

App Terms of Use

Please read these Terms of Use (the “Agreement”) as they will create a legal binding agreement between Trapeze Software Group, Inc. d.b.a TripSpark Technologies (“TripSpark”, “we” or “us”), and you when you click or tap “Agree” (or a similar term), or when you use the App (defined below). This Agreement, and any applicable app store terms of use, will govern your use of this mobile application, the “Rides on Demand” app (“App”), and your use of the Services.

Although we may attempt to notify you when major changes are made to this Agreement, you should periodically review the most up-to-date version. We may, in our sole discretion, modify or revise this Agreement and policies at any time, and you agree to be bound by such modifications or revisions. Nothing in this Agreement shall be deemed to confer any third party rights or benefits.

To the extent permitted by applicable law, we may, at any time and without liability, modify or discontinue all or part of the Services, or offer opportunities to some or all users. We will seek to notify you by reasonable means of any modifications that will have a material adverse effect on the use of the Services, taken as a whole. We reserve the right to deny or terminate your access to the App, for any reason or no reason, provided such denial is not in violation of applicable law.

YOU MUST BE, AND REPRESENT THAT YOU ARE, OLDER THAN THE AGE OF MAJORITY, OR HAVE THE EXPRESSED CONSENT OF YOUR LEGAL GUARDIAN, TO USE THE APP, THE SERVICES AND CONSENT TO THE COLLECTION AND USE OF PERSONAL DATA, IN YOUR JURISDICTION.

1. Services Provided.

You recognize that the Services TripSpark provides do not include providing the actual Transit Services (defined below), which a provider of Transit Services (“Transit Provider”) provides you, according to terms of use you agree to with the Transit Provider. TripSpark does provide, via the App, the Transit Provider Selection Services and the Transit Service Facilitation Services (collectively the “Services”).

1.1. Transit Provider Selection Services.

1.1.1. An initial Transit Provider will be chosen, either via your manual selection from a list of Transit Providers, or by the App determining a particular Transit Provider operating in the area where your mobile device is determined to be. You acknowledge that any Transit Provider you select will be based on your expected use of Transit Services from that Transit Provider.

1.1.2. TripSpark may present a list of Transit Providers (such as transit agencies) at least partly based on your location, as determined by the App accessing the location of the device on which you use the App. The list of Transit Providers may change, including Transit Providers being removed, with or without notice to you.

1.1.3. You can change the Transit Provider using the App, for example if you are in a new city and wish to receive Transit Services from a different Transit Provider.

1.2. Facilitation of Transit Services.

1.2.1. The App allows you to request and receive various transit services, such as on demand transit or microtransit services (“Transit Services”) from the Transit Provider.

1.2.2. Via the App you can specify a pick up location and a drop off location for a Transit Service, or the App can use the mobile device’s GPS receiver to detect your location for pick up. These locations are sent to the Transit Provider via the App as a request for Transit Services (“Request”). The Transit Provider can accept or reject each Request, at its sole discretion and subject to its own operating procedures (for example if the locations are within its areas of service). If the Transit Provider accepts the Request, the App will notify you and provide information regarding the Request, such as estimated pick up and drop off times. The App will also provide updates to view the Transit Provider's progress towards the pick-up location.

1.2.3. TripSpark shall make reasonable efforts to provide your Request to the Transit Provider and receive any response the Transit Provider provides back to you, but provides no guarantee, express or implied, thereof.

1.2.4. For the avoidance of doubt, TripSpark does not provide Transit Services. The Transit Provider provides Transit Services, which may be requested through the App. TripSpark only acts as intermediary between you and the Transit Provider. The provision of the transportation services by the Transit Provider to you is therefore subject to any further agreement between you and the Transit Provider. TripSpark is not a party to such agreement.

2. Your use of the App or the Service.

By using the App or the Service, you agree that:

2.1. You are responsible for downloading and installing the right App for your mobile device;

2.2. The information you provide via the App is accurate and complete, you will keep it updated, and agree that we are entitled to verify the information that you have provided and to refuse the Service or use of the App without providing reasons;

2.3. Your use of the Service or App is only for your personal and non-commercial use within Canada and the United States (subject to available Transit Providers), and you will not give others access to the App, distribute the App, or assign the App to others;

2.4. You will keep secure and confidential your account password or any identification we provide you which allows access to the Service and the App and you acknowledge that TripSpark will not be liable for any damages caused by your account or password being compromised;

2.5. Your use of the Service or App will not be for unlawful or undesirable purposes (including but not limited to infringing a third party’s rights, obscene, threatening, libellous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights, sending or storing any unlawful

material or for fraudulent purposes or cause annoyance or inconvenience to others) and you will comply with all applicable law where you use the App;

- 2.6. You will not license, sublicense, modify or create derivative works of, sell or resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or App in any way;
- 2.7. You have no rights in any content on the App (without limitation logos, icons, trademarks, text, graphics text, graphics, photographs, images, moving images, sound, illustrations, music, software, opinions, remarks, comments, artwork, links, questions, suggestions, information or other materials) other than pursuant to use of the App in accordance with this Agreement.
- 2.8. TripSpark and the Transit Provider may use any content (including personal information or ideas about the App or Services) you provide via, or about, the App, subject to the Privacy Policy, and you confirm that doing so will not violate any laws of rights of third parties and assign all right title and interest in any ideas to TripSpark.
- 2.9. You will not reverse engineer or access the App in order to create a competitive product or service, or design or build a product using ideas or aspects of the Service or App, or copy or otherwise use any ideas, features, functions, graphics or other intellectual property of the Service or App, or launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Service or App or send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs.

3. Privacy.

- 3.1. The App will request from you, and store (in the App and/or on TripSpark servers), certain personal information on your mobile device when you create your user profile, and when you access the App to request and receive Transit Services. Personal information may include your name, email, phone number, registered address, or other related information. We can use that personal information to provide the Services, to enable us to assist the Transit Provider to provide the Transit Services, to make improvements and analysis of such, and uses as may be described in the Privacy Policy (collectively the “Purposes”). The personal information may also be shared between TripSpark and the Transit Provider to further the Purposes. You should ensure that your mobile device is appropriately protected so that your stored details cannot be used or accessed by third parties.
- 3.2. TripSpark collects and processes your personal data according to the Privacy Policy located at [<https://www.tripspark.com/privacy-policy>], which forms part of this Agreement.

4. Liability and Indemnity.

4.1. Warranty Disclaimer.

YOUR USE OF THE APP IS AT YOUR SOLE RISK, TO THE EXTENT PERMITTED BY APPLICABLE LAW. WE, AND OUR EMPLOYEES, CONTRACTORS AND AGENTS

DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE APP AND YOUR USE OF THE APP. WE MAKE NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE APP OR ANY CONTENT AND ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES IN THE APP OR SERVICE, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE APP, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS OR NETWORK AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR STORED THEREON, (IV) ANY INTERRUPTION OR STOP OF COMMUNICATION WITH THE APP AND THE TRANSIT AGENCY, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE APP BY ANY THIRD PARTY, AND/OR (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT MADE AVAILABLE VIA THE APP. YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION AT ALL TIMES WHEN USING THE APP OR THE SERVICES.

4.2. Limitation of Liability.

IN NO EVENT SHALL TRIPSPARK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. IN NO EVENT SHALL TRIPSPARK'S LIABILITY TO YOU EXCEED \$100 OR FEES PAID FOR THE TRANSIT SERVICE.

4.3. Indemnity.

You agree to defend, indemnify and hold harmless TripSpark, its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the App or Services; or (ii) your violation of any term of this Agreement. This defense and indemnification obligation will survive this Agreement and your use of the App.

5. App Store Terms of Use.

If you are accessing the Service through an application store provided by a third-party such as Google, Inc. or Apple, Inc., then such third-party provider shall be a third-party beneficiary to this Agreement. These third-party beneficiaries are not responsible for the provision or support of the Services in any manner. In addition, you must comply with the terms of service of any such third-party beneficiary.

If you obtain the App from the Apple app store, then the following terms apply to your use of the App, in addition to the Terms of Use herein:

- 5.1. If there are any conflicts between this Agreement and the Apple Store Terms of Service, the Apple Store Terms of Service will apply.
- 5.2. The licence granted to you in this Agreement to use the App and Services is for use on Apple-branded products, owned or controlled by you. Your mobile device must be such a product. The App may be used or accessed by other accounts associated with you via Family Sharing or volume purchasing.
- 5.3. We're giving you personally the right to use the App and the Service as set out above. You can't transfer the App or the Service to someone else, whether for money, for anything else or for free. And if you sell any device on which the App is installed, you must remove the App first. You must also keep all passwords secure and not provide this information to anyone else.
- 5.4. If you need any support with respect to the App, please contact us, not Apple as they are under no obligation to help with any support or maintenance questions arising out of use of the App.
- 5.5. In the event of any failure of the App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App to you; and that, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be our sole responsibility.
- 5.6. We are responsible for addressing any claims from you or any third party relating to the App or the end- user's possession and/or use of the App, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection, privacy, or similar legislation.
- 5.7. In the event of any third party claim that the App or your possession and use of the App infringes that third party's intellectual property rights, TripSpark or the Transit Provider, not Apple, will be solely responsible for the investigation, defence, settlement and discharge of any such intellectual property infringement claim.
- 5.8. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.
- 5.9. Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement, and that, upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you.

6. General

- 6.1. This Agreement, together with the Privacy Policy and any other legal notices published by TripSpark on the App, shall constitute the entire agreement between you and TripSpark concerning the App.
- 6.2. If any provision of This Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Agreement, which shall remain in full force and effect.
- 6.3. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and TripSpark's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.
- 6.4. The parties agree that any cause of action arising out of or related to the App or the Services must commence within one year after the cause of action accrues, otherwise such cause of action is permanently barred.
- 6.5. TripSpark is entitled to terminate the Agreement at all times and with immediate effect (by disabling your use of the App and the Service) if you violate or breach any term of this Agreement, or in the opinion of TripSpark, misuse the App or the Service. TripSpark is not obliged to give notice of the termination of the Agreement in advance.
- 6.6. The invalidity of any term of this Agreement shall not affect the validity of any other provision. If and to the extent that any provision of this Agreement is invalid, or is unacceptable in the given circumstances according to the criteria of reasonableness and fairness, a provision shall apply between the parties instead that is acceptable considering all the circumstances and which corresponds with the provisions of the void part as much as possible, taking into account the content and the purpose of this Agreement.
- 6.7. TripSpark may give notice by means of a general notice on the Service or App, or by electronic mail to your email address on record in TripSpark's account information, or by written communication sent by regular mail to your address on record in TripSpark's account information.
- 6.8. You may not assign your rights under these User Terms without prior written approval of TripSpark.
- 6.9. These User Terms are subject to the laws of Ontario, Canada. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof or the use of the App or the Service will be settled exclusively by the competent court in Toronto, Ontario.