

# ODIN PASS – End User Licence Agreement (Customers)

[www.odinpass.com.au](http://www.odinpass.com.au)

## Notice to customers in New South Wales

Please note that the following clauses in particular contain information significant to your rights and obligations under this End User Licence Agreement:

Clause 3 – we may receive a commission from third party service providers related to your use of the App

Clause 4 – contains your general obligations when using the App

Clause 5 – contains specific obligations regarding use of data and ownership of the App

Clause 9 – provides that this End User Licence Agreement can change from time to time (but you can cancel if you don't agree to the changes)

Clause 11 – You protect us from financial losses if you breach the rules of use in clause 5

Clause 12 – provides that we can cancel access to the App at any time

## 1 Scope and application

- 1.1 These terms and conditions (**End User Licence Agreement** or **EULA**) govern the supply of the Odin Pass app (**App**) to you by Odin Pass Pty Ltd ACN 645 882 604 (“we”, “us” or “our”) and your use of the App.
- 1.2 By clicking “Accept”, you agree to comply with, and to be bound by, the terms and conditions set out in this EULA.
- 1.3 You are not permitted to, and must not, use the App unless you have read and accepted this EULA.

## 2 Access and use of the

### App Purpose of the App

- 2.1 The purpose of the App is to facilitate the provision of transportation services.

### Access, use and licence

- 2.2 Subject to you accepting and complying with this EULA, including payment of the Fees, we grant you a non-exclusive, revocable, limited right and licence to install and use the App on your compatible desktop and mobile devices for your own personal use (as applicable).
- 2.3 You may delete your account with us at any time however any unpaid Fees accrued in accordance with clause 3 will remain due and payable.

### Eligibility

- 2.4 To be able to use the App:
  - (a) you must be in Australia;

- (b) you must have a compatible device with a compatible operating system;
- (c) your compatible device must be connected to a Wi-Fi broadband connection or have adequate access to the internet (minimum 3G or 4G);
- (d) you must have a valid debit or credit card;
- (e) you must have an account on the App;
- (f) you must be at least 18 years old; and
- (g) you must fall within one of our approved customer cohorts detailed in the Annexure (which may be updated from time to time).

2.5 We reserve the right to refuse, in our sole discretion, creation of an account or access to all or any portion of the App.

### **Third party information and interaction**

2.6 The App allows individual 'users' to register their details to facilitate transportation services. It allows transport service providers to access raw data about you, your location and your intended travel arrangements, to provide you with transportation services.

2.7 You acknowledge and agree that:

- (a) any third party information (such as transport timing or availability) is not provided or made available to you by us;
- (b) subject to clause 11.1, we are not liable to you for any loss or damage you suffer in connection with such third party information, including where any third party information is false or misleading.

## **3 Fees**

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- 3.1 You must pay us the applicable Fees in connection with your use of the App. Where fees are payable to third parties (e.g. where fees for transportation services are shown in and billed through a third party app, or where you incur a penalty as a result of misuse of transportation services), you are responsible for paying the transport service provider directly. Odin Pass is not responsible for any failure by you to pay third party fees.
- 3.2 We will receive a commission or referral fee from third party service providers, calculated on the basis of the fees you pay to third parties for transportation services you access through the App.
- 3.3 From time to time, you may be eligible for post-paid reward points based on your engagement with the App and/or consumption of transportation services. We will notify you of any applicable reward points and conditions of use, and make the reward points available to you through the App. It may take up to 21 days for post-paid reward points to show on your account after you have made payment to a transport service provider.
- 3.4 Fees applicable to your use of the App will be automatically charged from time to time to the debit or credit card provided by you on registration to the App (or any replacement of that card).

## 4 Obligations

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### General Obligations

4.1 You must:

- (a) act reasonably, follow our directions, and cooperate with us in connection with your access to and use of the App;
- (b) act reasonably, follow the relevant transport service provider's directions, and cooperate with them in connection with your access to and use of relevant services;
- (c) ensure all data you provide is accurate and complete and not misleading;
- (d) provide us with information or data that we request from you through the App from time to time;
- (e) use the App in accordance with all applicable laws, including the *Privacy Act 1988* (Cth) and the Australian Privacy Principles; and
- (f) not access or use the App or any Content other than in accordance with the terms of this EULA.

4.2 You acknowledge, consent to and agree that:

- (a) data from the App is collected, used and stored by various transport service providers to enable the provision of transportation services, in accordance with their own privacy policies and practices; and
- (b) those transport service providers may disclose data in relation to your use of their transportation services to us, including your email address; date and time of pick-up; date and time of drop-off; coordinates or location markers for both your point of origin and destination; time-stamped waypoints (if available); type of vehicle (if relevant) and the amount paid by you (or, where you have purchased unlimited modes, an estimate of the actual cost of the transportation services availed to the you).

### User Credentials

4.3 You must use your email address to sign up for an account on the App, comply with any additional user credential requirements detailed in the Annexure (which may be updated from time to time) and create an appropriately strong password (which may change from time to time) to access and use the App (**User Credentials**).

4.4 You must:

- (a) not allow your User Credentials to be used by any third party;
- (b) ensure that your User Credentials are kept secure and confidential, and take all steps necessary to ensure that your User Credentials are not disclosed, provided or made available to, or otherwise accessed by, any third party;
- (c) ensure that you comply with our reasonable instructions in relation to the security and integrity of your User Credentials; and
- (d) notify us immediately after you become aware that your User Credentials have been disclosed, provided or made available to, or otherwise accessed by, any third party.

## 5 Restrictions

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- 5.1 You must not:
- (a) resupply, resell, sublicense, make available or otherwise allow any other person to access or use the App or any Content;
  - (b) decompile, disassemble, reverse compile or otherwise reverse engineer all or any portion of the App, including any source code, object code, algorithms, methods or techniques used or embodied therein;
  - (c) corrupt or misuse the App; or
  - (d) data mine, scrape, crawl or email harvest data from the App; or
  - (e) use the App:
    - (i) to engage in any fraudulent or unlawful behaviour; or
    - (ii) in any other manner that is otherwise unacceptable to us.
- 5.2 We reserve the right to remove from the App any of your materials or content that we consider to be inappropriate or otherwise in breach of clause 5.1.

### Security

- 5.3 You must maintain appropriate and up to data security software and hardware, including firewalls, anti-virus, and other protection measures in connection with your access to and use of the App.

## 6 Acknowledgements

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- 6.1 You agree that, to the extent permitted by applicable law and subject to clause 11.1:
- (a) the Third Party Content available on the App is supplied by third parties and we do not review or verify this information;
  - (b) we make no warranty that the App or any Content will be accurate, free from defects, errors or faults, or that it is fit for any particular purpose;
  - (c) you are responsible for any data, information or other material you upload or input into or through the App, including your personal information for notification purposes (**Data**);
  - (d) the App or any part of its Content may not be available from time to time, and we make no representation or warranty in relation to the availability of the App or the Content; and
  - (e) the App may not be fully compatible with your device or your operating system.
- 6.2 With reference to clauses 6.1(b), 6.1(d) and 6.1(e), and in case any other technical difficulty occurs or your mobile device runs out of battery, we recommend carrying a goCard at all times.

## 7 Intellectual Property

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### Our IP

- 7.1 We (or our licensors, as applicable) own all Intellectual Property Rights in the App, any material, data or content that you access or use through the App (other than your

Data) (**Our IP**). All modifications and enhancements to Our IP are also to be treated as Our IP. If you modify or enhance Our IP in any way, you assign to us (or our licensors as applicable) all Intellectual Property Rights in those modifications or enhancements immediately from creation.

### **Data**

7.2 You grant us a non-exclusive, irrevocable, sub-licensable global licence to store, reproduce, use, modify, disclose and otherwise exploit the Data for the purposes of operating the App and our business. Despite the foregoing, we will only use personal information in accordance with our Privacy Policy.

7.3 You retain all Intellectual Property Rights in your Data.

### **Your Feedback**

7.4 From time to time, we may request that you provide feedback to us in relation to your use of the App (**Feedback**).

7.5 All Intellectual Property Rights in any Feedback you provide to us vests in us. You hereby assign to us all Intellectual Property Rights you may have in any Feedback immediately from creation.

## **8 Confidentiality**

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8.1 You must treat as confidential information the provisions of this EULA, and all information provided or made available by us under or in connection with this EULA, including our technical, operational, billing, pricing and other commercial information (**Confidential Information**).

8.2 Confidential Information does not include information publicly known other than by your breach of clause 8.1.

## **9 Changes to these Terms**

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9.1 We may change the terms and conditions of this EULA at any time (including making changes to the Fees). We will notify you of any material changes to this EULA via the App itself or by electronic communication. We will aim to give you at least 30 days' notice.

9.2 In the event that we make any changes to this EULA, you are not required to accept them if you do not agree with them, but you will not be able to, and must not, use the App unless you have accepted the amended Terms. During the notice period of any changes to the EULA as set out in clause 9.1, you may terminate your subscription to the App. We will not charge you any early termination charges and will not charge you for the subscription past the effective date of termination (this may involve giving a pro-rata refund).

## **10 Agency**

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10.1 We act as an agent for, and make available to you various transport related products as agent on behalf of, numerous transportation service providers. Any booking, advisory and other services (such as processing a change or cancellation with the relevant transportation service provider) that we provide to you are collateral to that agency relationship. Our obligation to you is to (and you expressly authorise us to) provide booking and advisory services, including making transport bookings on your behalf and arranging relevant contracts between you and transport service providers. We exercise care in the selection of reputable transport service providers, but we are

not ourselves a provider of transport services and have no control over, or liability for, the services provided by third parties.

- 10.2 All bookings we make on your behalf, or you make directly with transport service providers as facilitated by the App, are subject to the terms and conditions, including conditions of carriage, cancellations policy and limitations of liability, imposed by these transport service providers. We can provide you with copies of the relevant transport service provider terms and conditions on request. Your legal rights in connection with the provision of transport services are against the specific transport service provider and, except to the extent a problem is caused by fault on our part, are not against us. Specifically, if for any reason (excluding fault on our part) any transport service provider is unable to provide the services for which you have contracted, your rights are against that provider and not against us.
- 10.3 Subject to clause 11.1, we are not liable for any loss, damage, liability, penalty, fine, charge, expense, outgoing, payment or cost of any nature or kind, including all legal and other professional costs, whether arising in contract, tort (including negligence), equity, statute or otherwise, caused directly or indirectly by the acts, omissions or default, whether negligent or otherwise, of third party providers over whom we have no direct control.

## **11 Liability**

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- 11.1 Any liability of ours to you for any loss or damage, however caused and suffered by you in connection this agreement (including by our negligence) is limited to an amount equal to the Fees retained by us for our benefit under this agreement.
- 11.2 You have rights under the Australian Consumer Law which cannot be excluded by contract. Nothing in this agreement is intended to limit your rights under the Australian Consumer Law.
- 11.3 You are liable for, and indemnify us from and against, all loss or damage (including legal costs) that we incur or suffer and that arises from or in connection with your breach of clause 5.

## **12 Suspension or termination**

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### **Termination**

- 12.1 If:
- (a) you fail to pay the Fees; or
  - (b) we believe (acting reasonably) that you have committed a breach of clauses 4 or 5;
- then we may terminate or suspend (at our option) this EULA or your access to the App by written notice, in which case this EULA will terminate (or access to the App will be suspended, as applicable) on the date specified in that written notice or, if no date is specified, immediately.
- 12.2 If a party commits a material breach of this EULA that is not remedied within 14 days of receiving written notice of that breach from the other party, then subject to applicable law, the relevant other affected party may terminate this EULA by written notice to the other party, in which case this EULA will terminate on the date specified in that written notice or, if no date is specified, immediately.

### **After termination**

- 12.3 On termination or expiry of this EULA:

- (a) accrued rights or remedies of a party are not affected;
- (b) any right or licence granted to you under this agreement ceases immediately, and you must stop using the App.

### **Survival**

- 12.4 Termination or expiry of this EULA will not affect any provision of this agreement which is expressly or by implication intended to come into force or continue on or after the termination or expiry.

## **13 Taxes**

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- 13.1 You must pay all Taxes in connection with this EULA.
- 13.2 Any terms capitalised in clauses 13.3 to 13.5 and not defined in clause 16 have the same meaning as provided in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 13.3 The consideration for a Supply made under or in connection with this document includes GST.
- 13.4 If a Supply made under or in connection with this document is a Taxable Supply, then at or before the time the consideration for the Supply is payable the Supplier must give the Recipient a Tax Invoice for the Supply.
- 13.5 Where a Tax Invoice is given by the Supplier, the Supplier warrants that the Supply to which the Tax Invoice relates is a Taxable Supply and that it will remit the GST (as stated on the Tax Invoice) to the Australian Taxation Office.

## **14 Privacy**

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- 14.1 The App has been developed using 'privacy by design' principles that minimise the Personal Information usage. To the extent we do collect, use, store, disclose or handle Personal Information, we will do so in accordance with our privacy policy, available at <https://odinpass.com.au/privacy>

## **15 General**

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- 15.1 A party will not be:
- (a) in breach of this agreement as a result of; or
  - (b) liable to the other party for,
- any failure or delay in the performance of its obligations under this agreement to the extent that such failure or delay is wholly or partially caused, directly or indirectly, by a Force Majeure Event.
- 15.2 The laws of Queensland, Australia govern the terms of this EULA, and each party irrevocably submits to the jurisdiction of the courts of that place and courts competent to hear appeals from those courts.
- 15.3 A right under this EULA may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in the waiver.
- 15.4 You agree that we may use subcontractors to provide the App to you.
- 15.5 Each provision of this EULA will be read and construed as a separate and severable provision or part and, if any provision is void or otherwise unenforceable for any

reason, then that provision will be severed and the remainder will be read and construed as if the severable provision had never existed.

## 16 Definitions

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16.1 In these Terms, the terms set out below have the following meaning:

**Content** means any information, data or other materials that we make available to you through the App.

**Fees** means the fees applicable to your use of the App.

**Force Majeure Event** means any occurrence or omission outside a party's reasonable control, as a direct or indirect result of which the party relying on the event is prevented from or delayed in performing its obligations under this document (other than a payment obligation), and includes:

- (a) a physical natural disaster including fire, flood, lightning or earthquake;
- (b) war or other state of armed hostilities (whether war is declared or not), insurrection, riot, civil commotion, act of public enemies, national emergency (whether in fact or in law) or declaration of martial law;
- (c) breakdown of communication facilities, or generalised lack of availability of raw materials or energy;
- (d) epidemic, pandemic, quarantine restriction, outbreaks of infectious disease or any other public health crisis;
- (e) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel;
- (f) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any government agency;
- (g) law taking effect after the date of this document, or other Government Agency acts or omissions; and
- (h) strike, lock-out, stoppage, labour dispute or shortage including industrial disputes that are specific to a party or the party's subcontractors.

**Intellectual Property Rights** means all industrial and intellectual property rights, both in Australia and throughout the world, and includes any copyright, patent, registered or unregistered trade mark, registered or unregistered design, registered or unregistered plant breeder's right, trade secret, knowhow, right in relation to semiconductors and circuit layouts, trade or business or company name, indication or source or appellation of origin or other proprietary right, or right of registration of those rights.

**Personal Information** has the same meaning given to that term in the *Privacy Act 1988* (Cth).

**Taxes** means a tax, levy, duty, charge, deduction or withholding, however described, imposed by law or a government agency, together with any related interest, penalty or fine, including in respect of GST, but excluding income tax.

**Third Party Content** means any information, data or other materials directly or indirectly supplied by transport service providers through the App.



## Annexure – Approved Customer Cohorts

Approved Customer Cohorts	Additional user credential requirements
The University of Queensland	<ol style="list-style-type: none"> <li>1. You must be a staff member employed by or student enrolled at The University of Queensland.</li> <li>2. You must use your University of Queensland email address to sign up for an account of the App.</li> </ol>
Bus Industry Confederation's Moving People 2022 Conference	<ol style="list-style-type: none"> <li>1. You must be a paid, registered delegate for the BIC Moving People 2022 Conference, Brisbane (13 – 16 November, 2022).</li> <li>2. You must use the same email address registered with BIC for the Moving People conference.</li> </ol>