

SMARTBENEFITS® NON-EMPLOYER RIDER PROGRAM

TERMS AND CONDITIONS

INTRODUCTION

SmartBenefits® enables social service agencies, homeowner associations, their third-party administrators and other organizations (Providers) to offset or reduce transit costs in whole or in part for their clients, students, volunteers, visitors, contractors, or any other third-party, non-employee authorized by the Provider (individually and collectively “Recipients”). The Washington Metropolitan Area Transit Authority (WMATA) created and administers the SmartBenefits® Recipient Rider Program (SmartBenefits® Program) to provide transportation and/or parking funds to your Recipients with your registration into the program. Each Recipient must have a registered SmarTrip® card account into which the SmartBenefits® funding is added by the Provider. The card may be registered in the Recipient’s name or the Provider’s name.

By registering for and ordering SmartBenefits® through this portal, the Provider accepts and agrees to be bound by SmartBenefits® terms and conditions, other provisions of this Agreement and other applicable WMATA policies, including the System of Records Notice and Public Access to Records Policy, the WMATA Tariff on Metro Fares and the WMATA Tariff on Ridership Rules. Any use of the SmartBenefits® Program or portal will constitute acceptance of this entire Agreement. If the Provider does not agree to abide by the terms and conditions herein, do not use the SmartBenefits® portal. A transit subsidy rendered by a Provider to a Recipient is NOT a qualified transportation fringe benefit as defined by the Internal Revenue Code; therefore, tax advantages are not applicable; however, the value of the transit subsidy may be considered as taxable income to the Recipient. None of the information contained herein is intended to confer tax advice to any SmartBenefits® Provider or Recipient in the SmartBenefits® Program. All Providers and Recipients are encouraged to consult a tax professional for interpretation of IRS laws, regulations, and guidance.

PROVIDER & THIRD-PARTY ADMINISTRATOR SMARTBENEFITS® REGISTRATION

The SmartBenefits® application and registration must be completed online by an authorized representative of the Provider or by the Provider’s Third-Party Administrator (TPA). WMATA will assign the Provider with a customer account number, user ID, and a password. Once the Provider’s SmartBenefits account is opened, the Provider will be given instructions to configure their account to process SmartBenefits® orders. Orders will not be processed unless and until order payment instructions in a form acceptable to WMATA have been submitted by the Provider. By applying for SmartBenefits®, the Provider agrees that it is responsible for managing the SmartBenefits® Program on behalf of its Recipients.

RECIPIENT SMARTRIP® CARD REGISTRATION

Recipients may use their online SmarTrip® account to view their SmartBenefits® account transaction history and balance(s) if the SmarTrip card is registered in the Recipient’s name. If allowed by their Provider, Recipients may allocate SmartBenefits® transit benefits to third party transit service operators such as MARC, VRE, MTA Commuter Bus and vanpools.

FUNDING SMARTBENEFITS®

1. The Provider may add SmartBenefits® funds up to the maximum amount authorized by the SmartBenefits® User Guide directly to the “transit purse” of the Recipient’s SmarTrip® account to subsidize the cost of any eligible WMATA fare product or to purchase fare on any eligible transit provider in the Washington DC metropolitan area; or
2. The Provider may add SmartBenefits® funds up to the maximum amount authorized by the SmartBenefits® User Guide directly to the “parking purse” of the Recipient’s SmarTrip® account for use at eligible parking facilities; or
3. The Provider may add SmartBenefits® funds designated as “official travel” to the “stored value purse” up to the \$300 maximum for that purse. Those funds may be used at eligible transit and parking providers; or
4. The Provider may pre-purchase a reserve of SmartBenefits® AnyTime funds which are available for the Provider to allocate to SmarTrip® cards enrolled in SmartBenefits® independently of the monthly SmartBenefits® allocation process.

ADVANCE PAYMENT OF SMARTBENEFITS®

SmartBenefits® orders shall be due and payable in advance of the availability of SmartBenefits® by Automated Clearing House (ACH) electronically debited from a registered bank account via Electronic Funds Transfer (EFT) into WMATA’s Depository Institution or by bank card. Payment of each SmartBenefits® order must be made in full by the first business day following the Provider or third-party administrator’s designated order deadline as a prerequisite to processing SmartBenefits® purchases for the upcoming month. By providing your payment information and selecting a payment method of either ACH-WMATA Originated or bank card, you agree and authorize WMATA to debit/credit or otherwise withdraw funds in the manner, amount and date specified by you, including transaction fees, if any, without respect to the source of any funds in such account provided by you. You further authorize and agree to pay any and all fees and penalties for any authorized transaction which cannot be processed, is returned or is late. Users that prefer to pay using a bank card may be charged a convenience fee of up to 3% of the total payment amount of each bank card transaction to defray costs incurred by WMATA to process bank card payments. If a convenience fee is applied, the amount of such convenience fee will be shown on the order screen. **EXCEPTION: Government agencies may pay for SmartBenefits® up to one month after the availability of SmartBenefits® if the government agency has utilized a Purchase Order (“PO”) that has been approved by WMATA to secure funding for SmartBenefits® and provides a copy of the same to WMATA. WMATA will not countersign any PO issued for this purpose unless otherwise agreed.**

UNUSED SMARTBENEFITS® FUNDS

The Provider may elect to “rollover” a Recipient’s unused SmartBenefits® subject to maximum rollover limits which may change from time-to-time as determined by WMATA. Such election allows unused SmartBenefits® subsidies to remain in the Recipient’s account to which they were appropriated for future use by that Recipient. The funds remain with the Recipient until such time as the Recipient exhausts the value by using the eligible transit or parking providers. Once SmartBenefits® funds are allocated to the Recipient’s SmartBenefits® account, such funds are non-refundable and never expire as long as the fare technology possessed by the Recipient is still accepted for use in the payment of fares with WMATA.

Providers that subsidize SmartBenefits® for their Recipients may elect “non-rollover” treatment of unused SmartBenefits® subsidies for all or a portion of the subsidy. A non-rollover election provides an end of the month sweep of Recipients’ unclaimed SmartBenefits® subsidies to the Provider’s SmartBenefits account. The unused SmartBenefits® funds recaptured by the sweep are credited against orders for subsequent months until exhausted or until the Provider terminates the SmartBenefits® account. Upon termination of a SmartBenefits® account, recaptured non-rollover funds may be refunded to the Provider. The Provider may change the non-rollover election of any one or more Recipients for any future subsidy month.

The Provider may elect to retrieve Recipient benefits. Retrieving a benefit will remove the benefits from a SmarTrip® card. For rollover transactions this feature must only be used to correct an error. For non-rollover transactions, this feature may also be used to prevent a former Recipient from using remaining benefits if the Recipient left the program before the end of the benefit month. Suspended benefits are applied as a credit against orders for subsequent months until exhausted.

Providers may also elect to purchase SmartBenefits® AnyTime funds. Unused SmartBenefits® AnyTime funds that have not been allocated to SmarTrip® cards may be refunded to the Provider.

Unless otherwise authorized by the WMATA Tariff on Metro Fares, WMATA will **NOT** refund unused SmartBenefits® funds after the Provider has allocated such funds to a SmarTrip® card.

INACTIVE SMARTBENEFITS® ACCOUNTS

Providers herein acknowledge and agree that WMATA may administratively terminate any SmartBenefits® account that is inactive for a period of thirteen (13) consecutive months. Providers also acknowledge and agree that any unused credits in an administratively terminated SmartBenefits® account up to \$1,000 and for accounts that have been inactive beyond three years will be forfeited without further notice. Administratively terminated SmartBenefits® accounts with order activity within the past three years and a credit of \$1,001 or more will receive written electronic notice of administrative termination of the SmartBenefits® account due to account inactivity as well as information regarding unused credits with such notice sent to the last email address on file. In the event no response regarding unused credits is received within 12 months of the administrative termination date, Providers herein acknowledge and agree that such SmartBenefits® credits shall be forfeited to WMATA in compliance with the Official Code of the District of Columbia § 41–152.01.

TERMINATION OF SMARTBENEFITS®

The Provider herein acknowledges and agrees that WMATA may terminate the Provider’s participation in the WMATA SmartBenefits® Program at any time, and without cause.

ASSIGNMENT OF SMARTBENEFITS®

A Provider shall notify WMATA of any assignment of its approved SmartBenefits® account and any rights to participate in the WMATA SmartBenefits® Program to Provider’s successors and assignees. Any such assignment shall become effective following completion of an application by the successor or assignee and approval thereof by WMATA.

INDEMNIFICATION

All registered Providers using the SmartBenefits® Transit Benefit Program portal herein certify to defend, indemnify and hold harmless WMATA, its officers, directors, employees, contractors, subcontractors and agents from and against any third party claims suits, demands, actions, judgments, awards, liabilities, losses, damages, and expenses (including reasonable attorneys' fees and costs) arising out of or relating to damages or causes of action arising out of WMATA's failure to perform, or failure to comply with its obligation under these Terms and Conditions and the WMATA SmartBenefits® Program. **EXCEPTION: Government agencies shall pay only their own costs and liabilities related to any dispute arising from WMATA's obligations and duties under these Terms and Conditions and related to the WMATA SmartBenefits® Program.**

PRIVACY AND USE OF INFORMATION

WMATA logos and all related product and service names are marks or registered marks of WMATA and are the property of WMATA. Any unauthorized copying, alteration, distribution, transmission, performance, display or other use of this material is prohibited. Any information WMATA receives through this portal will be used for fulfilling your requests and consistent with the applicable System of Records Notice. We do not lease, sell or otherwise release your Provider's information to outside companies for marketing purposes. By providing such information to this portal, you hereby grant WMATA the right to read, use, and distribute the information as WMATA deems appropriate in its sole judgment.

Users of this portal are prohibited from posting or transmitting any unlawful, threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, objectionable or profane material or any materials that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability or otherwise violate any law. You are also prohibited from posting or transmitting any information, software or other material which violates or infringes on the rights of others, including material which is an invasion of privacy or publicity rights or which is protected by copyrights, trademark or other proprietary right, or derivative works with respect thereto, without first obtaining permission from the owner or right holder. Users are prohibited from posting or transmitting any information, software or other material which contains a virus or other harmful components.

Please review the WMATA System of Records Notice ("SORN") and the WMATA Privacy Policy and Legal Disclaimer to understand WMATA's practices as such policies also governs the User's registration, use and participation in the WMATA SmartBenefits® Program. The WMATA SORN and Privacy Policy and Legal Disclaimer can be reviewed at:

[Routine Uses Applicable to Many WMATA Systems of Records](#)

[SmartBenefits® Records](#)

[SmarTrip® Database](#)

[Privacy Policy and Legal Disclaimer](#)

ELECTRONIC COMMUNICATIONS

When you use this portal, or send e-mails, text messages, and other communications from your desktop or mobile device to us, you may be communicating with us electronically. You consent to receive

communications from us electronically, such as e-mails, texts, mobile push notices, or notices and messages on this site or through other WMATA services, and you can retain copies of these communications for your records. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

LICENSE AND ACCESS

Subject to your compliance with these Terms and Conditions, WMATA grants you a limited, non-exclusive, non-transferable, non-sublicensable license to access and use this portal. The license granted by WMATA terminates if you do not comply with these Terms and Conditions

DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

To the full extent permissible by law, WMATA disclaims all warranties express or implied for all services, information, content, materials, products (including software) or other services included on or otherwise made available to you through this portal, WMATA's servers or that electronic communications sent from WMATA are free of viruses or other harmful components. To the full extent permissible by law, WMATA will not be liable for any damages of any kind arising from the use of any WMATA service, or from any information, content, materials, products (including software) or other services included on or otherwise made available to you through any WMATA website or service, including, but not limited to direct, indirect, incidental, punitive, and consequential damages.

All Users of the SmartBenefits® portal herein certify to defend, indemnify and hold harmless WMATA, its officers, directors, employees, contractors, subcontractors and agents from and against any third party claims suits, demands, actions, judgments, awards, liabilities, losses, damages, and expenses (including reasonable attorneys' fees and costs) arising out of or relating to damages or causes of action arising out of WMATA's failure to perform, or failure to comply with its obligation under these Terms and Conditions and the WMATA SmartBenefits® Program. **EXCEPTION: Government agencies shall pay only their own costs related to any dispute arising from WMATA's obligations and duties under these Terms and Conditions and related to the WMATA SmartBenefits® Program.**

APPLICABLE LAW

All applicable federal, state and local laws govern user access to this WMATA website and portal. By accessing and registering for WMATA SmartBenefits® through this portal, you accept and agree that any disputes which arise as a result of this Agreement shall be heard in a court of competent jurisdiction located in Washington, DC and shall be interpreted under the laws of the District of Columbia without regard to principles of conflict of laws.