

Port of Houston Authority API Terms of Use

These Terms of Use (the “Terms and Conditions”) are a legally binding contract between you (the “Customer”), and the Port of Houston Authority of Harris County, Texas, a political subdivision of the State of Texas (“Port of Houston Authority”), each a “Party” and, collectively, the “Parties,” effective as of the Effective Date. As used herein, “you,” and “your,” and the “Customer” refers to the organization, company or legal entity that you represent. These Terms and Conditions govern the use of the Port of Houston Authority’s Cloud-based API endpoint resources and supply chain data platform that provides channeled access visibility to supply chain stakeholders for the purpose of enhancing cargo movement (the “Platform”) and related services.

1. DEFINITIONS

- 1.1 **“Authorized User”** means Customer and the Customer’s employees, consultants, contractors, and agents who are authorized by Customer to access the Platform in accordance with these Terms and Conditions.
- 1.2 **“Confidential Information”** means information about a Party’s business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and/or other sensitive or proprietary information, whether orally or in written, electronic, or other form or media.
- 1.3 **“Customer Data”** means any information, data, and content, in any form or medium, that is submitted, posted, or transmitted by Customer or its Authorized Users through the Platform.
- 1.4 **“Documentation”** refers to the Port of Houston Authority’s user manuals, handbooks, and guides related to the Platform, provided to Customer via at [URL].
- 1.5 **“Effective Date”** means the date that Customer digitally accepts Terms and Conditions.
- 1.6 **“Tariffs”** means the Port of Houston Authority’s Tariff No. 8, Tariff No. 14, and Tariff No. 15, which are schedules that determine current rates, rules, and regulations for use of its facilities and services and are available on the Port of Houston Authority’s website, as updated from time to time.
- 1.7 **“Sanctions”** means economic or financial sanctions, requirements, or trade embargoes imposed, administered, or enforced from time to time by U.S. governmental authorities (including, but not limited to, the Office of Foreign Assets Control, the U.S. Department of State, and the U.S. Department of Commerce), the United Nations Security Council, the European Union, HM Treasury of the United Kingdom, or any other relevant governmental authority.
- 1.8 **“Personal Information”** means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with particular persons or households, including, but not limited to, information derived from such information that is used to create inferences or profiles of such persons or households. Personal Information includes “sensitive personal information,” “sensitive personal data,” and similar terms as defined by applicable laws.

2. PLATFORM AND ACCESS

- 2.1 **Access to the Platform.** The Port of Houston Authority grants Customer and its Authorized Users the limited license to access and utilize the Platform solely for Customer’s internal business operations, in accordance with these Terms and Conditions and the Port of Houston Authority’s Tariffs.
- 2.2 **Account Use.** Customer shall provide a copy of these Terms and Conditions to all Authorized Users of Customer. Customer is responsible and liable for all activities conducted using the Platform from Customer’s access, including any access granted to others by Customer, whether directly or indirectly, regardless of whether such access or use is authorized under these Terms and Conditions. Specifically, Customer is accountable for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would breach these Terms and Conditions if performed by Customer will be considered a breach of these Terms and Conditions by Customer. Customer shall ensure compliance by all Authorized Users with these Terms and Conditions, as well as all applicable laws, rules, regulations, guidelines.
- 2.3 **Passwords and Access Credentials.** Customer is responsible for maintaining the confidentiality of passwords and access credentials related to the Platform. Customer will not sell, disclose or transfer these credentials to any person or entity other than Authorized Users. Customer shall promptly inform the Port of Houston Authority of any unauthorized access or use of Customer’s passwords or access credentials.

- 2.4 **Information Security Program.** The Port of Houston Authority agrees to establish and maintain, in writing, an information security and privacy program consistent with Laws and industry standards (“Information Security Program”). The Information Security Program shall include appropriate physical, technical, and administrative safeguards sufficient to protect the Platform from unauthorized or unlawful destruction, loss, alteration, disclosure, or access. The Information Security Program shall follow the NIST Cybersecurity Framework (CSF), NIST SP:800-53, ISO 27001 (including 27002 controls) or substantially similar standards applicable to the Port of Houston Authority’s industry.

3. PLATFORM USE RESTRICTIONS

- 3.1 **Use Restrictions.** Your license to access the Platform is limited and subject to compliance with these Terms and Conditions as well as the Port of Houston Authority’s Tariffs. Customer shall not, and shall not permit any Authorized Users to, use the Platform, any software component of the Platform, or the Documentation for any purposes beyond the scope of the rights granted in these Terms and Conditions. Specifically, Customer shall not, and shall not permit any Authorized Users to, directly or indirectly:
- 3.1.1. Copy any features, functions, or graphics of the Platform, any software component, or the Documentation.
 - 3.1.2. Modify or create derivative works of all or any part of the Platform, any software component, or the Documentation.
 - 3.1.3. Rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, derive income from, or otherwise make available the Platform or access code thereto, any software component thereof, or any Documentation except as expressly permitted under these Terms and Conditions.
 - 3.1.4. Reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Platform, in whole or in part.
 - 3.1.5. Access or use the Platform, any software component, or the Documentation to build a competitive product or service.
 - 3.1.6. Remove any proprietary notices from the Platform, any software component, or the Documentation.
 - 3.1.7. Use the Platform in any manner that: (i) compromises, breaks or circumvents any of our technical processes or security measures associated with the Platform; (ii) poses a security vulnerability to other customers or users of the Platform; or (iii) tests the vulnerability of the Platform or the Port of Houston Authority’s systems or networks.
 - 3.1.8. Use the Platform to engage in any fraudulent conduct or in any manner that violates any law or regulation, promotes illegal activities, violates third party rights or terms of service, violates any right of any person (including but not limited to intellectual property rights).

4. COLLECTION OF DATA

- 4.1 **Included Data.** Customer shall upload or transmit to the Platform only prompts and questions to obtain respective cargo shipment information from the Platform, all of which shall be “Customer Data.” The Parties agree that the data share contemplated in these Terms and Conditions does not involve the processing of Personal Information except for Customer contact name, email, and username associated with the key and token to access the Platform. If the Parties seek to process Personal Information in the future, these Terms and Conditions will be amended to include appropriate protective terms.
- 4.2 **Excluded Data.** Customer Data excludes: (i) Confidential Information; (ii) information intended for military or nuclear applications; or (iii) Personal Information except as permitted in Section 4.1.
- 4.3 **Usage Data.** “Usage Data” refers to: (i) deidentified, aggregate, or anonymized information generated through processing of Customer’s Data performed in accordance with these Terms and Conditions; and (ii) technical and usage information generated through monitoring or observation of Customer’s and its Authorized Users’ use of the Platform. Customer acknowledges and agrees that Usage Data is the property of the Port of Houston Authority, and that Customer has no expectation of privacy with respect to Usage Data.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 **Intellectual Property Ownership.** The Port of Houston Authority owns and will continue to own the Platform, including all related intellectual property rights therein. Customer owns and will continue to own Customer Data, including all related intellectual property rights therein. All rights not expressly granted by these Terms and Conditions are hereby retained by the respective Party. Customer acknowledges that it has no expectation of privacy with respect to any data generated through the use of the Platform.

6. TERM AND TERMINATION

- 6.1 **Term.** The term of these Terms and Conditions commences on the Effective Date and will continue unless it is terminated as set forth in Section 6.2 below ("Term").
- 6.2 **Termination.** Either Party may terminate these Terms and Conditions with or without cause with thirty (30) days' prior written notice to the other Party.

7. **OPEN GOVERNMENT ACTS.** The Port of Houston Authority is a political subdivision of the State of Texas subject to the requirements of the Texas Open Meetings Act and the Texas Public Information Act (Texas Government Code Chapters 551 and 552) (collectively, the "Open Government Acts"), and may be required to disclose to the public (upon request) these Terms and Conditions and other work product, subject to the requirements of the Open Government Acts. The disclosure of Customer Data, Usage Data, these Terms and Conditions or any data or records associated with or generated pursuant these Terms and Conditions or generated by use of the Platform by the Port of Houston Authority as required by the Open Government Acts, or any other legal process, shall not expose the Port of Houston Authority (or any party acting by, through or under the Port of Houston Authority) to any claim, liability, or action by Customer. Nothing in these Terms and Conditions or in any other document related to the Platform shall be construed or interpreted in any manner to prevent the Port of Houston Authority from following the requirements of the Texas Public Information Act.

8. WARRENTIES, DISCLAIMER, LIMITATION OF LIABILITY

- 8.1 **Representations and Warranties.** The Port of Houston Authority represents and warrants that, during the Term of these Terms and Conditions: (i) it has all rights and permissions necessary to provide the Platform; (ii) it will comply with applicable laws; (iii) the Platform will not infringe the intellectual property rights of any third-party; and (iv) the Platform will be provided and/or perform in accordance with Documentation.
- 8.2 **Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THESE TERMS AND CONDITIONS, THE PLATFORM IS PROVIDED "AS IS" WITH NO WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND. THE PORT OF HOUSTON AUTHORITY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, SECURITY, AND/OR ACCURACY. THE PORT OF HOUSTON AUTHORITY DOES NOT WARRANT THAT THE PLATFORM WILL OPERATE WITHOUT INTERRUPTION OR ERROR. THE PORT OF HOUSTON AUTHORITY DOES NOT GIVE ANY WARRANTIES OR UNDERTAKE ANY DUTIES WITH REGARD TO: THE AVAILABILITY OF THE PLATFORM, FUNCTIONALITY, TIMELINESS OF SERVICES, ACCURACY OR CURRENCY OF CONTENT PROVIDED BY THE PLATFORM, OR OTHERWISE. THE PORT OF HOUSTON AUTHORITY DOES NOT WARRANT THAT THE PLATFORM OR SERVICES PROVIDED IN CONNECTION WITH THE PLATFORM WILL MEET THE CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. THE CUSTOMER'S USE OF THE PLATFORM IS AT THE CUSTOMER'S OWN DISCRETION AND RISK, AND THE CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE SUSTAINED BY CUSTOMER THAT RESULTS FROM THE USE OF THE PLATFORM.

The Port of Houston Authority makes no representation, warranty or guarantee as to the accuracy or completeness of any data located on or generated through the Platform. Customer understands that the Platform contains data provided by third parties and that the Port of Houston Authority cannot and does not verify the accuracy or completeness of such data. Additionally, Content on the Platform may contain technical inaccuracies, typographical errors or other errors. Content may be changed, updated or deleted

without notice. The Port of Houston Authority may also make changes in products and the programs described in the Platform at any time without notice.

- 8.3 **Limitation of Liability.** EXCEPT FOR A PARTY'S INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AND A PARTY'S INDEMNIFICATION OBLIGATIONS, TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST REVENUE, LOST DATA, OR BUSINESS INTERRUPTION), HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. INDEMNIFICATION

- 9.1 **Customer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER AGREES TO HOLD HARMLESS, DEFEND (AT THE PORT OF HOUSTON AUTHORITY'S OPTION) AND INDEMNIFY THE PORT OF HOUSTON AUTHORITY AND ITS OFFICERS, AGENTS, LICENSORS, AND EMPLOYEES FROM AND AGAINST ANY THIRD-PARTY CLAIM, LIABILITY, OR LOSS ARISING FROM OR IN ANY WAY RELATED TO CUSTOMER'S, OR ITS AUTHORIZED USERS', USE OF THE PLATFORM IN VIOLATION OF THESE TERMS AND CONDITIONS, CUSTOMER'S USE OF THE PLATFORM, (ii) THE UNAVAILABILITY OF THE PLATFORM OR INABILITY TO USE THE PLATFORM, (iii) OR ANY VIOLATION OF THESE TERMS AND CONDITIONS BY CUSTOMER OR ITS AUTHORIZED USERS, INCLUDING ANY LIABILITY OR EXPENSE ARISING FROM ALL CLAIMS, LOSSES, DAMAGES (ACTUAL AND/OR CONSEQUENTIAL), SUITS, JUDGMENTS, LIABILITIES, EXPENSES, LITIGATION COSTS AND ATTORNEYS' FEES, OF EVERY KIND AND NATURE, INCLUDING THOSE CAUSED BY THE PORT OF HOUSTON AUTHORITY'S OWN NEGLIGENCE.
- 9.2 **The Port of Houston Authority.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PORT OF HOUSTON AUTHORITY AGREES TO HOLD HARMLESS, DEFEND (AT CUSTOMER'S OPTION) AND INDEMNIFY CUSTOMER AND ITS AUTHORIZED USERS FROM AND AGAINST ANY THIRD-PARTY CLAIM, LIABILITY, OR LOSS ARISING FROM OR IN ANY WAY RELATED TO: (i) THE PORT OF HOUSTON AUTHORITY'S BREACH OF THESE TERMS AND CONDITIONS; AND/OR (ii) THE PLATFORM'S INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS. THE PORT OF HOUSTON AUTHORITY'S OBLIGATIONS HEREUNDER SHALL NOT APPLY TO THE EXTENT ANY THIRD-PARTY CLAIM RESULTS FROM CUSTOMER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. MAINTENANCE AND SUPPORT

- 10.1 **Availability and Scheduled Maintenance.** The Port of Houston Authority will provide the necessary support and due diligence to maintain the access, use, availability, and functionality of the Platform for Customer and its Authorized Users as set forth in these Terms and Conditions. Customer will be notified in advance regarding any scheduled maintenance. In the event of service interruptions, the Port of Houston Authority will communicate such interruptions immediately upon identification. However, the Port of Houston Authority makes no representations, warranties, or guarantees concerning the availability or uptime of the API endpoints or the Platform.
- 10.2 **Service Interruptions.** In the event of the Platform becoming unavailable, the Port of Houston Authority does not guarantee that the Platform will be restored within any specific timeframe. THE PORT OF HOUSTON AUTHORITY IS NOT LIABLE FOR ANY DAMAGES, LIABILITY, CLAIMS, EXPENSES OR LOSSES INCURRED BY CUSTOMER OR ANY AUTHORIZED USER DUE TO THE UNAVAILABILITY OF THE PLATFORM.
- 10.3 **Confidentiality.** The terms of these Terms and Conditions, including any information about the Platform and Customer Data, are Confidential Information. The Parties agree to keep all Confidential Information strictly confidential, unless disclosure is required by law or judicial process, or such information is publicly known or obtained without any breach of these confidentiality obligations.

11. **SURVIVAL** The sections titled "Limitations of Liability," "Indemnification," "Miscellaneous," and "Survival," and all subsections thereto, will survive any termination or expiration of these Terms and Conditions.

12. **MISCELLANEOUS**

- 12.1 **Governing Law.** These Terms and Conditions shall be interpreted and enforced in accordance with the laws of the State of Texas without regard to its conflict of law's provisions. Venue of any suit or cause of action arising under or in connection with these Terms and Conditions shall lie exclusively in Harris County, Texas. Binding or mandatory arbitration shall not be used as a means of dispute resolution. Right to trial by jury is not waived.
- 12.2 **Severability.** The invalidity of any provision of these Terms and Conditions shall not affect the validity of any other provision. In the event that any provision is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both Parties subsequent to the expungement of the invalid provision.
- 12.3 **Relationship of the Parties; No Third-Party Beneficiaries.** The Parties are independent contractors. These Terms and Conditions do not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. There are no third -party beneficiaries to these Terms and Conditions.
- 12.4 **Waiver.** No failure or delay by either Party in exercising any right under these Terms and Conditions will constitute a waiver of that right. No waiver under these Terms and Conditions will be effective unless made in writing and signed by an authorized representative of the Party being deemed to have granted the waiver.
- 12.5 **Assignment.** Neither Party may assign or delegate any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party.
- 12.6 **Entire Agreement.** These Terms and Conditions constitute the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.
- 12.7 **Notice.** Any notice to the Parties shall be in writing and be deemed sufficiently given when sent by certified or registered mail, postage prepaid to the addresses below.

To Port of Houston Authority:

Port of Houston Authority of Harris County, Texas
111 East Loop North, Houston, Texas 77029

Attn: Director of Terminal Technology & Innovation