

AUCKLAND PASSENGER RAIL NETWORK  
CONDITIONS OF CARRIAGE – TRANSDEV AUCKLAND LTD  
[1 **March**] 2018 onwards

**1. Application of Conditions**

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**1.1 Application of Conditions**

These conditions of carriage (*Conditions*) apply to any *Passenger Service* and any person on any *Passenger Service* even if that person does not hold a *Rail Ticket*. In the case of a *Passenger Service* provided other than by rail, for example by rail bus, these *Conditions* must be read with any modifications as are reasonably necessary for the application of these *Conditions* to such carriage.

Italicised terms are defined in section 7.

**1.2 AT HOP Card Terms of Use**

In addition to these *Conditions*, use of *AT HOP Cards* are subject to the *AT HOP Card Terms of Use*.

**1.3 Requirement for a Valid Rail Ticket**

Travel using any *Passenger Service* is only permitted with a *Valid Rail Ticket*. A *Customer* must not use a *Passenger Service* unless accompanied by a *Valid Rail Ticket* issued in accordance with these *Conditions*. The *Operator's* representatives may carry out full ticket checks on board any *Passenger Service*. A *Customer* must, if required by the *Operator's* representative show a *Valid Rail Ticket* for travel and, if applicable, evidence of a *Concession Entitlement* when on board a *Passenger Service*.

**2. Liability of Operator and Indemnity**

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**2.1 Liability of Operator**

*Customers* use the *Passenger Services* at their own risk and (to the extent permitted by law) the *Operator* will not be responsible for any loss, damage, cost, expense or injury suffered by *Customers*, or for any loss or damage to a *Customer's* property, resulting in any way from the use of the *Passenger Services*. Without limiting the foregoing:

- (a) The *Operator* will not, in respect of any *Customer*, be liable for any loss, damage or delay caused by or arising from an event beyond the control of the *Operator*, including any inevitable accident, riot, civil commotion, strike, lock-out, stoppage or restraint of labour, regardless of the cause and whether partial or general.
- (b) The *Operator* may use any mode of transport to carry *Customers* and may substitute the mode of transport used at any time, including during a journey.
- (c) The *Operator* does not guarantee that *Passenger Services* will be available at any particular time or at all. The *Operator* is not liable to a *Customer* or any other person:
  - (i) for any consequences arising from any variation or delay in the time of arrival or departure from any station or stop of any vehicle; or
  - (ii) for any loss or damage as a result of a cancellation or any variation of the time of arrival or departure from any station or stop of any vehicle.
- (d) The *Operator* may vary or cancel wholly or in part the scheduled services shown in the *Operator's* timetables or may vary the point at which *Passenger Services* will pick up and set down *Customers*.
- (e) The *Operator* does not guarantee the time of arrival or departure of its *Passenger Services* at the times published in any timetable for the *Passenger Services*.
- (f) The *Operator* does not guarantee the availability to any *Customer* of any seat or any specific area within a carriage.

- (g) *Rail Tickets* are subject to any alteration which the *Operator* may make to the service to which that *Rail Ticket* relates during the currency of the *Rail Ticket* and the holder of the *Rail Ticket* is not entitled to any allowance or compensation due to any change in the time or location of the service or any reduction in the service.
- (h) The *Operator* is not required to refund money or to make any other allowance to a *Customer*:
  - (i) who has lost or mislaid his or her *Rail Ticket*, who has a damaged *Rail Ticket* or who presents a stolen *Rail Ticket*;
  - (ii) because of a subsequent reduction in the rate for that *Rail Ticket* type; or
  - (iii) who is unable to fully utilise their *Rail Ticket* for any reason.

Nothing in these *Conditions* is intended to limit or replace any rights *Customers* have under the Consumer Guarantees Act 1993.

## 2.2 Indemnity

The *Customer* will indemnify the *Operator* at all times against any loss, damage or cost suffered or incurred by the *Operator* as a direct or indirect result of a breach by the *Customer* of its obligations under these *Conditions*.

## 3. Accompanied Items and Lost Property

### 3.1 Accompanied Items

The following conditions apply to Accompanied Items:

- (a) All Accompanied Items are carried under the conditions set out in section 682 of the Contract and Commercial Law Act 2017.
- (b) Large items, such as bicycles may only be carried if there is room for them on a *Passenger Service*. There is no facility available for the transport of large items on peak services (7.00 am to 9.00 am and 3.00 pm to 6.00 pm). Larger items may be transported in off peak periods, as long as there is space available. These items must not block exit ways, including doorways and passages. Large items (including bicycles) must be carried in the area designated within the *Passenger Service* for the purpose. The *Operator* or its *representative* may refuse to carry large items on any *Passenger Service* where, in the opinion of the *Operator* or its *representative*, the carriage of these items may cause danger, discomfort or inconvenience to other *Customers*. Large items cannot be carried on rail bus replacement services or special event services.
- (c) Prams, pushchairs, baby carriages, shopping jeeps, battery powered mobility scooters (subject to clause 6.1(d)), non-motorised golf buggies and similar items may be carried on a *Passenger Service* at any time without charge, provided that the safety or comfort of other *Customers* is not affected. These devices must either be capable of being manoeuvred across the retractable or portable ramp by the *Customer* and/or their support person, (i.e. no wider than 650mm), or able to be carried by the *Customer* and/or their support person. Employees are not obliged to lift / manoeuvre wheelchairs, prams or other heavy items.
- (d) Battery powered mobility scooters may be carried by mobility-impaired *Customers* on a *Passenger Service* if they are no longer than 1350mm, no wider than 650mm, do not have a fully laden weight of more than 200kg and are capable of turning easily from the door of the carriage into a designated parking area within the carriage.
- (e) Personal motorised mobility devices, such as Segways, are not permitted on *Passenger Services*.
- (f) Guide (and other assistance) Dogs may be carried free of charge at all times on all *Passenger Services*.
- (g) No pets or other animals (other than Guide or other assistance Dogs) may be carried on *Passenger Services*.
- (h) *Customers* may take hand luggage and small articles on *Passenger Services* without charge. Any article which is offensive or which may in the opinion of the *Operator* cause danger, discomfort or inconvenience

to other *Customers* is not permitted. The *Operator* will not accept property for carriage on a *Passenger Service* unless it is accompanied by a *Customer*.

- (i) Representatives of the *Operator* on board trains will give reasonable assistance to *Customers* who require it. However, they are not expected to lift any item heavier than 15kg, (i.e. the size of a small suitcase), or which is bulky or difficult to lift, or which presents a risk of injury to the *Operator* or its representatives.
- (j) The *Operator* will not carry, and *Customers* agree not to bring on to any *Passenger Service*, any item that is, or may cause, a hazard, including any item that is hot, contains petrol or diesel fuel, is leaking any fluid, or includes damaged batteries.

### 3.2 Lost Property

The *Operator* is not responsible for any lost property on a *Passenger Service*. Visit <http://www.transdev.co.nz> or contact the *Operator* on 09 969 7777 for further information on lost property.

### 3.3 Unattended Items

Luggage and other items must be attended by *Customers* at all times. Unattended property may be a security risk and may be removed by the *Operator* or its representatives without notice.

## 4. Information

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- 4.1 The *Operator* will be entitled, and the *Customer* consents, to the use of any of the *Customer's* personal information obtained in relation to a *Customer's* use of any *Passenger Service*, whether collected directly from the person concerned or not, for any purpose associated with the operation and improvement of *Passenger Services*, marketing and promotion of the *Operator* or *Auckland Transport* and any other administrative purpose. The *Operator* may disclose any such information to any of its subsidiaries, associated companies, *Auckland Transport*, *Auckland Council* and/or government agencies, third party service providers or any other person engaged in business operations with the *Operator* from time to time as necessary for business purposes, or as required under the Privacy Act 1993.
- 4.2 Personal information collected, stored, used and disclosed by the *Operator* will be collected, stored, used and disclosed in accordance with the Privacy Act 1993, the *Operator's* Privacy Policy (available at <http://www.transdev.co.nz/privacy-policy/>), Trains and stations may be monitored by CCTV cameras. CCTV images are recorded for crime prevention and detection, for use in legal proceedings, and to assist with public safety, and may be passed to the New Zealand Police or other authorities.

## 5. Customers

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Each *Customer* must comply with any notice or instruction given by the *Operator* or any of its representatives concerning *Customer* conduct or the operation of any *Passenger Service*. *Customers* may only travel in areas of the train designated by the *Operator*. When on a *Passenger Service*, a *Customer* must, at all times:

- (a) act in a safe and responsible manner;
- (b) co-operate with, and observe all instructions from, the *Operator*, and its representatives;
- (c) follow all signs and obey all notices; and
- (d) ensure that hot drinks are only consumed from lidded or spill proof containers,

and will not:

- (e) smoke, take drugs or consume food;
- (f) consume alcohol or be in possession of an open vessel of alcohol;
- (g) use bicycles, roller skates, roller blades, scooters, skateboards or other similar equipment;
- (h) be accompanied by any animal (other than a Guide or other assistance Dog);
- (i) interfere with or use emergency equipment or emergency exits except in an emergency;

- (j) behave in an unsafe, noisy, violent or antisocial manner;
- (k) evade or attempt to evade payment of a passenger service fare for which the Customer is liable;
- (l) litter, tamper with or damage any property of the *Operator* or *Auckland Transport*;
- (m) carry any weapon or any noxious or illegal substance; or
- (n) commit any crime.

## **6. Refusal to Carry**

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The *Operator* and its representatives may refuse to carry a *Customer* or any property, refuse carriage under a *Valid Rail Ticket* or require a *Customer* to disembark at a station when, in the exercise of its reasonable discretion, the *Operator* or one of its representatives decides that:

- (a) the action is necessary for reasons of safety;
- (b) the action is necessary to prevent violation of any law;
- (c) the conduct, age, mental or physical state, nature or condition (including intoxication) of a *Customer* or the *Customer's* property, as applicable, may:
  - (i) require the special assistance of the *Operator* or its representatives;
  - (ii) cause inconvenience, discomfort or objection to another *Customer*, or
  - (iii) involve any hazard or risk to that *Customer* or property or to any other person or property;
- (d) the person does not have a *Valid Rail Ticket* or has previously defrauded the *Operator* or *Auckland Transport*;
- (e) the action is necessary owing to the failure by a person to observe the instructions of the *Operator* or its representative;
- (f) the safety of the *Operator* its representatives, or *Customers* is, or may be, threatened;
- (g) the person appears to be under the influence of alcohol or drugs, is in (or is carrying any item that is in) a filthy condition, is smoking, is littering, or is consuming food;
- (h) the person is consuming a hot drink in an open, or non-spill proof container;
- (i) the person is abusive towards, the *Operator's* representatives, contractors or other *Customers* including by swearing or using racist or other discriminatory language or threats;
- (j) the person is noisy or violent or is disturbing the peace;
- (k) the person is carrying a weapon or any noxious or illegal substance;
- (l) the person is accompanied by an animal (other than a Guide, or other assistance Dog);
- (m) the person has (or has previously) vandalised rolling stock, public transport assets (including train station premises and shelters), or other equipment used by the *Operator* or *Auckland Transport*;
- (n) the person has evaded, or is attempting to evade, a fare; or
- (o) the person is in breach of these *Conditions*.

## **7. Definitions**

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In these *Conditions*:

Accompanied Item means any item that a *Customer* takes on a *Passenger Service*, and accompanies throughout that *Passenger Service* journey;

AT HOP Card means a second generation ticketing smartcard sold by or on behalf of *Auckland Transport* (and excludes a first generation HOP card co-branded with "Snapper");

AT HOP Card Terms of Use means the terms and conditions relating to governing the possession and use of an AT HOP Card set out on the *Auckland Transport* website [www.AT.govt.nz](http://www.AT.govt.nz);

Auckland Council includes its employees, agents, contractors, successors and assignees;

Auckland Transport includes *Auckland Transport's* employees, agents, contractors, successors and assignees;

Concession Entitlement means an entitlement to purchase concession fares subject to Auckland Transport's concessionary fare scheme;

Conditions has the meaning given to that term in section 1;

Customer means a person on a *Passenger Service* who holds, or is required to hold, a *Valid Rail Ticket*;

Guide Dog means a guide dog used for sight, hearing, mobility, epilepsy or any other disability assistance, and guide dogs in training;

Operator means Transdev Auckland Limited, its successors and assignees or a person who has entered into a contract with Auckland Transport for the provision by that person of a service carrying *Customers* by *Passenger Services*;

Passenger Service means a train service (excluding chartered or special vehicles) conducted by the *Operator* and includes a service normally provided by a train that is provided using an alternative mode of transport;

Permit to Travel means a permit issued by the *Operator* or its representative or a *Transport Officer* to a *Customer* who has provided evidence satisfactory to that inspector that, as a result of equipment failure, the *Customer* has not been able to purchase a *Valid Rail Ticket*;

Valid Rail Ticket means either:

- (a) a paper ticket purchased from a *Ticket And Top Up Machine* or *Customer Service Centre*;
- (b) an *AT HOP Card* (loaded with HOP Money, a Period Pass or a Pre-Paid Trip (as defined in the *AT HOP Card Terms of Use*));
- (c) a *Permit to Travel* (issued by the *Operator* or *Operator's* representative); or
- (a) a monthly ticket issued by the *Operator* for use by the *Operator's* nominated staff and their dependents (separate conditions apply).

## 8. Interpretation

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In these *Conditions*, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of these *Conditions*;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- (e) a reference to a section or schedule is to a section or schedule of these *Conditions*. Each schedule forms part of these *Conditions*;
- (f) a reference to any statute, regulation, proclamation, order in council, ordinance, by-law or rule, includes all statutes, regulations, proclamations, orders in council, ordinances, bylaws or rules varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws or rules issued under that statute;

- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (h) a reference to a person includes that person's executors, administrators and successors;
- (i) the term includes or including (or any similar expression) is deemed to be followed by the words "without limitation";
- (j) a reference to Auckland Transport includes Auckland Transport's employees, contractors, agents or other representatives;
- (k) a reference to an Operator includes the Operator's officers, employees, contractors, agents or other representatives; and
- (l) other parts of speech and grammatical forms of a word or phrase defined in these Conditions have a corresponding meaning.

## 9. New Zealand Law

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These *Conditions* are governed by New Zealand law. Any proceedings relating in any way to these *Conditions* or to any *Passenger Service* must be brought in a court of competent jurisdiction in New Zealand.

## 10. General

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Except as expressly provided in these *Conditions* or in the conditions attached to any *Rail Ticket* as set out in the *AT HOP Card Terms of Use*, all *Rail Tickets* are issued and all *Passenger Services* are performed, subject to:

- (a) the extent applicable in each case, subsection 1, part 5 of the Contract and Commercial Law Act 2017, Railways Act 2005 and the Human Rights Act 1993;
- (b) Land Transport Act 1998;
- (c) all other laws, conditions and any licence applicable to carriage under a *Rail Ticket*;
- (d) these *Conditions*; and
- (e) all other conditions, regulations and information appearing on a *Rail Ticket*.

These *Conditions* are intended to be for the benefit of, and enforceable by, the *Operator* for the purposes of subsection 1, part 2 of the Contract and Commercial Law Act 2017.

## 11. Overriding law

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If any provision contained or referred to in these *Conditions* is in conflict with any other law and that other law cannot be waived or avoided by these *Conditions*, that provision only remains applicable as part of these *Conditions* to the extent that it is not in conflict with the law. The invalidity of any provision does not have the effect of invalidating any other provision of these *Conditions*.

## 12. Conflict with Ticket Conditions

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If there is any conflict between these *Conditions* and the conditions or information printed on a *Rail Ticket* or contained in the *AT HOP Card Terms of Use*, these *Conditions* prevail.

## 13. No Waiver

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Nothing in these *Conditions* represents a waiver by the *Operator* of any statutory or other legal right, immunity, exception, limitation or protection.

## 14. Amendments to these Conditions

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These *Conditions* may be amended without prior notice. Any amendments to these *Conditions* are valid and effective from the time that they are published on the *Operator's* website ([www.transdev.co.nz](http://www.transdev.co.nz)).