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## 1. Application Terms and Conditions of Use

Welcome to the mobile application of UP Express, a division of Metrolinx, a Crown Agency within the meaning of the Crown Agency Act, R.S.O. 1990 (“UP Express”). This page states the terms and conditions (the “Terms”) which apply to your use of the UP Express mobile application. For purposes of these Terms, “Application” means the UP Express mobile application and all related services, including but not limited to any and all software made available by UP Express, and all downloadable services for UP Express passengers accessed by means of a browser or other online communication method. **Please read these Terms carefully.** By accessing and using the Application, you acknowledge that you have read, understood and agree to abide by and comply without limitation or qualification, to these Terms. If you do not agree with any of these Terms, please do not use the Application. Additional terms, found in the UP Express Terms and Conditions, which appear on [www.upexpress.com](http://www.upexpress.com), will govern the use of the Application when opening an account and purchasing an UP Express e-ticket.

UP Express reserves the right to change, modify, alter or otherwise update these Terms as well as the services contained on or referenced in the Application, without prior written notice at any time, at UP Express’ sole discretion. Updated or revised Terms will be posted on the Application. Please check these Terms periodically for changes. Your continued use of the Application following the posting of any changes to these Terms constitutes acceptance of those changes.

UP Express may change, suspend or discontinue any part or functionality of the Application at any time. UP Express may also impose limits on the use of or access to certain features or portions of the Application, in any case without notice or liability.

## 2. License

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The Application is being licensed to you and you hereby acknowledge that no title or ownership in the Application is being transferred or assigned to you and this Agreement should not be construed as a sale of any rights in the Application. All rights not specifically granted under this Agreement are reserved by UP Express.

## 3. License Conditions

You agree not to: (i) commercially exploit the Application or any of the intellectual property therein; (ii) copy, reproduce, distribute, lease, license, sell, rent, lend, convey,

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#### 4. Information

UP Express attempts to be as accurate as possible in describing all information on the Application (including all Content (as defined below) thereon). Such information is for information purposes only and has been provided as a public service. Although every attempt has been made to ensure its accuracy, UP Express does not represent or warrant that any Content of the Application is accurate, completely reliable, current or error-free. Any views expressed or made available by third parties on the Application or in its Content are those of the respective third parties and not of UP Express.

#### 5. Intellectual Property Rights

Material on the Application, including but not limited to text, data, information, "look and feel", wallpaper, icons, images, illustrations, graphics, audio clips, video clips, artwork, graphics, music, sound effects, themes, stories, dialog, titles, audiovisual effects, settings, software (including all computer code of all types), patents, and special promotions (collectively the "Content") is either owned or licensed and controlled by UP Express, and UP Express does not represent or warrant that such material does not infringe the rights of any other person or entity. The Content on the Application is protected by Canadian and international copyright laws and treaties. Any infringement of UP Express' rights will result in appropriate legal action.

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## 6. Third Party Materials, Links and Information

In order for certain features of the Application to operate properly, you may be required to have and maintain (i) an adequate internet connection and/or (ii) a valid and active account with an online service provider. If you do not maintain such accounts, then the Application or certain features of the Application may not operate or may cease to function properly, either in whole or in part.

The Application may contain links (or you may be sent through the Application) to non-UP Express websites ("Third Party Sites") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software and other content or items belonging to or originating from third parties ("Third Party Applications, Software or Content"). Links to Third Party Sites and any Third Party Applications, Software or Content made available through or installed from the Application is provided as a convenience only. If you decide to visit any Third Party Sites or use or install any Third Party Applications, Software or Content, you do so at your own risk. Such Third Party Sites and Third Party Applications, Software or Content are not investigated, monitored or checked for accuracy, appropriateness or completeness by UP Express and UP Express disclaims, expressly and impliedly, any responsibility or liability for the accuracy, relevance, copyright, compliance, legality, decency or suitability of any material, content, products, services or information found on any linked Third Party Site or in any Third Party Applications, Software or Content. Inclusion of, linking to or permitting the use or installation of any Third Party Site or any Third Party Applications, Software or Content does not constitute in any manner a reflection on, affiliation with, or endorsement by UP Express of any such Third Party Site or Third Party Applications, Software or Content, the respective entity or their respective material, content, products, services or information and UP Express makes no representations or warranties, express or implied, concerning any material, content, products, services, information or security of the information found on any Third Party Site or contained in, or generated by any Third Party Applications, Software or Content and you hereby irrevocably waive any claim against UP Express with respect to such Third Party Sites and Third Party Applications, Software or Content. It is up to you to take precautions to ensure that whatever you select for your use is free of viruses, worms, Trojan horses and other items of a destructive nature.

## 7. Using files located on non-UP Express servers

To improve the functionality of the Application, certain files (such as open source libraries, images and scripts) may be delivered automatically to the Application via a trusted third-party server or content delivery network. The delivery of these files is intended to provide a seamless user experience by speeding response times and avoiding the need for each visitor to download these files.

## 8. Privacy

You have read the Metrolinx Privacy Policy, the terms of which appear on **www.upexpress.com** and are incorporated into these Terms, and agree that the terms of such policy are reasonable. UP Express values and respects your privacy, and is

committed to protecting your personal information by keeping it confidential and secure. UP Express' collection and retention of your personal information is governed by the terms of the Freedom of Information and Protection of Privacy Act, R.S.O. 1990, and other relevant legislation.

Notwithstanding the foregoing, as the internet is not a secure medium, the privacy of your communications cannot be guaranteed. The nature of internet communications means that your use of the Application and communications to UP Express, through the Application, may be susceptible to data corruption, unauthorized access, interception and delays.

In general, you may use the Application without telling us who you are or revealing any personal information about yourself. In order to use some functionality of the Application, you may be required to disclose certain personal information. You agree that we may collect and use personal information provided by you for the purposes set out in the Metrolinx Privacy Policy.

The Application may include certain features or services, such as alerts, through the Application that rely upon device-based location information. To provide such features or services, where available, we may be required to use, transmit and process your location data, including the real-time geographic location of your device. Location information will only be used to deliver relevant transit information and will not be kept on servers, unless you consent to the sharing of location information, in which case, the information will be stored on UP Express' or a supplier's servers and used for fraud detection purposes. Furthermore, if your device connects through a Wi-Fi access point, the IP address of the device or the access point may be stored on our server in an encrypted fashion. By enabling and/or using any location-based services or features within the Application (e.g. allow the app to use your location), you agree and consent to us collecting, using, processing and maintaining technical information and other data as required for purposes of providing such location-based services or features to you.

Questions about the manner in which UP Express collects your personal information should be directed to: Manager, Customer Contact, Metrolinx, 20 Bay St., Toronto, Ontario, M5J 2W3, (416) 869-3600.

## 9. Use of Third Party Services

For your convenience you may use your login and account information from a third party service such as Facebook, Google or Twitter to access your UP Express account. If you do this, the authentication of your logon details is handled by the relevant third party and we only collect information about your account that you expressly agree to share with us at the time you register for an UP Express account. Information you may provide to these third party services will, however, be subject to the privacy policies of those third parties and not ours. Please read their privacy policies carefully. If you choose to link your account to a third party account (such as your Google or Facebook account), UP Express may choose to use the information you allow us to collect from those third parties for the purposes set forth in the Metrolinx Privacy Policy. You are

responsible for maintaining your accounts with those parties and for complying with their terms of service and other legal requirements.

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Location data provided by the Application is for basic information only and is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate or incomplete location data may lead to death, personal injury, property or environmental damage.

## 11. LIMITATION OF LIABILITY

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## 12. INDEMNIFICATION

YOU AGREE THAT YOUR USE OF THE APPLICATION AND/OR THE CONTENT SHALL NOT BE MADE THE BASIS FOR ANY CLAIM, SUIT, DEMAND OR CAUSE OF ACTION OR OTHER PROCEEDING AGAINST METROLINX, ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS. YOU AGREE, AT YOUR OWN EXPENSE, TO INDEMNIFY, DEFEND AND HOLD METROLINX, ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS HARMLESS AGAINST ANY CLAIM, SUIT, DEMAND, ACTION OR OTHER PROCEEDING BROUGHT OR THREATENED BY A THIRD PARTY AS A RESULT OF (I) YOUR BREACH OF THESE TERMS; AND/OR (II) YOUR USE OF THE APPLICATION AND/OR THE CONTENT.

### 13. Term and Termination

This agreement is effective until terminated by you or by UP Express. Your rights under these Terms will terminate automatically without notice from us if you fail to comply with any term(s) of these Terms. Upon termination, you will cease to use the Application and will destroy all copies, full or partial, of the Application.

### 14. Accessibility

UP Express is committed to ensuring that information about our services is accessible in accordance with the Accessibility for Ontarians with Disabilities Act, S.O. 2005. If you require an UP Express document in an alternate format or are in need of a communications support, please submit a request through our online contact form, which appears on **www.upexpress.com**, or by calling us at one of our telephone numbers below:

- 416-869-3200 - Toronto local calling area
- 1-888-438-6646 - Toll-Free Number
- 1-800-387-3652 - TTY teletypewriters only

Once your request is received, UP Express will contact you to provide you with additional information on when you can expect a response, based on the document and format you are requesting.

### 15. Applicable Law

The Application is controlled and operated from the Province of Ontario, Canada by UP Express. UP Express does not make any representation that the facilities or services offered through the Application comply with any legal or regulatory requirements of countries other than the Province of Ontario, Canada. In accessing or using the Application, you do so at your own risk and on your own initiative, and are responsible for compliance with local laws, to the extent any local laws are applicable. If it is prohibited to make the Application, the facilities or services offered through the Application or any part of them, available in your country, or to you (whether by reason of nationality, residence or otherwise), the Application and/or facilities or services offered through the Application or any part of them are not directed at you. Your use of the Application and these Terms shall be governed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein without regard to the conflicts of laws principles thereof. You acknowledge that you have full legal capacity to use the Application in accordance with the foregoing. By using the Application, you acknowledge and agree to submit and attorn to the exclusive jurisdiction of the courts of the Province of Ontario in this respect.

In addition to complying with these Terms, you agree to use the Application and Content for lawful purposes only and in a manner consistent with local, national or international laws and regulations. Some jurisdictions may have restrictions on the use of the Internet by their residents.