

By clicking "Create Account" , you agree to Xyper's Terms and Conditions.

## 1. CONTRACTUAL RELATIONSHIP

PLEASE READ THESE TERMS HEREINAFTER "Terms" or "Agreement") CAREFULLY BEFORE ACCESSING OR USING THE SITE OR DOWNLOADING ANY CONTENT/INFORMATION FROM THE SITE. These terms of use govern the access or use of applications, websites, content, products, and services (the "Services"), by you an individual, broker or agency from within the United States and its territories and possessions, said services made available in the United States and its territories and possessions by Xyper Technologies, Inc. and its subsidiaries and affiliates (collectively, "Xyper"). In this Agreement, the words "including" and "include" mean "including, but not limited to."

Your access and use of the Services constitutes your agreement to be bound by these Terms, which establishes a contractual relationship between you and Xyper. If you do not agree to these Terms, you may not access or use the Services. These Terms expressly supersede prior agreements or arrangements with you. Xyper may immediately terminate these Terms or any Services with respect to you, or generally cease offering or deny access to the Services or any portion thereof, at any time for any reason.

Supplemental terms may apply to certain Services, such as policies for a particular event, activity or promotion, and such supplemental terms will be disclosed to you in connection with the applicable Services. Supplemental terms are in addition to, and shall be deemed a part of, the Terms for the purposes of the applicable Services. Supplemental terms shall prevail over these Terms in the event of a conflict with respect to the applicable Services.

Xyper may amend the Terms related to the Services from time to time. Amendments will be effective upon Xyper's posting of such updated Terms at this location or the amended policies or supplemental terms on the applicable Service. Your continued access or use of the Services after such posting constitutes your consent to be bound by the Terms, as amended.

Our collection and use of personal information in connection with the Services is as provided in Xyper's Privacy Policy located at <https://www.Xyper.com/legal/usa/privacy>.

## 2. THE SERVICES

The Services constitute a technology platform that enables users of Xyper's mobile applications or websites provided as part of the Services (each, an "Application") to arrange and schedule transportation and/or logistics services with third party providers of such services, including independent third party transportation providers and third party logistics providers under agreement with Xyper or certain of Xyper's subsidiaries ("Third Party Providers"). Unless otherwise agreed by Xyper in a separate written agreement with you, the Services are made available solely for your personal, noncommercial use.

## PROVISION OF THE SERVICES

You acknowledge that portions of the Services may be made available under Xypper's various brands or request options associated with transportation or logistics, including, without limitation, "Xypper," "XypperTech," and "XypperTechnologies." You also acknowledge that the Services may be made available under such brands or request options by or in connection with: (i) certain of Xypper's subsidiaries and affiliates; or (ii) independent Third Party Providers, including Transportation Network Company drivers, Transportation Charter Permit holders or holders of similar transportation permits, authorizations or licenses.

## THIRD-PARTY SERVICES AND CONTENT

The Services may be made available or accessed in connection with third-party services and content (including advertising) that Xypper does not control. You acknowledge that different terms of use and privacy policies may apply to your use of such third-party services and content. Xypper does not endorse such third party services and content and in no event shall Xypper be responsible or liable for any products or services of such third party providers. Additionally, Apple Inc., Google, Inc., Microsoft Corporation or BlackBerry Limited will be a third-party beneficiary to this contract if you access the Services using Applications developed for Apple iOS, Android, Microsoft Windows, or Blackberry-powered mobile devices, respectively. These third-party beneficiaries are not parties to this contract and are not responsible for the provision or support of the Services in any manner. Your access to the Services using these devices is subject to terms set forth in the applicable third-party beneficiary's terms of service.

## OWNERSHIP

The Services and all rights therein are and shall remain Xypper's property or the property of Xypper's licensors. Neither these Terms nor your use of the Services convey or grant to you any rights: (i) in or related to the Services except for the limited license granted above; or (ii) to use or reference in any manner Xypper's company names, logos, product and service names, trademarks or services marks or those of Xypper's licensor.

## LICENSE

Subject to your compliance with these Terms, Xypper grants you a limited, non-exclusive, non- sublicensable, revocable, non-transferrable license to: (i) access and use the Applications on your personal device solely in connection with your 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 your personal, noncommercial use. Any rights not expressly granted herein are reserved by Xypper and Xypper's licensors.

## RESTRICTIONS

You may not: (i) remove any copyright, trademark or other proprietary notices from any portion of the Services; (ii) reproduce, modify, prepare derivative works based upon, distribute, license, lease, sell, resell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the Services except as expressly permitted by Xypper; (iii) decompile, reverse engineer or disassemble the Services except as may be permitted by applicable law; (iv) link to, mirror or frame any portion of the Services; (v) cause or launch any programs or scripts for the purpose of scraping, indexing, surveying, or otherwise data mining any portion of the Services or unduly burdening or

hindering the operation and/or functionality of any aspect of the Services; or (vi) attempt to gain unauthorized access to or impair any aspect of the Services or its related systems or networks.

YOU ACKNOWLEDGE THAT XYPPER DOES NOT PROVIDE TRANSPORTATION OR LOGISTICS SERVICES OR FUNCTION AS A TRANSPORTATION CARRIER. XYPPER'S SERVICES MAY BE USED BY YOU TO REQUEST AND SCHEDULE TRANSPORTATION OR LOGISTICS SERVICES WITH THIRD PARTY PROVIDERS, BUT YOU AGREE THAT XYPPER HAS NO RESPONSIBILITY OR LIABILITY TO YOU RELATED TO ANY TRANSPORTATION OR LOGISTICS PROVIDED TO YOU BY THIRD PARTY PROVIDERS THROUGH THE USE OF THE SERVICES OTHER THAN AS EXPRESSLY SET FORTH IN THESE TERMS.

XYPPER DOES NOT GUARANTEE THE SUITABILITY, SAFETY OR ABILITY OF THIRD PARTY PROVIDERS. IT IS SOLELY YOUR RESPONSIBILITY TO DETERMINE IF A THIRD PARTY PROVIDER WILL MEET YOUR NEEDS AND EXPECTATIONS. XYPPER WILL NOT PARTICIPATE IN DISPUTES BETWEEN YOU AND A THIRD PARTY PROVIDER. BY USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU MAY BE EXPOSED TO SITUATIONS INVOLVING THIRD PARTY PROVIDERS THAT ARE POTENTIALLY UNSAFE, OFFENSIVE, HARMFUL TO MINORS, OR OTHERWISE OBJECTIONABLE, AND THAT USE OF THIRD PARTY PROVIDERS ARRANGED OR SCHEDULED USING THE SERVICES IS AT YOUR OWN RISK AND JUDGMENT. XYPPER SHALL NOT HAVE ANY LIABILITY ARISING FROM OR IN ANY WAY RELATED TO YOUR TRANSACTIONS OR RELATIONSHIP WITH THIRD PARTY PROVIDERS.

### 3. YOUR USE OF THE SERVICES

#### USER REQUIREMENTS AND CONDUCT

The Service is not available for use by persons under the age of 18. You may not authorize third parties to use your Account, and you may not allow persons under the age of 18 to receive transportation or logistics services from Third Party Providers unless they are accompanied by you. You may not assign or otherwise transfer your Account to any other person or entity. You agree to comply with all applicable laws when using the Services, and you may only use the Services for lawful purposes (e.g., no transport of unlawful or hazardous materials). You will not in your use of the Services cause nuisance, annoyance, inconvenience, or property damage, whether to the Third Party Provider or any other party. In certain instances Xyper may require you to provide proof of identity to access or use the Services, and you agree that you may be denied access or use of the Services if you refuse to provide proof of identity.

#### USER ACCOUNTS

In order to use most aspects of the Services, you must register for and maintain an active personal user Services account ("*Account*"). You must be at least 18 years of age, or the age of legal majority in your jurisdiction (if different than 18), to obtain an Account. Account registration requires you to submit to Xyper certain personal information, such as your name, address, mobile phone number and age, as well as at least one valid credit card. You agree to maintain accurate, complete, and up-to-date information in your Account. Your failure to maintain accurate, complete,

and up-to-date Account information, including having an invalid or expired credit card on file, may result in your inability to access and use the Services or Xyper's termination of this Agreement with you. You are responsible for all activity that occurs under your Account, and, as such, you agree to maintain the security and secrecy of your Account username and password at all times. Unless otherwise permitted by Xyper in writing, you may only possess one Account.

## TEXT MESSAGING

By creating an Account, you agree that the Services may send you informational text (SMS) messages as part of the normal business operation of your use of the Services. You may opt-out of receiving text (SMS) messages from Xyper at any time. You acknowledge that opting out of receiving text (SMS) messages may impact your use of the Services.

## USER PROVIDED CONTENT

Xyper may, in Xyper's sole discretion, permit you from time to time to submit, upload, publish or otherwise make available to Xyper through the Services textual, audio, and/or visual content and information, including commentary and feedback related to the Services, initiation of support requests, and submission of entries for competitions and promotions ("*User Content*"). Any User Content provided by you remains your property. However, by providing User Content to Xyper, you grant Xyper a worldwide, perpetual, irrevocable, transferrable, royalty-free license, with the right to sublicense, to use, copy, modify, create derivative works of, distribute, publicly display, publicly perform, and otherwise exploit in any manner such User Content in all formats and distribution channels now known or hereafter devised (including in connection with the Services and Xyper's business and on third- party sites and services), without further notice to or consent from you, and without the requirement of payment to you or any other person or entity.

You represent and warrant that: (i) you either are the sole and exclusive owner of all User Content or you have all rights, licenses, consents and releases necessary to grant Xyper the license to the User Content as set forth above; and (ii) neither the User Content nor your submission, uploading, publishing or otherwise making available of such User Content nor Xyper's use of the User Content as permitted herein will infringe, misappropriate or violate a third party's intellectual property or proprietary rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

You agree to not provide User Content that is defamatory, libelous, hateful, violent, obscene, pornographic, unlawful, or otherwise offensive, as determined by Xyper in its sole discretion, whether or not such material may be protected by law. Xyper may, but shall not be obligated to, review, monitor, or remove User Content, at Xyper's sole discretion and at any time and for any reason, without notice to you.

## NETWORK ACCESS AND DEVICES

You are responsible for obtaining the data network access necessary to use the Services. Your mobile network's data and messaging rates and fees may apply if you access or use the Services from a wireless-enabled device. You are

responsible for acquiring and updating compatible hardware or devices necessary to access and use the Services and Applications and any updates thereto. Xypper does not guarantee that the Services, or any portion thereof, will function on any particular hardware or devices. In addition, the Services may be subject to malfunctions and delays inherent in the use of the Internet and electronic communications.

## 4. DISCLAIMERS; LIMITATION OF LIABILITY; INDEMNITY

### DISCLAIMER

THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." XYPPER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, NOT EXPRESSLY SET OUT IN THESE TERMS, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN ADDITION, XYPPER MAKES NO REPRESENTATION, WARRANTY, OR GUARANTEE REGARDING THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, OR AVAILABILITY OF THE SERVICES OR ANY GOODS OR SERVICES OBTAINED THROUGH THE USE OF THE SERVICES, OR THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. YOU AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY THIRD PARTY GOOD OR SERVICES OBTAINED IN CONNECTION THEREWITH, REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

THIS DISCLAIMER DOES NOT ALTER YOUR RIGHTS AS A CONSUMER TO THE EXTENT NOT PERMITTED UNDER THE LAW IN THE JURISDICTION OF YOUR PLACE OF RESIDENCE.

### LIMITATION OF LIABILITY

XYPPER SHALL NOT BE LIABLE TO YOU FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOST DATA, PERSONAL INJURY, OR PROPERTY DAMAGE, EVEN IF XYPPER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. XYPPER SHALL NOT BE LIABLE FOR ANY DAMAGES, LIABILITY OR LOSSES INCURRED BY YOU ARISING OUT OF: (i) YOUR USE OF OR RELIANCE ON THE SERVICES OR YOUR INABILITY TO ACCESS OR USE THE SERVICES; OR (ii) ANY TRANSACTION OR RELATIONSHIP BETWEEN YOU AND ANY THIRD PARTY PROVIDER, EVEN IF XYPPER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. XYPPER SHALL NOT BE LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND XYPPER'S REASONABLE CONTROL. YOU ACKNOWLEDGE THAT THIRD PARTY TRANSPORTATION PROVIDERS PROVIDING TRANSPORTATION SERVICES REQUESTED THROUGH XYPPERX MAY OFFER RIDESHARING OR PEER-TO-PEER TRANSPORTATION SERVICES AND MAY NOT BE PROFESSIONALLY LICENSED OR PERMITTED. IN NO EVENT SHALL XYPPER'S TOTAL LIABILITY TO YOU IN CONNECTION WITH THE SERVICES FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION EXCEED FIVE HUNDRED U.S. DOLLARS (US \$500). THESE LIMITATIONS DO NOT PURPORT TO LIMIT LIABILITY THAT CANNOT BE EXCLUDED UNDER THE LAW IN THE JURISDICTION OF YOUR PLACE OF RESIDENCE.

## INDEMNITY

You agree to indemnify and hold Xypper and its officers, directors, employees and agents, harmless from any and all claims, demands, losses, liabilities, and expenses (including attorneys' fees), arising out of or in connection with: (i) your use of the Services; (ii) your breach or violation of any of these Terms; (iii) Xypper's use of your User Content; or (iv) your violation of the rights of any third party, including Third Party Providers.

## 5. DISPUTE RESOLUTION

### ARBITRATION

You agree that any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof or the use of the Services (collectively, "*Disputes*") will be settled by binding arbitration between you and Xypper, except that each party retains the right to bring an individual action in small claims court and the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights. You acknowledge and agree that you and Xypper are each waiving the right to a trial by jury or to participate as a plaintiff or class in any purported class action or representative proceeding. Further, unless both you and Xypper otherwise agree in writing, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of any class or representative proceeding. If this specific paragraph is held unenforceable, then the entirety of this "Dispute Resolution" section will be deemed void. Except as provided in the preceding sentence, this "Dispute Resolution" section will survive any termination of these Terms.

### ARBITRATION RULES AND GOVERNING LAW

The arbitration will be administered by the American Arbitration Association ("*AAA*") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "*AAA Rules*") then in effect, except as modified by this "Dispute Resolution" section. (The AAA Rules are available at [www.adr.org/arb\\_med](http://www.adr.org/arb_med) or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

### ARBITRATION PROCESS

A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. (The AAA provides a form Demand for Arbitration at [www.adr.org/aaa/ShowPDF?doc=ADRSTG\\_004175](http://www.adr.org/aaa/ShowPDF?doc=ADRSTG_004175) and a separate form for California residents at [www.adr.org/aaa/ShowPDF?doc=ADRSTG\\_015822](http://www.adr.org/aaa/ShowPDF?doc=ADRSTG_015822).) The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of California and will be selected by the parties from the AAA's roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

## ARBITRATION LOCATION AND PROCEDURE

Unless you and Xypper otherwise agree, the arbitration will be conducted in the county where you reside. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and Xypper submit to the arbitrator, unless you request a hearing or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

## ARBITRATOR'S DECISION

The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator's award damages must be consistent with the terms of the "Limitation of Liability" section above as to the types and the amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. If you prevail in arbitration you will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law. Xypper will not seek, and hereby waives all rights Xypper may have under applicable law to recover, attorneys' fees and expenses if Xypper prevail in arbitration.

## FEES

Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules. However, if your claim for damages does not exceed \$75,000, Xypper will pay all such fees unless the arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)).

## CHANGES

Notwithstanding the provisions of the modification-related provisions above, if Xypper changes this "Dispute Resolution" section after the date you first accepted these Terms (or accepted any subsequent changes to these Terms), you may reject any such change by providing Xypper written notice of such rejection by mail or hand delivery to: Xypper Technologies, Inc., Attn: Dispute Resolutions, 2805 E. Oakland Park Blvd., Suite 305, Fort Lauderdale, Florida 33306 or by email from the email address associated with your Account to: [change-dr@Xypper.com](mailto:change-dr@Xypper.com), within 30 days of the date such change became effective, as indicated in the "Last update" date above. In order to be effective, the notice must include your full name and clearly indicate your intent to reject changes to this "Dispute Resolution" section. By rejecting changes, you are agreeing that you will arbitrate any Dispute between you and Xypper in accordance with the provisions of this "Dispute Resolution" section as of the date you first accepted these Terms (or accepted any subsequent changes to these Terms).

## 6. OTHER PROVISIONS

### CHOICE OF LAW

These Terms are governed by and construed in accordance with the laws of the State of Florida, U.S.A., without giving effect to any conflict of law principles.

### CLAIMS OF COPYRIGHT INFRINGEMENT

Claims of copyright infringement should be sent to Xyper's designated agent. Please visit Xyper's web page at <https://www.Xyper.com/legal/usa/copyright> for the designated address and additional information.

### NOTICE

The Xyper may give notice by means of a general notice on the Services, electronic mail to your email address in your Account, or by written communication sent by first class mail or pre-paid post to your address in your Account. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to Xyper, with such notice deemed given when received by Xyper, at any time by first class mail or pre-paid post to Xyper Technologies, Inc., 2305 E. Oakland Park Blvd. Suite 305 Fort Lauderdale Florida 33306.

### GENERAL

You may not assign these Terms without Xyper's prior written approval. Xyper may assign these Terms without your consent to: (i) a subsidiary or affiliate; (ii) an acquirer of Xyper's equity, business or assets; or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. No joint venture, partnership, employment, or agency relationship exists between you, Xyper or any Third Party Provider as a result of this Agreement or use of the Services. If any provision of these Terms is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law. Our failure to enforce any right or provision in these Terms shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Xyper in writing.