



## Terms and Conditions

### Acknowledgement and Acceptance

The use of the Website, App and Services is governed by the terms and conditions set out below, as updated by Keolis Downer Hunter from time to time. By downloading the App, accessing and/or using the Services, you have accepted the terms and conditions in their entirety and a contractual relationship is formed between you and Keolis Downer Hunter. You are responsible for your compliance with these terms and conditions (including any updated versions).

### **PLEASE ENSURE YOU READ AND UNDERSTAND THE TERMS AND CONDITIONS FULLY BEFORE USING THE APP AND/OR THE SERVICES.**

If you do not agree to these terms and conditions then you must not use the Services and/or the App. If you are under 16 years of age, you represent and agree that you possess the legal consent of your parent or guardian to access and use the Service. These terms and conditions supersede any prior arrangement between you and Keolis Downer Hunter. Keolis Downer Hunter may at any time update these terms, cease offering some or all of the Services or terminate the contractual relationship established above.

Amendments to these terms and conditions will be published on the Newcastle Transport On Demand website and your continued use of the Website, App or the Services is taken as acceptance of the amendments.

You will require your own internet or phone connection to use the application and will be responsible for any associated costs of use. You are responsible for enabling notifications from The App to ensure you receive confirmation of the booking, notifications in relation to their trip any other updates or notifications from Keolis Downer Hunter and TfNSW from time to time. You may choose not to enable notifications however by doing so, you acknowledge that your use of the App may impact your use of the Services.

### Definitions

In these terms and conditions, the following terms and definitions apply unless otherwise stated:

- “App” means the Newcastle Transport (NT) On Demand customer applications available for download from the Google Play and Apple iTunes stores.
- “Associated Parties” include Keolis Downer Hunter related entities, VIA the provider of the Booking and Driving solution, its contractors and subcontractors.
- “Booking” means a confirmed agreement for NT On Demand to pick up the user at a nominated time and location and transport them to an agreed location.
- “Conditions of Carriage” means the conditions of carriage applicable to users when using the Services, available on the NT On Demand website.
- “Trial Region” means one of the geographical zones the App Services are available in. More details about the zones can be found on the Newcastle Transport website (<http://www.newcastletransport.info>).
- “Services” means the provision of on-demand transport services by or on behalf of Keolis Downer Hunter within a dedicated Trial Region and available to be booked by



the user. Each reservation a user makes on the Service is a “Booking,” and each ride taken through a Booking is a “Ride.”

- “TfNSW” means Transport for NSW, a corporation constituted under the Transport Administration Act 1988 (NSW), on behalf of the State of New South Wales, of 18 Lee Street, Sydney NSW.
- “NT On Demand” refers to Keolis Downer Hunter the operator of the Services in the Pilot Regions under contract with TfNSW
- “User” means any individual that downloads the Website, App and/or uses the Services.
- “Vehicle” means a vehicle operated by Keolis Downer Hunter to provide the Services.
- “Website” means the web pages accessible via [www.newcastletransport.info](http://www.newcastletransport.info).
- “You” means the individual that is entering in the contractual relationship for these terms and conditions.

## **Description of the Services**

### **Account requirements**

To access the Services, you will need to create an account in the App or call the Newcastle Transport On Demand hotline. To create an account, you must not be under 18 years of age. The creation of an account will require the provision of Personal Information and payment methods. Keolis Downer Hunter will treat all Personal Information provided by you in accordance with our Privacy Policy found on our website. Bookings can also be made over the phone using the number listed on the Newcastle Transport On Demand web page during business hours.

Children under the age of 16 must have consent from their parent or guardian to use the Service.

You are responsible for your log-in credentials and for keeping your information accurate. You are responsible for any activity resulting from the use of your log-in credentials on the Service.

You represent and warrant that the information you provide to the Company upon use of the Service and at all other times will be true, accurate, current, and complete.

By becoming a user, you warrant the right, authority and capacity to enter into and abide by these terms and conditions and agree not to allow any other person access to their account.

You must have a booking to board a vehicle. NT On Demand vehicles will not, under any circumstances, pick up passengers hailing vehicles or waiting at ranks.

Keolis Downer Hunter does not warrant that the Website, App and/or the Services will be accurate, reliable, secure, accessible or free from errors or defects. It is your responsibility to investigate whether use of the services will meet their requirements.

### **Your Log-In Credentials**

To use the Service, you may need to log-in by providing a username, password, and cellular phone number. Your account is personal to you, and you may not share your account information with, or allow access to your account by, any third party. As you will be responsible for all activity that occurs under your access credentials (including, without



limitation, the behaviour of any other people that travel in your party), you agree to use reasonable efforts to prevent unauthorized access to or use of the Service and to preserve the confidentiality of your username and password, and any device that you use to access the Service.

You agree to notify us immediately of any breach in secrecy of your log-in information. If you have any reason to believe that your account information has been compromised or that your account has been accessed by a third party, you agree to immediately notify the Company by e-mail to [newway@newcastletransport.info](mailto:newway@newcastletransport.info). You will be solely responsible for the losses incurred by the Company and others due to any unauthorized use of your account.

## **Bookings**

### ***When is a Booking made?***

A Booking is made on confirmation from NT On Demand (either through the App, by email, SMS or over the phone) and notification of the estimated pick up time is provided. Until you have received this notification, no Booking will be accepted by Keolis Downer Hunter. For Bookings made over the phone, it your responsibility to (a) ensure you receive confirmation of the Booking, (b) to print this out as evidence of a Booking and to use as a ticket for the Service and (c) be present at the agreed time and location to board the vehicle.

Keolis Downer reserves the right to refuse carriage if you do not have evidence of your Booking in the form of either (i) a printed paper confirmation or (ii) an App confirmation on your mobile phone which can be displayed to the driver on pickup.

### ***Multiple Passengers***

You must nominate at the time of Booking if there are additional passengers for the trip. You acknowledge that a failure to notify Keolis Downer at the time of arranging the Booking may entitle Keolis Downer Hunter to refuse carriage to the additional passengers and/or cancel the Booking in its entirety.

### ***Specific Assistance***

If there is a passenger who requires assistance with boarding you should notify the Driver, who will endeavour to assist in accordance with their training and WHS Law. If offered in the Trial Region, a wheelchair accessible service should be notified at the time of Booking. Assistance animals are welcome on board the Service at the discretion of the driver and must be notified at the time of booking to ensure space.

### ***Seat allocation***

The Services currently do not provide for allocated seating and it is therefore your responsibility to select a seat when you board the Vehicle. You are responsible for your own safety, including the use of seatbelts, in all circumstances.

### ***Changes to Bookings***

You may cancel a Booked Service without incurring any costs under the following conditions:

- Within the first minute after booking;
- When your ride is pre-scheduled, more than 1 hour before your earliest pickup time;



For cancellations outside these windows, Keolis Downer Hunter reserves the right to charge a cancellation fee. If a User repeatedly cancels trips without notifying Keolis Downer Hunter in advance, the User may be excluded from the service for some time or indefinitely.

No fees will apply where a user is absent, and the Vehicle arrives less than 5 minutes after the proposed pickup time.

### **Communications**

NT On Demand may communicate with you by phone, email, text message or posting notice on the Service. You may request that we provide notice of security breaches in writing. You agree to receive email from us at the email address you provided to us for customer service-related purposes.

### **Electronic Notices**

By using the Service or providing Personal Information to us, you agree that we may communicate with you electronically regarding security, privacy, and administrative issues relating to your use of the Service. If we learn of a security system's breach, we may attempt to notify you electronically by posting a notice on the Service or sending an email to you. You may have a legal right to receive this notice in writing. To receive free written notice of a security breach (or to withdraw your consent from receiving electronic notice), please write to us at [ondemand@newcastletransport.info](mailto:ondemand@newcastletransport.info).

### **SMS Text Messages**

We may send you an SMS text message to the phone number you provide upon registering with the Service (i) when you register with the Service, (ii) when you make a Reservation, (iii) when your vehicle is approaching the designated pick-up location, (iv) when your vehicle is at the designated pick-up location, and (v) when you reset your password with the Service. Text message and data rates, as determined by your wireless carrier, may apply. By registering with the Service, you consent to receive these SMS text messages.

### **Fares and Charges**

Fares for the Services are displayed on the NT On Demand website and consist of a set fee per trip.

Fares are determined by TfNSW and may be changed from time to time – current pricing will be available on the NT On Demand website and in the App prior to a Service commencing. Unless otherwise stated, fares are inclusive of all taxes.

Payment method online through the App or the website is credit card, cash payment is only available while booking via phone for the NT On Demand service.

Payments will be processed in accordance with the method of payment at the time of your Booking. A failure to pay for the Services when they become due and payable will entitle Keolis Downer to cancel the Booking and/or refuse carriage. Receipts will be issued to your email on payment of the Fare.

Where available, if you or an additional passenger books a concession fair, evidence of their valid concession entitlement must be carried with them at all times when using the Service and must be clearly displayed to the driver on request. If a user fails to provide a valid concession entitlement Keolis Downer Hunter reserve the right to either (a) charge a full fare



or (b) refuse carriage at Keolis Downers Hunter discretion. Accepted concession entitlements can be found on the TfNSW website: <https://transportnsw.info/tickets-opal/ticket-eligibility-concessions>

Keolis Downer Hunter reserve the right to charge additional cleaning and repair fees to cover the cost of any significant damage, soiling or graffiti caused directly by you or an additional passenger (excluding fair wear and tear).

### ***Conditions of Carriage***

When using the Services, you agree to abide by all relevant regulations and policies, including but not limited to those set out in the Passenger Transport Regulations 2014 (NSW), and TfNSW's travel courtesy and etiquette guidelines.

In accordance with requirements of National Child Restraint laws, children under the age of 7 are not permitted to use the Service in **Newcastle On Demand Trial** Area. For Children over the age of 7, it is recommended a parent or guardian supply and fit a compliant child or booster seat for the duration of the Ride.

A failure to abide by any of the above may result in Keolis Downer Hunter prohibiting a User from using the Services and/or suspending their account.

### ***Privacy and Personal Information***

Use of the application or the NT On Demand website may require individuals to disclose personal information when creating their user profile. The application will also collect information about the Users use of the Services, including trips booked and payments made.

Personal Information received by Keolis Downer Hunter will be treated in accordance with our privacy policy, located on our website. Users are responsible for any Personal Information they disclose to third parties through their use of the application

In addition, the Personal Information of a User may be provided to third parties, such as TfNSW and Keolis Downer Hunter insurers and external legal advisors, in the event of a claim or accident.

### ***Ownership of Intellectual Property***

All IP associated with the Services is owned by VIA, Keolis Downer Hunter, its Associated Parties or TfNSW unless otherwise specified. Through these terms and conditions, the User is granted a revokable, non-perpetual, non-exclusive licence to use the App for the purposes outlined above and no other purpose. VIA, Keolis Downer and TfNSW give no warranties, and will not in any circumstances be liable for, the infringement of third party IP rights in relation to the Use of the App.

Any material (other than Personal Information) uploaded by the User will become the property of Keolis Downer Hunter. This includes feedback comments, ratings of Keolis Downer Hunter drivers or Services and promotional materials uploaded onto social media sites and pinned to the Services. By uploading any images or other materials onto public areas of the application, the User consents to the use of these in promotional material or other publications by Keolis Downer Hunter.

### ***Limitation of Liability***



Keolis Downer Hunter will, at all times, use best endeavours to deliver the Services in line with these terms and conditions,

To the extent permitted by law, Keolis Downer Hunter and its associated parties are not liable for any loss (including direct or indirect losses, damage, liability or expenses arising naturally from the performance or non-performance (including any negligent or wilful act or omission) any breach or default by Hunter or a third party) caused by or contributed to by the user's use of the Website, App and/or the Services.

Without limiting this section, Keolis Downer Hunter will not be liable for any costs incurred by a user as a result of a cancelled service, including consequential damages or the cost of alternative travel arrangements, including without limitation for any failure to meet a subsequent journey on any form of transport.

To the extent that Keolis Downer Hunter is responsible for any direct loss, Keolis Downer Hunter's obligations are limited to either (i) reperformance of the services; or (ii) refund of the fare. In no event will Keolis Downer Hunter liability to a user exceed AUD\$1,000 in relation to any incident or claim.

To the extent permitted by law, a scheme under Part 4 of the Civil Liability Act 2002 (NSW) is excluded in relation to all and any rights, obligations or liabilities for either party under this Agreement whether those rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.

The limitations under this section do not purport to limit liability or reduce your rights as a consumer that cannot be excluded under the consumer law set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).

### ***Indemnity***

You agree to indemnify Keolis Downer Hunter, TfNSW, Via and associated parties, as well as their directors, officers, employees and agents from any and all claims, liabilities, losses and expenses arising from or in connection with:

1. Your use of the Website, App and/or the Services;
2. Your breach or violation of any of these terms;
3. Keolis Downer Hunter's use of information provided by you (provided this is in accordance with our privacy policy); or
4. Violation of the rights of any third parties, including third party providers and other users.

### ***Suspension or Termination of Accounts***

Users will be able to rate Keolis Downer Hunter drivers and the Service for each trip through the App, the website and by phone.

A series of poor ratings may result in Keolis Downer Hunter prohibiting a User from using the Services and/or suspending their account.

### ***Dispute Resolution***

Keolis Downer Hunter value feedback, questions and concerns from Users in relation to the App and the Services and will endeavour to respond to all genuine enquiries as soon as possible.





All feedback and enquiries for the **Lake Macquarie On Demand** Area should be lodged at first instance using the Transport for NSW Infoline:

- Online feedback form: <https://transportnsw.info/contact-us/feedback/point-to-point-feedback>
- Phone: 131 500

All feedback and enquiries for the **Newcastle On Demand Trial** Area should be lodged at first instance by email to [ondemand@newcastletransport.info](mailto:ondemand@newcastletransport.info)

### ***Notices/Communications***

Keolis Downer can be contacted directly through the following avenues:

- Email: [ondemand@newcastletransport.info](mailto:ondemand@newcastletransport.info)

Keolis Downer Hunter will send notices to Users both by email, text message and through the App. It is the Users responsibility to ensure the contact information linked to their Account is both valid and regularly monitored.

Users can unsubscribe from notices at any time through the App or the Keolis Downer Hunter website. A User acknowledges that unsubscribing from notices may affect a User's ability to use the Website, App and/or the Services and under no circumstances with Keolis Downer Hunter be liable for a failure of the App or the Services due to the same.

### **General Provisions**

#### ***Relationship between the Parties***

In relation to the performance of Services, Keolis Downer Hunter will provide the Services as an independent contractor and nothing in these Terms and Conditions will be construed so as to constitute Keolis Downer Hunter as an employee of the User or constitute a partnership between the parties or so as to constitute either party as the agent or legal representative of the other party.

#### ***Applicable Law***

The use of the Website, App and the Services will be governed and construed in accordance with the laws of New South Wales and the User submits to the non-exclusive jurisdiction of the courts of that State.

#### ***Entire Agreement***

This document records the entire agreement between the parties. The parties exclude all terms implied by law, where possible. Neither party has given any warranty or made any representation to the other party about the Services, other than those warranties and representations expressed in this document.

#### ***Severance***

In the event that any term should be held to be unenforceable that term shall be read down or severed and the remainder of these terms and conditions shall continue to apply to the Services.