

Terms of Service

These Terms of Service constitute a legally binding agreement between you (“you” or “your”) and the Washington Metropolitan Area Transit Authority (“WMATA,” “us,” “we,” or “our”) that governs your use of the WMATA website located at www.wmata.com and all associated sites linked to www.wmata.com by WMATA (the “Website”), the SmarTrip® Mobile Application (the “Mobile App”), and the products, services, features and functions made available to you through the Website or the Mobile App (together with the Website and the Mobile App, the “Services”). BY ACCESSING OR USING THE SERVICES, YOU SIGNIFY THAT YOU HAVE READ AND AGREE TO BE BOUND BY THESE TERMS OF SERVICE AND THE SMARTRIP® TERMS AND CONDITIONS AVAILABLE AT <https://www.wmata.com/fares/smartrip/> (such terms, together with these Terms of Service, the “Terms”). IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT ACCESS OR USE THE SERVICES.

By accessing or using the Services, you represent and warrant that you (i) are at least 18 years of age or an emancipated minor, or possess parental or guardian consent, and (ii) will comply with these Terms and all applicable laws, rules, and regulations. IF YOU ARE A PARENT OR GUARDIAN OF A USER WHO IS UNDER THE AGE OF 18, YOU MUST ACTIVELY MANAGE YOUR MINOR USER’S USE OF THE SERVICES AND YOU ARE RESPONSIBLE FOR ALL SUCH USE.

We have the right to change these Terms at any time. We agree to post a notice of the changes on our website, and the changes will be effective immediately upon posting of such notice. Your continued use of the Services following posting of such notice constitutes your acceptance of the revised Terms. If you do not agree with any updates to the Terms, then you must not access or use the Services, and, if applicable, must immediately remove the Mobile App from your device(s).

You agree to our use of your personal information and content in accordance with our Privacy Policy at <https://www.wmata.com/about/records/privacy.cfm>, which is incorporated herein by reference.

1. Registration and Use of a SmarTrip® Account.

A. Registration. In order to use certain functions of the Services, you will need to register for a SmarTrip® account. By creating an account and using the Services, you agree to: (i) provide accurate and complete information about yourself and (ii) maintain and update your registration data to keep it accurate and complete. If we discover now or in the future that you are not eligible to register for use of the Services for any reason or do not meet or have not met any of the requirements set any of these Terms, you understand and agree that your account and/or your access to the Services may be temporarily or permanently suspended or revoked immediately.

B. Access. We do not guarantee that the Services can be accessed on all devices and networks. You acknowledge that when you use the Services, your network provider or wireless carrier may charge you fees for data, messaging, and/or other wireless access. Please check with your provider or carrier to see if there are any such fees that apply to you. YOU ARE SOLELY RESPONSIBLE FOR ANY COSTS YOU INCUR TO ACCESS THE SERVICES FROM YOUR DEVICES.

C. Your Responsibilities. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. You must notify us immediately of any breach of security or unauthorized use of your account by emailing smartrip@wmata.com. You are solely responsible for the proper functioning of your devices used to access the Services. If you are a Mobile App user, it is your responsibility to ensure that your mobile device is sufficiently charged and connected to a wireless network. You must produce your physical or virtual SmarTrip® card if requested by an authorized WMATA transit employee or by police.

D. Updates. We reserve the right to modify, update or upgrade the Services (each an “Update”), at any time and for any purpose. These Terms will govern any Update provided by us, unless such Update is accompanied by a separate license, in which case the terms of that license will govern.

E. Additional Terms. Additional terms and conditions may apply to purchases of goods or services and to specific portions or features of the Services, including contests, promotions or other similar features, all of which terms are made a part of these Terms by this reference. For example, the SmarTrip® Payment Terms available at <https://www.wmata.com/fares/smartrip/> govern any purchases made via a SmarTrip® account. You agree to abide by such other terms and conditions. If there is a conflict between these Terms of Service and the terms posted for or applicable to a specific portion of the Services, the latter terms shall control with respect to your use of that portion of the Services.

2. Intellectual Property.

The Services, and all Content (as defined below), are the property of WMATA or its licensors. The Services and the Content may be protected by copyright, trademark, and other intellectual property laws.

3. Limited License.

A. License Grant. Subject to these Terms, WMATA grants to you a limited, revocable, non-transferable, non-exclusive, personal license (without the right to sublicense) to use the Services solely for your personal, non-commercial purposes. This license does not allow you to use or install the Mobile App or Services, as applicable, on any device that you do not own or control, and you may not distribute or make the Mobile App available over a network where it could be used by multiple devices at the same time.

B. Restrictions. You may not (i) copy or use the Services in any form or by any means, except as expressly permitted by these Terms; (ii) resell, rent, lease, loan, or otherwise distribute or transfer the Services to any third party; (iii) decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Services (except as and only to the extent that any foregoing restriction is prohibited by applicable law or to the extent as may be expressly permitted by the license terms governing use of any open-sourced components included with the Services); (iv) circumvent any technological measure that effectively controls access to the Services in any way, including without limitation by manual or automatic device or process, for any purpose; or (v) remove, obscure, or alter any copyright, trademark or other proprietary rights notices, falsify or delete any author attributions, legal notices or other labels of the origin or source of the Services.

C. Except as expressly set forth in Section 3.A above and Section 5 below, you are not conveyed, and nothing contained herein or in the Services shall be construed to convey to you, any right or license, by implication, estoppel or otherwise, in or under any patent, trademark, copyright or other proprietary right of WMATA or any third party. For the avoidance of doubt, the trademarks, logos, and service marks used or displayed in connection with the Services, whether registered or unregistered, may not be used in connection with any product or service that is not offered by WMATA, in any manner that is likely to cause confusion with customers, or in any manner that otherwise interferes with WMATA's or its licensors' ownership of the trademarks or the public's access to and use of the Services.

D. Additional Terms for iOS. If you have downloaded the Mobile App from the Apple, Inc. ("Apple") iTunes App Store (the "App Store"), you acknowledge and agree to the following: (i) these Terms and the license granted in 3.A above are between you and WMATA, and not with Apple, and WMATA is solely responsible for the Mobile App; (ii) your use of the Mobile App is subject to the Usage Rules set forth in the App Store Terms of Service; (iii) Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Mobile App; (iv) WMATA, not Apple, is responsible for addressing any claims relating to the Mobile App or your possession and/or use of the Mobile App; and (v) to the maximum extent permitted by applicable law, Apple will have no warranty obligation whatsoever with respect to the Mobile App, and as between WMATA and Apple, any claims, losses, liabilities, damages, costs or expenses attributable to any failure of the Mobile App to conform to any warranty will be WMATA's sole responsibility; and (vi) Apple, and Apple's subsidiaries, are third-party beneficiaries of these Terms as related to your license of the Mobile App, and that, upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms as related to your license of the Mobile App against you as a third-party beneficiary hereof.

E. Open Source. Certain portions of the Services may contain or be distributed with open source software. Such open source software is licensed under the terms of the license that accompanies such software. Nothing in these Terms limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable open source license for such software.

4. Third Party Services.

Portions of the Services may utilize or include third party applications, products, and services, third-party content (including embedded content), or links to certain third-party websites (collectively, "Third-Party Services"). We do not control, endorse or adopt any Third-Party Service, and inclusion of a link or embedded content does not imply affiliation, endorsement or adoption by WMATA or its licensors of any product, service or content provided thereby or contained therein. When you interact with a Third Party Service, you are interacting with the third party and not with us. Such Third Party Services are not under our control and we are not responsible for the contents of such Third Party Services, or any changes or updates to such Third Party Services. When you interact with a Third-Party Service, you do so at your own risk, and the terms and conditions of the relevant Third-Party Service govern your use thereof. We are not responsible for the privacy practices of any Third Party Services nor any data or information you may share with such Third Party Services, and we make no warranties, express or implied, as to any Third Party Services or the products or services they provide. We encourage you to read the terms and privacy statements of each Third Party Service that you interact with and/or visit. You must comply with all such terms when using or interacting with the applicable Third-Party Service.

5. Content.

The information and content provided on or through the Services, including any data, text, designs, graphics, images, photographs, illustrations, audio and video clips, trademarks, logos, service marks, icons and links ("Content"), are created by and owned exclusively by WMATA, its contractors or licensors, or other third parties.

You may use the Content solely for your personal, non-commercial use in connection with the Services, and may not distribute, modify or make derivative works of any Content. We reserve the right (but have no obligation) to remove any Content from the Services at our sole discretion, with or without notice to you. We have no obligation to retain or provide you with copies of any Content.

6. Contributions.

By submitting to WMATA suggestions or other feedback ("Contributions") regarding the Services, regardless of the medium in which such Contributions may be provided, you acknowledge and agree that: (i) WMATA is not under any obligation of confidentiality with respect to the Contributions; (ii) WMATA may use or disclose (or choose not to use or disclose) such Contributions for any purpose, in any way, in any media worldwide; (iii) you irrevocably, non-exclusively license to WMATA rights to exploit your Contributions for any purpose; and (iv) you are not entitled to any compensation or reimbursement of any kind from WMATA under any circumstances for your Contributions.

7. Linking and Hyperlinking.

You may not link to the Services without the express written consent of WMATA. Further, you may not use, frame or utilize framing techniques to enclose any WMATA trademark, logo or other proprietary information, including the Content, the images found on or made available through the Services, the content of any text, or the layout/design of any page or form contained on a page on the Services without WMATA's express written consent.

8. Termination.

These Terms will remain in full force and effect while you use the Services. You can stop using the Services at any time. Your rights under these Terms will terminate automatically and without notice from us if you fail to comply with these Terms. Additionally, we may, in our sole and absolute discretion, at any time and for any or no reason, without prior notice to you: (i) change, suspend, remove, or disable access to the Services, or (ii) terminate the Services or these Terms, in each case in whole or in part. Upon termination of the Terms, you shall cease all use of the Services and, if applicable, uninstall the Mobile App from your device(s). In no event will we be liable for the suspension, removal, disabling or termination of the Services or these Terms. Sections 2, 3.C, 3.D, 6 through 13, and 15 will survive any termination of these Terms.

9. Acceptable Use.

In addition to the other restrictions outlined in these Terms, you agree that you will not:

- i. Use or attempt to use the Services for any purpose that is illegal, beyond the scope of its intended use, or otherwise prohibited in these Terms or the terms of any third party that govern a particular Service;
- ii. Use or attempt to use the Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Service, or that could damage, disable, overburden, or impair the functioning of the Services in any manner;
- iii. Compromise or attempt to compromise the security of the Services;
- iv. Use or attempt to use any robot, spider, crawler, scraper, or other automated means or interface not provided by us to access the Services or to extract data;
- v. Reverse engineer or attempt to reverse engineer any aspect of the Services or do (or attempt to do) anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any area, content, or code of the Services;
- vi. Use or attempt to use another user's account without authorization;
- vii. Attempt to circumvent any content-filtering techniques we employ, or attempt to access areas or features of the Services that you are not authorized to access;
- viii. Infringe any patent, trademark, trade secret, copyright, or other intellectual or proprietary right of any party;
- ix. Buy, sell, rent, lease, or otherwise offer in exchange for any compensation, access to your account; or
- x. Use or attempt to use the Services for any illegal or unauthorized purpose or engage in, encourage, or promote any activity that violates these Terms or any terms applicable to any Third-Party Service made available via the Services.

10. Warranty Disclaimer.

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES AND CONTENT IS AT YOUR SOLE RISK AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SERVICES AND CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND WMATA HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICES, CONTENT, AND ANY THIRD PARTY SERVICES MADE AVAILABLE VIA THE SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NONINFRINGEMENT. WMATA DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY WARRANTIES AGAINST INTERFERENCE WITH YOUR QUIET ENJOYMENT OF THE SERVICES, THAT THE FUNCTIONS CONTAINED IN OR SERVICES PERFORMED OR PROVIDED THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS, THAT THE SERVICES WILL BE COMPATIBLE WITH YOUR DEVICE, AND THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY WMATA WILL CREATE ANY SORT OF WARRANTY.

11. Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WMATA AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SERVICES PROVIDERS, AND LICENSORS SHALL NOT BE LIABLE TO YOU OR ANYONE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, BUT

NOT LIMITED TO, DAMAGES FOR LOST PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (REGARDLESS OF WHETHER WE HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES), HOWEVER CAUSED, WHETHER BASED ON OR UPON CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT, WARRANTY, OR ANY OTHER LEGAL THEORY, ARISING OUT OF OR RELATED TO (i) THE USE OR THE INABILITY TO USE THE SERVICES OR ANY ERRORS, OMISSIONS, OR INACCURACIES IN ANY CONTENT AVAILABLE THROUGH THE SERVICES; (ii) THE CONDUCT OF OTHER USERS OR THIRD PARTIES; (iii) THE PERFORMANCE OF THE SERVICES; (iv) THE THIRD-PARTY SERVICES; (v) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR DATA, CONTENT, OR PERSONAL INFORMATION; (vi) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH THE SERVICES; OR (vii) ANY OTHER MATTER RELATING TO THE SERVICES.

YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE SERVICES IS TO STOP USING THE SERVICES.

IN NO EVENT SHALL WMATA'S TOTAL LIABILITY TO YOU IN CONNECTION WITH THE SERVICES FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION EXCEED \$100. Applicable law may not allow certain limitations or exclusions of liability, so some of the above limitations may not apply to you.

12. Sovereign Immunity.

You acknowledge that WMATA is an interstate compact agency of the District of Columbia, the State of Maryland and the Commonwealth of Virginia; that WMATA has sovereign immunity; and that by agreeing to these Terms, WMATA does not waive such sovereign immunity. You understand and agree that you may not assert for your own benefit any immunity from claims available to WMATA under the Metro Compact.

13. Indemnity.

You agree to indemnify, defend, and hold WMATA and its officers, directors, employees, contractors, agents, licensors, service providers, suppliers, successors, and assigns harmless, from any claim or demand made by any third party, including costs, liabilities and legal fees, due to or arising directly or indirectly out of your conduct or in connection with your use of the Services, any actual or alleged violation of these Terms, or any actual or alleged violation of any applicable law or regulation. WMATA reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by you, but doing so will not excuse your indemnity obligations.

14. Electronic Communications.

By using the Service, you agree to receive certain electronic communications from us, whether through the Services or by email. You may unsubscribe from certain communications at any time by clicking the appropriate link in the communication. You agree that any notice, agreement, disclosure, or other communication that we send you electronically will satisfy any legal communication requirements, including that such communications be in writing. All calls, emails, and other communications between you and WMATA may be recorded and stored. All such communications from you shall be treated as Contributions hereunder.

15. Other Provisions.

A. Assignment. You may not assign or transfer these Terms or any of your obligations or licenses received under these Terms, in whole or in part; and any attempt to do so shall be null and void. We reserve the right to assign and transfer these Terms or delegate all or any of our obligations to third parties.

B. Governing Law & Disputes. The laws of the District of Columbia will govern these Terms, as well as any claim that might arise between you and WMATA, without regard to conflict of law provisions. Any lawsuit or legal action arising from these Terms will be commenced and prosecuted in the courts of Washington, District of Columbia. You agree to submit to the personal jurisdiction of the courts located in Washington, District of Columbia for the purpose of litigating all such claims.

C. Export Controls. You may not use or otherwise export or re-export the Services except as authorized by United States law and the laws of the jurisdiction in which the Services were obtained. In particular, but without limitation, the Services may not be exported or re-exported (i) into any U.S.-embargoed countries or (ii) to anyone on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Department of Commerce Denied Persons List or Entity List.

D. Third Party Beneficiaries. Except as stated in Section 3.D and in Section 10 above, these Terms are solely for the benefit of you and WMATA and there shall be no third party beneficiaries.

E. Waiver. Our failure to enforce any of the rights and remedies available to us with respect your breach of these Terms shall not constitute a waiver of such breach nor of any prior, concurrent, or subsequent breach of the same or any other provision of these Terms.

F. Severability. If for any reason a court of competent jurisdiction finds any provision of these Terms to be invalid or unenforceable, that provision shall be superseded by a valid, enforceable provision that most closely matches the intent of the original provision, and the remainder of these Terms shall continue in effect and remain fully enforceable.

G. Entire Agreement. These Terms and the Privacy Policy constitute the entire agreement between you and WMATA with respect to the Services, and supersede all prior or contemporaneous understandings regarding such subject matter.

Last Updated: June 9, 2020