligated to advise Kb that I will be working elsewhere within a reasonable time.
8. I acknowledge and agree that the time the assignment was offered, I was orally provided with Kb's contact information as well as the name of the Carrier I was being assigned to, their contact information, as well as my wage rate, benefits (if applicable), hours of work, pay period, estimated term of the assignment (if applicable), and a general description of the work. This information will be provided in writing as soon as practical. If I don't receive this information within a reasonable time, I must contact the Kb Representative to request a copy of this information.
9. I acknowledge and agree that my employment is for a set term specified and that accordingly, at the end of the term, my employment will automatically end and I will not be entitled to any notice of termination nor pay in lieu of such notice, nor any severance pay, pursuant to contract, statute (including but not limited to the Employment Standards Act, 2000), and the common law.

#### **4.3 Carrier.**

In using the Website, Platform and/or the Services, as a Carrier You agree to:

1. Kb has no responsibility with regards to shortages or any loss resulting from theft, negligence, loss or damage on the part of the Assignment Worker. As such, it is agreed and understood that the Carrier will provide sufficient insurance to cover all cargo or merchandise handled by any Assignment Worker supplied to the Carrier.
2. The Carrier assumes all responsibility for the handling of valuable or negotiable documents, money and securities, etc. It is agreed and understood that Kb will not be responsible for any loss however incurred.
3. The Carrier is responsible for advising Assignment Worker on procedures involving company cell phones, 407 and other highway charges, company credit card and expense account. It is agreed and understood that Kb will not be responsible for any loss however incurred.
4. If the Carrier uses the services of any Kb Assignment Workers as its direct worker, as an independent contractor, or through any person or firm other than Kb during or within six months from the 1st day the Assignment Worker performed work on the Carrier's site; the Carrier must notify Kb and either (a)

continue the Assignment Worker's assignment from Kb for the completion of the agreed upon transfer period; or (b) pay Kb a buyout fee that will be calculated based upon the current buyout schedule.

5. The Carrier will ensure to comply with their responsibilities under the Occupational Health and Safety Act & Regulations (Section 27) and as outlined in Section 74, 13 of Employment Standards Act (Fact Sheet). The Carrier further understands that they are held responsible for failing to comply with their respective obligations under these governing laws and regulations.

#### **4.4 Disclaimer.**

Kb has no control over the conduct of Users or the truth or accuracy of the information that Users post on Kb, including on Job Pages. Kb does not guarantee the true identity of any User. You are responsible for determining the identity and suitability of any person or entity You may contact by means of the Platform. All Drivers are independent third parties who (i) are not agents of Kb; and (ii) have no authority to bind or contract for Kb. Each Driver represents and warrants that it shall not hold itself out as having any authority to act for or on behalf of Kb. Kb does not endorse any persons who use or register for our Services.

#### **4.5 Insurance.**

Each Carrier represents and warrants that, at its sole cost and expense, it maintains appropriate insurance in accordance with industry standards and as required by law. The Carrier will provide sufficient insurance on the Carrier's equipment and/or vehicles (whether owned or leased) with regard to collisions, public liability, property damage, fire and theft and that such coverage will provide Kb with full benefit and protection.

# 5. License; Intellectual Property

## 5.1 Reservation of Rights.

The Services and all materials therein or transferred thereby, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, and music (the “**Kb Content**”), and all intellectual property rights related thereto, are the exclusive property of Kb and its licensors. Users agree not to use of the Kb Content for any purpose not expressly permitted by these Terms.

## 5.2 Feedback.

You may choose to or we may invite You to submit comments or ideas about the Website, App, and Services, including but not limited to, about how to improve the Services or our products (“**Comments**”). By submitting any Comments, You agree that Your disclosure is gratuitous, unsolicited and without restriction and will not place Kb under any fiduciary or other obligation. You further agree that Kb is free to use the Comments without any compensation to You, and Kb is free to disclose the Comments on a non-confidential basis or on any other basis, to anyone.

## 5.3 User Content.

Kb does not claim ownership of the data, materials and/or content created, uploaded or otherwise transmitted by You through use of the Kb Website, App or Service, including but not limited to resumes, job descriptions, photos, graphics, designs, drawings, electronic documents and comments (“**User Content**”).

## 5.4 License to User Content.

Users agree that by using the Website, Platform, App and/or Services, each User grants Kb a worldwide, royalty-free, non-exclusive license to collect, use, reproduce, store, display and sublicense such User Content for the purpose of operating the Website, App and Services.

## 6. Restrictions

Kb may impose certain limitations on the use of the Website, Platform, App or Services, including, but not limited to restricting the number of accounts for which You may register, and/or imposing charges for certain features of the Services. You agree to use the Kb Website and the Services only for purposes as permitted by these Terms. Kb reserves the right to modify or impose any limitations on the use of the Kb Website, Platform, App and the Services at any time, with or without notice to You. Kb also reserves the right at all times to terminate any Carriers' or Drivers' use of the Platform at any time without any liability whatsoever to the Carrier or Driver as the case may be. In using the Website, Platform and/or the Services, You agree not to:

(a) intentionally or unintentionally violate any of these Terms, or any local, state, provincial, national or international law or regulation, including without limitation using the capabilities of the Services to transmit any unlawful content, to harass or intimidate others, to spam third parties or to impersonate anyone;

(b) license, sell, rent, lease, transfer, assign or otherwise commercially exploit the Website, Platform, App or the Services;

(c) upload, post, email, transmit or otherwise make available any material that:

1. is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, pornographic, libelous, invasive of another's privacy, hateful, or racially or ethnically objectionable, encourages criminal behavior, gives rise to civil liability, violates any law, or is otherwise objectionable;
2. You do not have a right to make available under any law or under a contractual relationship;
3. infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party (including privacy rights);
4. is or contains unsolicited or unauthorized advertising, solicitations for business, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
5. contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software

- or hardware or telecommunications equipment or data or the Website or that of any Users or viewers of the Website or that compromises a User's privacy; or
6. contains any falsehoods or misrepresentations or create an impression that You know is incorrect, misleading, or deceptive, or any material that could damage or harm minors in any way;

(d) or modify, translate, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Website, Platform, App or any software provided by us;

(e) use the Services to transmit, distribute, post or submit any information concerning any other person or entity, including without limitation, photographs of others without their permission, personal contact information or credit, debit, calling card or account numbers;

(f) "stalk" or harass any other user of the Services or collect or store any information about any other user other than for purposes of transacting with one another;

(g) register for more than one user account or register for a user account on behalf of an individual other than Yourself;

(h) impersonate any person or entity, or falsify or otherwise misrepresent Yourself or Your affiliation with any person or entity;

(i) use automated scripts to collect information or otherwise interact with the Service or the Site;

(j) use Kb to find Driver for a Job and then complete the transaction offline in order to circumvent Your obligation to pay for the Service;

(k) submit any Job Page with a false or misleading compensation associated with the Job, or submit any Job Page with a compensation that You do not intend to honour; or

(l) advocate, encourage, or assist any third party in doing any of the foregoing.

# 7. Indemnity

Each of the Users, Drivers, and Carriers (each an “**Indemnifying Party**”) agrees to defend, indemnify and hold Kb, its affiliates, subsidiaries, directors, officers, employees, agents, partners and licensors (each an “**Indemnified Party**”) harmless from any claim or demand, including reasonable legal fees, made by a third party, relating to or arising from: (a) any content an Indemnifying Party creates, submits, posts, transmits, or otherwise makes available through the Website, Platform, App or Services; (b) Indemnifying Party’s use of the Website, Platform, App or Services; (c) any dealings between an Indemnifying Party and any persons whom it sends or otherwise transmits links or any content to using the Service, including without limitation claims relating to misrepresentation; (d) any violation by an Indemnifying Party of these Terms; (e) Indemnifying Party’s violation of any rights of another; (f) any claim, lawsuit, or levy brought by a third-party against an Indemnified Party for failure to pay any tax, import, or tariff obligation of an Indemnifying Party; or (g) Indemnifying Party’s violation of any contract it enters into with another User of the Service, Platform or Website. This obligation shall survive the termination or expiration of these Terms and/or each Indemnifying Party’s use of the Services, Platform, or Website.

# 8. Term; termination

## 8.1 Termination by Kb.

Kb may, at any time and for any reason or no reason, without prior notice, immediately suspend all or a portion of a User’s Account and/or access to the Website, Platform, App or Services. Any such termination or suspension shall be made by Kb in its sole discretion, and Users agree that Kb will not be responsible to a User or any third party for any damages that may result or arise out of such termination or suspension of a User’s Account and/or access to the Services, Website, or Platform.

## 8.2 Closing of Account by User.

At any time a User may terminate and close the User’s Account, provided that the Account is in “good standing”. An Carrier’s Account will be considered to be in good standing if (a) there are no active Job Pages; (b) there are no active outstanding

payments owed to Drivers; and (c) there are no outstanding fees owed to Kb. A Driver's Account will be considered to be in good standing if (x) there are no active Jobs that have not been completed; and (y) there are no outstanding fees owed to Kb. If a User's Account is not in good standing, but the User wishes to terminate and close the User's Account, the User agrees to take all actions necessary to bring the User's Account into good standing, including without limitation, the immediate payment of all outstanding fees owed to Kb; provided, however, User agrees and acknowledges that closing of the User's Account shall not terminate any obligation that is indicated by these Terms to survive after the User's Account is closed.

## **9. Third-party content**

### **9.1 Advertisements.**

You acknowledge and agree that the Website may contain advertisements from both Carriers and from other third parties. If You elect to have any business dealings with anyone whose products or services may be advertised on the Website, You acknowledge and agree that such dealings are solely between You and such third party and You further acknowledge and agree that Kb shall not have any responsibility or liability for any losses or damages that You may incur as a result of any such dealings.

### **9.2 Links.**

The Website and App may contain links to other websites that are not owned or controlled by Kb. Users agree that in no event shall any reference to any third party, advertisement, third-party product or service be construed as an approval or endorsement by Kb of that third party, third-party product or service. Users agree that Kb is not responsible for the content of any linked websites. Any third-party websites or services accessed from the Website or App are subject to the terms and conditions of those websites and or services and You agree to be bound by and comply with those terms and conditions. The presence on the Website or App of a link to any other website(s) or any advertisements does not imply that Kb endorses or accepts any responsibility for the content or use of such websites, and You hereby agree to release Kb from all liability and/damages that may arise from Your use of such websites or receipt of services from any such websites.

# 10. Disclaimer of warranties and conditions

THE WEBSITE, PLATFORM, SERVICES AND APP ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. Kb SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND RELATING TO THE WEBSITE, PLATFORM, APP AND THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.

ANY MATERIAL TRANSMITTED, STORED, ACCESSED OR OTHERWISE MAINTAINED THROUGH THE USE OF THE SERVICES IS DONE SO AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR LOSS OR CORRUPTION OF DATA THAT RESULTS FROM ANY SUCH USE OF THE WEBSITE, PLATFORM, APP OR SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM Kb OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THESE TERMS.

# 11. Limitation of Liability

UNDER NO CIRCUMSTANCES SHALL Kb BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES THAT RESULT FROM (I) YOUR USE OF OR YOUR INABILITY TO USE THE WEBSITE, PLATFORM, APP OR THE SERVICES, (II) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, DATA, INFORMATION OR SERVICES, (III) ERRORS, MISTAKES, OR INACCURACIES, (IV) PERSONAL INJURY OR PROPERTY DAMAGE OF ANY KIND WHATSOEVER ARISING FROM OR RELATING TO YOUR USE OF THE SERVICES, ANY BUGS, VIRUSES OR OTHER FILES OR DATA THAT MAY BE HARMFUL TO COMPUTER OR COMMUNICATION EQUIPMENT OR DATA THAT MAY HAVE BEEN TRANSMITTED TO OR THROUGH THE WEBSITE, APP, OR PLATFORM, OR (V) ANY DEALINGS OR TRANSACTIONS BETWEEN YOU AND

ANY PERSONS OR USERS WHOM YOU SEND OR TRANSMIT ANY CONTENT TO USING THE SERVICE, WEBSITE, APP, OR PLATFORM, INCLUDING WITHOUT LIMITATION ANY PRODUCTS OR SERVICES OFFERED BY YOU TO SUCH PERSONS.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, KB EMPLOYMENT'S LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO THE GREATER OF (A) FIVE HUNDRED UNITED STATES DOLLARS (\$500 USD) OR (B) AMOUNTS YOU HAVE PAID Kb IN THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM (IF ANY). THE FOREGOING LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS OR LIMITATIONS ARE SPECIFICALLY PROHIBITED BY LAW, SOME OF THE EXCLUSIONS OR LIMITATIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

## **12. Governing Law; Jurisdiction**

This Agreement shall be governed by the laws in effect in the Province of Ontario, Canada. No choice of laws rules of any jurisdiction shall apply to this Agreement. Subject to the Arbitration terms below, the courts of the Province of Ontario located in Toronto shall have jurisdiction over any legal action or proceeding arising out of or relating to these Terms, the Kb Website or the Services and You consent to the jurisdiction of such courts for any such action or proceeding. You waive all rights that You may have or that may hereafter arise to contest such jurisdiction of such courts. The parties waive any right to a jury trial with respect to any action brought in connection herewith. The application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement is expressly excluded. You agree that any claim or cause of action arising out of or related to these Terms or the use of the Services must be filed within one (1) year after the cause of action arose or be forever barred.

## **13. Entire Agreement**

These Terms, together with the Privacy Policy and Code of Conduct, constitute the entire agreement governing use of the Kb Website, App and the Services and all related activities. We reserve the right to modify or change the Kb Website, App and the Services at any time without notice or liability to You. If any part of these Terms is held to be unlawful, void, or unenforceable, that part shall be deemed severed and shall not affect the validity and enforceability of the remaining provisions. Our failure to exercise or enforce any right or provision under these Terms shall not constitute a waiver of such right or provision. You may not assign any part of these Terms or any rights or licenses granted hereunder, whether voluntarily, by operation of law, or otherwise without our prior written consent. Kb may assign these Terms for any reason without notice to You.

## **14. English Language**

It is the express wish of the parties that this agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

## **15. Contact us**

If You have any questions about these Terms or if You wish to receive any additional information, provide feedback or raise any concerns in relation to the Kb Website, or the Services, please contact us at: [info@kbemployment.ca](mailto:info@kbemployment.ca)

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