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1.0 ORCA Program and Governing Terms and Conditions

1.1 Welcome to ORCA, which stands for One Regional Card for All. The ORCA Program allows you to participate in a regional fare payment system that enables you to use a single fare card when traveling on the public transportation services provided by the participating Agencies.

1.2 You may use cash to pay your fare and choose not to participate in the ORCA Program when you ride public transportation. If you choose to use the products and services provided by the Agencies under the ORCA Program (including but not limited to ORCA Cards, ORCA Products, ORCA Websites, and ORCA Customer Services), your use will be subject to and governed by these ORCA Program Terms of Use and the ORCA Program Privacy Statement (both are available at www.orcacard.com, www.orcacard.biz and at ORCA customer service offices) and such other terms and conditions, disclosures and consents that are contained in the ORCA Program Websites, forms, Business Account agreements and other written materials, all of which may be established, modified or withdrawn from time to time.

1.3 In addition to such ORCA Program-specific terms and conditions, your use of the ORCA Cards and ORCA Products is also subject to all applicable federal, state and local law, regulations, ordinances, codes and policies, including but not limited to each Agency's fares, tariffs, rates, prices, promotional programs, reduced fare programs, time and zone designations, routes, transfer policies, rules of conduct and other terms and conditions that apply to its public transportation services and which may be established, modified or withdrawn from time to time. Such other provisions applicable to public transportation service are available from the Agencies.

2.0 Definitions

As used in these Terms of Use, the following terms shall have the meanings indicated.

2.1 "Agency(ies)" means one or more of the following public transportation providers and the contractors and subcontractors which these Agencies, individually or collectively, have retained for purposes related to the ORCA Program.

- a. Central Puget Sound Regional Transit Authority ("Sound Transit");
- b. City of Everett ("Everett Transit");
- c. King County ("King County Metro");
- d. Kitsap County Public Transportation Benefit Area ("Kitsap Transit");
- e. Pierce County Public Transportation Benefit Area ("Pierce Transit");
- f. Snohomish County Public Transportation Benefit Area ("Community Transit"); and
- g. The State of Washington acting through the Washington State Department of Transportation, Washington State Ferries Division ("WSF")

For clarification, the term "Agency(ies)" does not include Business Accounts or Retailers.

2.2 "Associated Cardholder" means an entity or a person at least 18 years of age, other than the Primary Cardholder, who pays for the product or products on an ORCA Card.

2.3 "Autoload" means the Cardholder-authorized process for automatically loading ORCA Products on a registered ORCA Card and making a corresponding charge against the Cardholder's credit card to pay for the loaded Product.

2.4 "Business Account" means an entity other than an individual customer, including but not limited to an employer, educational institution or social service agency that purchases Business Cards and products for

distribution to its employees, students or other program participants according to the terms of an agreement with one of the Agencies.

2.5 "Business Card" means a type of ORCA Card issued to a Business Account for distribution by it to individuals who are eligible participants in the Business Account's transportation program.

2.6 "Card" means an ORCA Card.

2.7 "Cardholder" means a natural person to whom an individual ORCA Card has been issued by an Agency or to whom a Business Card has been distributed by a Business Account.

2.8 "Lead Agency" means one of the Agencies which, on behalf of itself and one or more of the other Agencies, signs an agreement with a Business Account for the sale of Business Cards and ORCA Products.

2.9 "Low Income" means a type of ORCA Card issued to an individual who is determined to be eligible in King or Kitsap counties for reduced fare based on income. A Low Income ORCA Card is not transferable.

2.10 "ORCA" means the trademarked acronym that stands for One Regional Card for All.

2.11 "ORCA Card" means the smart card that can be presented for payment of fare to ride train, bus and ferry services provided by, and in accordance with the terms established by, the Agencies. ORCA Card can mean cards issued to individuals and Business Cards, unless the context indicates it means one or the other.

2.12 "ORCA Customer Service(s)" means the facilities and services of one or more of the Agencies that exchange, with customers, information related to the ORCA Program and conduct sales of ORCA Cards and ORCA Products, including customer services counters, call centers, mail centers, Business Account support and ticket vending machines.

2.13 "ORCA Product(s)" or "Product(s)" means any transit fare payment option offered for sale within the ORCA Program, including, but not limited to, monthly or period passes and E-purse.

2.14 "ORCA Program" means the equipment, systems, facilities, ORCA Cards, ORCA Products, ORCA Websites, data, information, and any products and services related to the regional fare coordination and payment program implemented by the Agencies using smart cards as the common media for fare payment on their public transportation services.

2.15 "ORCA Websites" mean the following websites: Cardholder Website (www.orcacard.com) and Business Account Website (www.orcacard.biz).

2.16 "Personally Identifying Information" (PII)" means the following information when collected by the Agencies under the ORCA Program: a natural person's name; and, if combined with said name, such person's address, phone number, email address, date of birth, Regional Reduced Fare Permit-related information (as defined below) and photo, and check, debit card credit card information.

2.17 "Primary Cardholder" means the person who uses a Card for transportation services.

2.18 "Retailer" or "ORCA Retailer" means a retail business or other entity that, under an agreement with an Agency, is equipped with a device at which a customer may purchase ORCA Products for loading on an ORCA Card.

2.19 "Regional Reduced Fare Permit (RRFP)" means a type of ORCA Card issued to an individual who is determined to be eligible for reduced fare by one of the Agencies based on the individual's disability or age (age 65 and older). An RRFP ORCA Card is not transferable. All RRFP ORCA Cards are registered Cards. A valid Medicare card is proof of eligibility for an RRFP.

2.20 "Youth Card" means a type of ORCA Card issued to an individual who is determined to be eligible for reduced fare by one of the Agencies based on the individual's age (6 to 18 years old). A Youth ORCA Card is not transferable.

3.0 Only Authorized ORCA Cards and ORCA Products Accepted

3.1 Only an Agency or a Business Account (e.g. your employer or another institution) or an authorized distributor may provide you with an authorized ORCA Card. You may not deface, alter, duplicate an ORCA Card or create a counterfeit ORCA Card. You may not load ORCA Products through an unauthorized means onto an ORCA Card or an unauthorized card. The Agencies do not intend to honor defaced, altered, duplicated or counterfeit cards or otherwise unauthorized cards or products.

3.2 The Agencies reserve the right to examine cards, confiscate any that are believed to be unauthorized or hold unauthorized products, and either deny transportation services to, or require payment in cash from, a person presenting unauthorized cards or products as payment for transportation service.

4.0 ORCA Products

4.1 The ORCA Products that may be loaded onto ORCA Cards represent prepaid fares on transportation services provided by ORCA Agencies. The three types of prepaid fares are:

- a. Passes: the electronic equivalent of passes that are valid for use on the transportation service of one or more of the participating Agencies, depending on the type of pass.
- b. E-purse: pre-paid value that may be used to pay a fare or a portion of a fare.
- c. Multi-ride Ticket: Pre-paid rides that may be used to pay a fare on Washington State Ferries. A Multi-ride Ticket is route specific.

4.2 ORCA Cards are not, and do not represent, “accounts” or “deposits” and ORCA Products are not “money.” They simply represent the transportation fare product for which you have already paid. You may not redeem ORCA Cards and ORCA Products for money or any product or service other than an applicable transportation service provided by an ORCA Agency. Sales of ORCA Products are final and nonrefundable, except for the limited refund of E-purse value available in accordance with Section 5.0.

4.3 Value added to an ORCA Card online, by mail, or by phone can take 24-48 hours to reach the ORCA card readers. After that time, you must tap at a reader to activate the value added. If you fail to tap the Card within 60 days, the E-purse value will become inactive and require the Cardholder to contact ORCA Customer Service to restore valid E-purse value (monthly pass value expires and will not be restored).

4.4 Payment shall be made to an Agency or to a Retailer for ORCA Products that are loaded onto an ORCA Card. The electronic record in the ORCA system shall be conclusive evidence of the ORCA Product value that was loaded on an ORCA Card and remains unused or unexpired.

4.5 Use of ORCA Products as a means of fare payment on a given trip will depend on the type of ORCA Product(s) loaded on the ORCA Card and on the policies and restrictions of the Agency providing that trip. For example:

- a. Some products (passes are the most common) are specified to be usable at only one of the Agencies.
- b. A pass product valued at less than the required fare plus E-purse value may be used in combination to cover the full amount of a single fare, if loaded on a single ORCA Card, except on Washington State Ferries.
- c. A single ORCA Card can be used to pay for two or more people traveling together, except on Community Transit's *Swift* service. On Sound Transit, use of a single ORCA Card to pay for multiple riders is only accepted at a ticket vending machine, where the Cardholder may use E-purse value to purchase train tickets for companion(s).

4.6 If an ORCA Product or combination of Products is not usable or is not sufficient to cover the applicable fare, the Cardholder is required to make full fare payment by a means other than an ORCA Card.

4.7 The Agencies reserve the right to change fares at any time. To the extent value remaining on an ORCA Card is not sufficient, the Cardholder is required to make full fare payment by a means other than an ORCA Card.

4.8 The Agencies reserve the right to withdraw from the ORCA Program at any time and not accept ORCA Product(s) as fare payment. In that event, the Cardholder is required to make full fare payment by a means other than an ORCA Card.

4.9 The Agencies reserve the right to establish the terms for the use of the ORCA Card on their transit systems. Some Agency services allow or require a person to pay the fare prior to boarding a vehicle or entering a fare paid area and then requires the customer to present proof of payment while on board. (Examples of such service include Sound Transit's Link light rail and Sounder trains, Community Transit's *Swift* service King County Metro's RapidRide service, and Seattle Streetcar.) To show proof of fare payment on such services, the ORCA Cardholder is required to “tap” the ORCA Card at a yellow card reader before boarding or before entering a designated fare-paid area. (Tapping again within 5 minutes of your original card tap, at any reader on the platform or in the same

station area, will reverse the transaction.) Failure to tap before boarding or entering a fare paid area as required by these systems will subject the Cardholder to a fine. The Cardholder must tap the ORCA Card after getting off a Link or Sounder train, which ensures appropriate fare is validated. The failure to tap after getting off these trains will result in the Cardholder being charged the highest fare regardless of distance travelled.

5.0 E-purse

5.1 You may purchase E-purse value in full dollar increments with a minimum of \$5 per load transaction. The maximum amount of E-purse value that may be held on an ORCA Card at any time is \$300. When you add value to your ORCA Card online or by phone it can take 24-48 hours for the value to be available to be loaded onto your Card. You must tap the Card at an ORCA card reader within 60 days to activate the pass or E-purse value. After 60 days, if the Card has not been tapped, the E-purse value will become inactive and require the Cardholder to contact ORCA Customer Service to restore the valid E-purse value.

5.2 E-purse value on an ORCA Card is deducted to cover the full fare of a trip less: any applicable transfer value valid within two hours of the last use of the Card (except no transfer value is recognized on Washington State Ferries service); or reduced fares (e.g. youth fares; low income, the Regional Reduced Fare Permit). The amount of E-purse value remaining on your ORCA Card after a transaction will be displayed on the card reader. If the Card fails to accurately display the remaining value, promptly report problems to ORCA Customer Service. If you have an ORCA Business Card provided by your employer or other entity, report problems to the person or entity that gave you the Card.

5.3 If a ride costs more than the E-purse value remaining on an ORCA Card, the Cardholder must add sufficient cash to pay the full fare, unless an Autoload has been established as provided in Section 10.0.

5.4 A Cardholder with a registered, individual ORCA Card (i.e. not a Business Card) who opts to withdraw from the ORCA Program and surrenders said registered individual ORCA Card to an Agency may obtain a refund of the E-purse value that remains unused on the ORCA Card, less the applicable administrative fee (as specified in Section 15.0) for each E-purse refund processed. Upon surrender of the registered individual ORCA Card, it will be blocked and a refund, less the administrative fee, will be mailed to the Cardholder. If a transit voucher was used to purchase E-purse value, a refund of that value may be considered taxable income. The ORCA Agencies do not take responsibility for determining whether the refund is taxable. The Cardholder is responsible for reporting taxable income and obtaining tax advice.

5.5 A Business Account that surrenders a Business Card to its Lead Agency may obtain a refund of the E-purse value that remains unused on the Business Card, less the applicable administrative fee (as specified in Section 15.0) for each E-purse refund processed. Upon surrender of the ORCA Business Card, it will be blocked and a refund, less the administrative fee, will be mailed to the Business Account. The Agencies cannot distinguish between E-purse value purchased by the Business Account and E-purse value that may have been purchased by the individual Cardholder that used the Business Card. The Lead Agency will provide a refund of remaining E-purse value only to the Business Account that owns and surrenders the Card. The refund policy of the Business Account will govern whether the Business Account, in turn, forwards any of the refund to an individual Cardholder that claims to have personally loaded E-purse value onto the Business Card.

5.6 The ORCA Program complies with applicable Washington State Law for escheatment of unused E-purse value.

6.0 Card Registration

6.1 You may participate in the ORCA Program without providing any personal information. If you choose to register your ORCA Card or an ORCA Business Card provided to you by your employer or other entity, the card serial number will be linked to your Personally Identifying Information (see Privacy Statement for more details). If you choose to register your Card via the Cardholder Website, you will be required to set up an online ORCA account for which you also will be required to provide Personally Identifying Information.

6.2 In registering his/her Card and in creating an online "My ORCA login", the Cardholder agrees to: (a) ensure that all information provided is true, accurate, and complete; (b) promptly notify the Agencies in writing or via the ORCA Website of any changes to his/her name, address, and phone numbers; and (c) receive information about the ORCA Program via email and/or mailings from the Agencies.

6.3 A Cardholder with a registered Card may:

- a. Access information about the Card's use and remaining value by calling ORCA Customer Service or via the Cardholder Website if he/she has an online "My ORCA login".
- b. Report an ORCA Card lost, stolen or damaged and have the Card blocked and replaced in accordance with Section 8.0. Note: a damaged Card will display as lost/stolen in the Card's account history after it has been replaced.
- c. Authorize the Autoload of new ORCA Products in accordance with Section 10.0.

7.0 Lost, Stolen or Damaged Cards

7.1 The Cardholder must take all reasonable care to prevent an ORCA Card from being defaced, altered, damaged, lost or stolen. The individual Cardholder or Business Account to whom a Card is issued bears the risk of loss if an ORCA Card is lost, stolen or damaged. A lost, stolen or damaged ORCA Card may remain valid and any ORCA Products loaded on such a Card may continue to be used for transportation services until the Product's value has been used or expires; provided, however, certain types of Cards may be blocked from continued use and replaced as provided in Section 8.0.

8.0 Blocking and Replacing Certain Cards

8.1 A registered ORCA Card or a Business Card that is reported as lost, stolen or damaged may be blocked and replaced as set forth herein. Unregistered Cards that are not associated with a business account cannot be replaced.

8.2 To block a lost, stolen or damaged registered ORCA Card and obtain a replacement, the individual to whom the Card was issued or the Associated Cardholder must report the missing or damaged Card. See Section 8.7 for lost, stolen or damaged Business Cards.

- a. Submit the report for an Adult, Youth or Low Income ORCA Card online at www.orcacard.com, by calling ORCA Customer Service at 888-988-6722 / TTY Relay: 711; in person at an ORCA customer service office, or by mail with an ORCA Card Order form.
- b. A Youth Card issued prior to June 6, 2012 may be replaced online however, if the website restricts a particular Youth Card from being replaced online, the Cardholder or Associated Cardholder will be directed to replace the Card in person or by mail. Requests submitted by mail require proof of age.
- c. A Regional Reduced Fare Permit ORCA Card cannot be replaced online.
- d. To obtain a replacement senior RRF ORCA Card, the Cardholder or Associated Cardholder can go in person to any ORCA customer service office or contact the local transit agency for assistance. You may be required to provide identification.
- e. A disabled RRF ORCA Card can only be replaced in person at an ORCA customer service office.

8.3 A Card block will be initiated within 48 hours after the report of a missing or damaged Card. Reports may be submitted in person at an ORCA customer services office or by phone and processed during Agency business hours. Outside of regular business hours a registered Card can be reported lost, stolen or damaged online provided the Card is registered and the Cardholder or Associated Cardholder has a "My ORCA login". The risk of continued use of the E-purse and other ORCA Products by an unauthorized person remains with the Cardholder until the Card is blocked. Requests to block are final and may not be withdrawn.

8.4 A person who reports in person at an ORCA customer service office that a registered individual Card is missing or damaged may immediately obtain a replacement ORCA Card by paying the applicable administrative fee. Such replacement Card will be loaded with the unexpired pass product, if any, that had been on the lost, stolen or damaged Card at the time of the report. An E-purse on a blocked Card will be available on the next tap of the replacement Card, approximately ten (10) calendar days after the replacement Card is issued. The E-purse amount

that remains on the lost, stolen or damaged Card forty-eight (48) hours after the block is initiated in the ORCA system will be restored to the replacement Card via a remote revalue function. The Agencies are not responsible for any use of the E-purse product prior to the Card block taking effect.

8.5 A person who reports via the Cardholder Website or by phone that a registered individual ORCA Card is missing or damaged will be mailed a replacement ORCA Card in approximately seven (7) business days following report of the missing or damaged Card and payment of applicable administrative fee. The replacement Card will be loaded with the unexpired pass product, if any, that had been on the lost, stolen or damaged Card at the time of the report. An E-purse or multi-ride product from the blocked Card will be available on the next tap, approximately ten (10) calendar days after the Card was reported missing or damaged. The E-purse amount or unused rides from a valid multi-ride product that remained on the lost, stolen or damaged Card forty-eight (48) hours after the block was initiated in the ORCA system will be restored to the replacement Card via a remote revalue function. The Agencies are not responsible for any use of the E-purse or multi-ride product prior to the Card block taking effect.

8.6 To block a lost, stolen or damaged Business Card and obtain a replacement, the individual to whom the Card was distributed must report the missing or damaged Business Card to the Business Account that provided the card. The Business Account then must report it to the ORCA system via the Business Account Website or by calling the Lead Agency. A Business Card block will take effect when the report of a missing or damaged Card is processed in the ORCA system. For fastest processing, it is recommended that the report be submitted via the Card block function in the Business Account Website. Reports submitted by email, phone, or regular mail can only be received and processed during Agency business hours. The risk of continued use of the E-purse and other ORCA Products by an unauthorized person remains with the Business Account until the block takes effect. Requests to block are final and may not be withdrawn.

8.7 The Business Account will provide the replacement Business Card to the individual Cardholder and pay the Lead Agency any applicable fee. The unexpired pass product, if any, that had been on the lost, stolen or damaged Card at the time of the report will be loaded when the replacement Card is tapped after approximately two (2) business days. An E-purse or unused rides of a multi-ride product on a blocked Business Card will be restored when the replacement Card is tapped after approximately ten (10) business days. The amount restored will be the E-purse value or unused multi-rides which remained on the lost, stolen or damaged Card at the time the block was processed. The Agencies are not responsible for any use of the E-purse or multi-ride product prior to the Card block taking effect.

9.0 Blocking and Replacing Defective Cards

9.1 If an ORCA Card malfunctions, it will be blocked when it is surrendered at an ORCA customer service office or received at the ORCA Regional Mail Center (201 S Jackson St, MS KSC-TR-0108, Seattle WA 98104-3856).

9.2 You may obtain a replacement for the defective Card at the time it is surrendered by paying the applicable administrative fee. Provided, however, the Card will be replaced without a fee if the Card: (a) was surrendered to an Agency within twelve (12) months after it was issued to an individual or Business Account; and (b) the malfunction, as determined by an Agency customer service representative, was caused by a defect in design, material or workmanship and was not caused by misuse, an intentional act, negligence or damage (reasonable wear and tear excepted).

9.3 If the defective Card is surrendered at an ORCA customer service office, the replacement Card will be loaded with the unexpired pass product, if any, that had been on the defective Card at the time the Card was surrendered and the Card block was initiated. An E-purse or unused rides of a multi-ride product from the blocked Card will be available on the next tap of the replacement Card, approximately ten (10) calendar days after the Card was reported missing or damaged. The E-purse amount or unused rides of a multi-ride product that remained on the defective Card forty-eight (48) hours after the block was initiated in the ORCA system will be restored to the replacement Card via a remote revalue function. The Agencies are not responsible for any use of the E-purse or multi-ride product prior to the Card block taking effect.

9.4 If the defective Card was surrendered to the ORCA Regional Mail Center, a replacement Card will be mailed to the Cardholder within seven (7) business days of receipt of the Card and any applicable fee paid by check or

money order. The replacement Card will be loaded with the unexpired pass product, if any, that had been on the defective Card at the time the Card was surrendered and the block was initiated. An E-purse or multi-ride product from a blocked Card will be available on the next tap of the replacement Card, approximately ten (10) calendar days after the replacement Card is issued. The E-purse amount or unused multi-ride product that remained on the defective Card forty-eight (48) hours after the block was initiated in the ORCA system will be restored to the replacement Card via a remote revalue function. The Agencies are not responsible for any use of the E-purse or multi-ride product prior to the Card block taking effect.

9.5 A defective Card cannot be replaced online.

10.0 Autoload Program

10.1 A registered Cardholder or Associated Cardholder may authorize automatic reloading of ORCA Products and automatic payment by recurring credit card transactions. Autoload may be authorized for ORCA passes or E-purse. A Cardholder or Associated Cardholder may also authorize Autoload for a combination of E-purse and a monthly pass. The list of passes that can be loaded via Autoload is posted on www.orcacard.com. Autoload cannot be authorized on a Card provided by a Business Account.

10.2 In authorizing an Autoload, the Cardholder or Associated Cardholder agrees to:

- a. Ensure that all information provided to ORCA is true, accurate, and complete.
- b. Authorize the ORCA Agencies and their respective service providers to verify the information contained in the Autoload authorization.
- c. Promptly notify the ORCA Agencies of any changes to the Cardholder's or Associated Cardholder's name, address, phone number(s), credit card account information and the other information provided in setting up the Autoload authorization. Changes may be submitted online or by using the printable Autoload Authorization form. **IMPORTANT CAUTION:** If the specified credit card expires or is otherwise cancelled and the payment fails, the Autoload authorization will be cancelled automatically.
- d. Provide a valid credit card account and authorize a recurring transaction against said credit card account for the purchase the ORCA Products at the prices in effect at the time of each transaction.

10.3 If the Autoload of a monthly pass product (other than the King County Metro Access pass) is authorized:

- a. A new monthly pass will be loaded automatically onto the ORCA Card the first time the Card is used in the new month, and the specified credit card will be charged. **IMPORTANT CAUTION:** The monthly pass product will Autoload with a fare-paying tap at an ORCA card reader. The full price will be charged regardless of when in that month the ORCA Card is first used.
- b. The amount charged to the specified credit card will be based on the price in effect at the time the Autoload occurs, until and unless the Autoload authorization is terminated as provided herein. The price of the monthly pass product is subject to change by the Agencies.

10.4 If the Autoload Authorization specifies a monthly regional pass product, the face value of a Cardholder's specified pass product may become inadequate over time as a result of fare increases or loss of eligibility under a reduced fare program, i.e. youth, Low Income or RRFP. The Cardholder or Associated Cardholder must cancel the Autoload authorization on the original product and set up a new Autoload if a regional pass product with a higher face value is needed.

10.5 If Autoload of the King County Metro Access pass is authorized:

- a. The credit card payment request will be initiated automatically on the 23rd of each month, until action is taken to cancel the Autoload.
- b. If the credit card charge is successful, an email notification will be sent to the email on record for the Primary or Associated Cardholder and the pass purchase will be documented in King County's Accessible Services division.
- c. If the credit card payment is not successful, the pass will not be purchased and the Autoload will be cancelled.
- d. The price of the King County Metro Access pass is subject to change. If Autoload is authorized, the price in effect at the time the Autoload occurs will be charged, until and unless the Autoload is cancelled.

- e. If the Access pass is authorized for Autoload the ORCA Card does not need to be tapped to set up, update or cancel the Autoload or to load the monthly pass.

10.6 If Autoload of E-purse value is authorized:

- a. The amount to be added must be specified in full dollar increments of at least \$5 but not more than \$300.
- b. The specified amount will be loaded automatically to the ORCA Card and the specified credit card will be charged when the ORCA Card is tapped to pay a fare and the E-purse value is insufficient to pay the fare of the current trip. **IMPORTANT CAUTION:** An Autoload of an E-purse will not be performed more than once per day or more than five times in a single month.

10.7 An Autoload authorization shall remain in full force and effect until it is terminated by the Cardholder, Associated Cardholder or by the Agencies as follows:

- a. The Cardholder or Associated Cardholder may terminate his/her Autoload authorization by notifying the Agencies via the Cardholder Website or by submitting a signed written termination notice to the ORCA Regional Mail Center (201 S Jackson St, MS KSC-TR-0108, Seattle WA 98104-3856.) The Autoload termination notice shall specify an effective date that is at least ten (10) business days after the date of submittal of the form.
- b. If the specified credit card expires or is otherwise terminated or if a credit card transaction authorized hereunder is rejected, reversed or otherwise fails to cover the price of an Autoload ORCA Product, that product may be blocked to prevent its further use. Under any circumstance, the Customer is liable for payment of the Autoload value if the credit card transaction failed to cover the price.

10.8 If an Autoload is terminated due to failure of a credit card transaction to cover the price of an Autoload ORCA Product, the Cardholder or Associated Cardholder may submit a new Autoload authorization online or by printing and submitting the Autoload Authorization form.

10.9 An Autoload may be set up on a Youth ORCA Card only by the Associated Cardholder.

10.10 Autoload of day pass products is not available.

11.0 Business Accounts and Business Cards

11.1 An employer, school, social service organization or other entity may apply to enter into a Business Account agreement with a Lead Agency to purchase ORCA Cards and ORCA Products for distribution to its employees, students, clients or other participants in its transportation program.

11.2 Each order for Cards and/or products that a Business Account submits and any other use of ORCA Program will be subject to the agreement and the prices in effect at the time of the order or use. A Business Account is responsible for reviewing the prices and fare information available from the Lead Agency before submitting each order; and shall be deemed to have agreed to pay the amount(s) displayed in the website order process by the act of submitting an order.

11.3 Although a Business Account remains the owner of the Business Cards after distribution, the Cardholder has the following privileges in connection with the use of an ORCA Business Card.

- a. The Cardholder may present an ORCA Business Card, loaded with a valid, applicable ORCA Product, to an ORCA fare transaction processor as proof of payment of all or a portion of a required fare on transportation service operated by one or more of the ORCA Agencies. (Provided, however, an ORCA Product that is not sufficient to fully pay a fare will not be accepted as partial payment by the Washington State Ferries.) In all cases, a Cardholder will be required to make other payment to the extent a fare is not covered by an ORCA Product.
- b. The Cardholder may individually purchase ORCA Products and load them on the Business Card in addition to whatever ORCA Products have been loaded by the Business Account.
- c. The Cardholder may register his/her name and other contact information with the ORCA System and link such personal information to the serial number of the Business Card provided to him/her. Such registration does not give the Cardholder any ownership rights in the Business Card but does give the Cardholder the right to access the ORCA Cardholder Website to view the Card's transaction history

and current stored value and to modify travel zone preferences.

d. The Cardholder may not set up an Autoload on a Card provided by a Business Account.

11.4 The Business Account is responsible for implementation and enforcement of Cardholder Rules of Use and shall require that the Cardholder, as a condition of receiving a Business Card, sign written Cardholder Rules of Use that include:

- a. A prohibition on the sale or transfer of the Business Card.
- b. Notice that the Cardholder is required to pay any difference between a required fare and the value of the fare product loaded onto the Business Card.
- c. Notice that any ORCA Products purchased by the Cardholder with his/her own funds and loaded on the Business Card, including but not limited to the E-purse, will become the property of the Business Account and any subsequent refund to the Cardholder would be the responsibility of the Business Account in accordance with its refund policy. Individuals are encouraged to purchase an individual ORCA Card if they have concerns about refund policies.
- d. Notice that the ORCA System will record data each time the Cardholder presents a Business Card to an ORCA device to prove fare payment, to load a product on it or to review the amount and type of product on it. Such data will include but not be limited to the date, time and bus route or other location related to the Card being presented. Such data is owned by the ORCA Agencies but accessible to the ORCA System contractor(s) that operate it, the Business Account, and the ORCA Agencies.

11.5 The Business Account Website is the primary means by which the Business Account shall purchase ORCA Business Cards and ORCA Products, manage its Business Cards and obtain information about the use of said Cards. The Business Account agrees that it will use the Business Account Website when it is available and that each access and use of said website shall be subject to the Terms of Use and Privacy Statement that are in effect and posted on the Business Account Website at the time of such access and use.

11.6 The Business Account understands and agrees that uninterrupted access to and use of the Business Account Website is not guaranteed and agrees that it will contact its representative at the Lead Agency by email or phone if the website not available.

11.7 The Business Account understands and agrees that it is responsible for complying with any security standards specified by the Lead Agency which include but are not limited to controls on issuing, managing and rescinding access rights and passwords to the secured website pages for the Business Account.

12.0 Retailers

12.1 The sale of an ORCA Product or a new Adult ORCA Card at a Retailer is final and no refunds will be made by the Retailer or by the Agencies.

12.2 The Retailer does not sell ORCA Cards that require proof of age or eligibility.

12.3 The Retailer, not the Agencies, is responsible for the collection, storage, transmittal, safekeeping and use of payments and information you may provide to the Retailer in order to add value to an ORCA Card or to buy a new Adult ORCA Card.

12.4 The Retailer is not able to block and replace lost, stolen, damaged or defective Cards.

13.0 ORCA Websites

13.1 ORCA Websites and any ORCA Customer Services that require PII are not intended for minors, and we will not accept or request information from individuals we know to be under 18.

13.2 The ORCA Websites may provide links to various other websites, including each individual Agency's website. The Agencies are not responsible for each other's websites or for other "non-ORCA" websites. Any terms or privacy policies that appear on an Agency's website pertain to information collected by that Agency other than in connection with the ORCA Program. Your use of other websites will be subject to their respective terms and conditions.

13.3 Information on the ORCA Websites may change without notice.

13.4 If you create, or are issued, a password in connection with the ORCA Websites, actions or communications utilizing it will be attributed to you, even if someone else is using it. You need to keep your password confidential and not share it with anyone you have not authorized to use it on your behalf.

13.5 The viewing, printing or downloading of any content from an ORCA Website grants you only a limited, nonexclusive, revocable license for use solely by you for your own personal use and not for republication, distribution, assignment, sublicense, transfer, sale, preparation of derivative works or other non-personal use. No part of any content, graphic or document may be reproduced in any form or incorporated into any information retrieval system, electronic or mechanical, other than for your personal use. Except for the limited rights expressly granted herein, all right, title and interest in and to the Websites and all materials contained therein are retained by the Agencies. Your right to access ORCA Websites may be terminated at any time by the Agencies without notice.

14.0 Prohibited Acts

14.1 Use of any element of the ORCA Program is conditioned upon the user complying with all local, state and federal laws and regulations. Users shall not use the ORCA Program, including but not limited to the ORCA Websites, ORCA Cards and ORCA Products, in an unlawful manner or for an unlawful purpose. Without limiting the foregoing, users shall not do, or attempt to do, any of the following without the Agencies' express written permission in a non-electronic record: (a) attempt to access any area of an ORCA Website or ORCA equipment that the user is not authorized to access; (b) tamper with an ORCA Website or an ORCA Card or use any hardware or software intended to damage or interfere with the proper and timely functioning of an ORCA Website or ORCA Card; (c) intercept or collect any ORCA data or personal information from an ORCA Website, ORCA Card or ORCA equipment; (d) create a web page or site or computer application of any kind that deep links to or frames ORCA Websites, any page of said Websites, or any graphics, trademark or other proprietary information of any kind located on said Websites without the Agencies' express written permission; (e) use meta tags or any other type of hidden text utilizing ORCA Program or Agency names, trademarks or intellectual property rights on a website without the Agencies' express written permission; (f) alter, interfere with or deface information, graphics, trademarks or anything else on or obtained from an ORCA Website or ORCA Card; (g) use any robot, spider, scraper or other automated means or interface not provided by ORCA to access an ORCA Card, the ORCA Website or to extract data; (h) reverse engineer any aspect of the ORCA Websites or ORCA Cards, or do anything that might discover source code, or bypass or circumvent measures employed to prevent or limit access to, or change of, any area, content, value or code; (i) send or otherwise affect an ORCA Website, ORCA Card or any other service with software such as a virus, spyware or other code that could be illegal, harmful, deceptive or disruptive to the site, ORCA Cards, Cardholders, employers or others to whom ORCA Business Cards are issued, or to any Agency; or take any other action which might impose a significant burden (as determined by ORCA) on an ORCA Website or Card; (j) "frame" the ORCA Websites or otherwise make it look like ORCA or an ORCA Agency has a relationship to a person or entity that it does not actually have, or has endorsed someone or something for any purpose; or (k) take any action which imposes an unreasonable or disproportionately large load on an ORCA Website or ORCA Program network or other infrastructure.

14.2 Notwithstanding any provisions to the contrary, the cardholder may use an application to view his or her recent transaction history and card balance on his or her own ORCA Card. Neither ORCA nor its agencies make any warranty of any kind, expressed or implied, regarding applications that read and present data found on ORCA Cards or the accuracy of the information such applications may present.

14.3 Your messages and provision of information to the ORCA Websites or to one or more of the Agencies about the ORCA Program must be accurate, proper and related to the purposes of the ORCA Program. The following actions are prohibited: (a) making a misrepresentation such as misrepresenting one's identity, financial information, or eligibility for a program, benefit, fare or other service; and (b) posting or sending any defamatory, infringing, obscene, false, or unlawful material.

14.4 We hope you will provide free feedback to us to improve the ORCA Program. However, you are prohibited from providing feedback that infringes or violates the rights of others. By providing feedback, you grant a License to ORCA in your feedback and agree that no one has an obligation to pay for feedback or for the license to ORCA.

15.0 Administrative Fees

The following non-refundable fees will be charged:

15.1 Adult and Youth Card Issuance and Replacement - \$5. Unless the Card is acquired during a promotional period or the Card is deemed by an Agency to be defective within 12 months of the date the Card was issued as provided in Section 9.0.

15.2 Low Income Card Issuance – no charge; Low Income Card Replacement - \$5.

15.3 Regional Reduced Fare Permit (RRFP) Card Issuance and Replacement - \$3. The fee will be waived for first-time conversion of an existing RRFP into an ORCA RRFP Card.

15.4 Refund Administrative Fee - \$10.

15.5 Not Sufficient Funds (NSF) and other Fees. If a payment to the Agencies is not honored due to non-sufficient funds (NSF) or if for any reason a payment is negated or reversed, the Agencies may assess any late payment, NSF and collection fees to the maximum amount permitted by law.

16.0 Force Majeure

The Agencies and each of them shall have no liability for damages or any failure to perform due to circumstances or causes that are, directly or indirectly, beyond their control, including but not limited to: situations involving system failures or system malfunctions or unavailability; viruses or other harmful code; criminal acts; acts of nature; fire or water damage; acts of war, terrorism or the like; civil or public disturbances; acts of civil or military authorities; labor disputes and actions; accidents; and shutdowns for purpose of emergency repairs.

17.0 Reservation of Agency Rights

17.1 The Agencies and each of them reserve the right to suspend or deny an individual or Business Account from using any element of the ORCA Program, block an ORCA Card or ORCA Product, and recover all costs, expenses, losses, and damages incurred if: (a) the individual or Business Account fails to comply with these Terms of Use or any other applicable terms, policies, rules, laws and regulations; (b) a payment is not honored due to non-sufficient funds (NSF) or if for any reason a payment is negated or reversed; or (c) it is suspected that a Card has been altered, duplicated, counterfeited, stolen or used by an ineligible Cardholder.

17.2 When an ORCA Card is blocked in accordance with 17.1 above, the refund of any remaining value on the Card shall be at the absolute discretion of the Agencies, subject to such conditions as deemed fit including surrender of the Card and deduction of any amount due or payable by the Cardholder to the Agencies.

17.3 The authorized staff of an Agency shall have the right to inspect any Card and the Card data therein at any time.

18.0 NO WARRANTIES

18.1 THE AGENCIES AND EACH OF THEM MAKE NO REPRESENTATIONS, PROMISES, GUARANTEES, WARRANTIES OR ASSURANCES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE ORCA PROGRAM, INCLUDING BUT NOT LIMITED TO THE ORCA CARDS, THE ORCA PRODUCTS, THE ORCA WEBSITES, REPORTS AND OTHER INFORMATION OR OTHER THING OR SERVICE PROVIDED UNDER THE ORCA PROGRAM. ALL ORCA PROGRAM PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" AND "WITH ALL FAULTS" BASIS. ANY USE OF ORCA PROGRAM PRODUCTS AND SERVICES, INCLUDING BUT NOT LIMITED TO ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE ORCA WEBSITES, IS DONE AT THE USER'S SOLE DISCRETION AND RISK.

18.2 TO THE EXTENT PERMITTED BY LAW, EACH AGENCY DISCLAIMS ALL WARRANTIES AND DUTIES OF EVERY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR CREATED BY TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE, ANY WARRANTIES OF QUIET ENJOYMENT OR NON-INFRINGEMENT AND ANY WARRANTIES OF WORKMANLIKE EFFORT OR LACK OF NEGLIGENCE. BY WAY OF EXAMPLE AND NOT LIMITATION, EACH AGENCY DISCLAIMS ANY WARRANTY

AND DOES NOT REPRESENT OR WARRANT THAT THE ELEMENTS OF THE ORCA PROGRAM (INCLUDING BUT NOT LIMITED TO THE ORCA WEBSITES, ORCA CARDS AND ORCA PRODCUTS) WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR.

19.0 LIMITATIONS ON LIABILITY; EXCLUSIVE REMEDY

19.1 THE AGENCIES AND EACH OF THEM SHALL NOT BE LIABLE FOR ANY DAMAGES THAT ARE SPECIAL, CONSEQUENTIAL, GENERAL, INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES OR THAT ARE FOR LOSS OF USE, LOSS OF TIME, LOSS OF PROFITS, LOSS OF PRIVACY, LOSS OF DATA, LOSS OF GOODWILL, INCONVENIENCE, COMMERCIAL LOSS, LOSS OF ANTICIPATED SAVINGS, WASTED MANAGEMENT TIME OR LABOR, OR FAILURE TO MEET ANY DUTY (INCLUDING WITHOUT LIMITATION ANY DUTY OF LACK OF NEGLIGENCE OR WORKMANLIKE EFFORT), WHEN SUCH DAMAGES ARISE OUT OF OR ARE RELATED TO THE ORCA PROGRAM, EVEN IF ANYONE IN ANY OF THE AGENCIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IN THE EVENT OF A TORT (INCLUDING NEGLIGENCE, STRICT OR PRODUCT LIABILITY) OR VIOLATION OF CONTRACT OR POLICY.

19.2 IF THE AGENCIES OR ANY OF THEM BREACHES ANY DUTY OR AGREEMENT RELATING TO THE ORCA PROGRAM, THE EXCLUSIVE, AGGREGATE REMEDY WILL BE, AT THE OPTION OF THE ORCA AGENCY(IES): (A) CORRECTION, SUBSTITUTION OR REPLACEMENT OF ALL OR PART OF THE ORCA PROGRAM PRODUCTS OR SERVICES GIVING RISE TO THE BREACH, OR (B) A REFUND OF THE AMOUNT PAID FOR THE ORCA PRODUCT OR SERVICE CAUSING THE DAMAGE, WHICH AMOUNT WILL NOT EXCEED THE DAMAGES (OTHER THAN THOSE EXCLUDED ABOVE) ACTUALLY INCURRED.

19.3 THE LIMITATIONS ON LIABILITY AND REMEDIES IN THESE TERMS SHALL APPLY EVEN IF ANY REMEDY FAILS FOR ITS ESSENTIAL PURPOSE.

20.0 Applicable Law and Exclusive Jurisdiction

The laws of the State of Washington will govern all aspects of the ORCA Program, including but not limited to these Terms of Use, the Privacy Statement, and all performances and claims of every nature (including without limitation, contract, tort and strict liability) relating in any way to the ORCA Program, without giving effect to any principles of conflicts of laws. Any disputes regarding the foregoing shall be heard exclusively in the appropriate forum in Washington State. By using the ORCA Program, including but not limited to the ORCA Websites, ORCA Cards and ORCA Products, you consent to jurisdiction in a state or federal court sitting in Washington and waive any claim or defense that such forum is not convenient or proper, and consent to service of process by any means authorized by Washington State or federal law.

21.0 Copyright and Trademarks

21.1 All content on ORCA Websites and ORCA Cards and all data created under the ORCA Program, including but not limited to text, formatting, selection and arrangement of materials, the “look and feel” of the Websites, print or online images, graphics, video, logos, button icons, music, sounds, articles, copy, creative, trademarks and databases, is the property of the ORCA Agencies or their licensors, suppliers or service providers and is protected by copyright and trademark laws. No reproduction, modification, distribution, transmission, commercial use, reverse engineering, decompiling, disassembling, modification, re-posting to other websites, deep linking, republication, framing, display or use of any content on the ORCA Websites and ORCA Cards and all data created under the ORCA Program may be made without prior permission of the ORCA Agencies, except that you may print or make an electronic copy of the following: these Terms of Use and other disclosures or conditions on the site for your records and to the extent required by law, we hereby instruct you to do so. Additionally, you may print or download a copy of the printed public information such as fares, service locations and so on for your personal or employment purposes but not for other commercial purposes. It is our policy to terminate in appropriate circumstances user access for infringement.

21.2 The ORCA name, logo and slogans, as well as logos of the individual ORCA Agencies, are registered trademarks. Any copying or use not approved in writing in a non-electronic record by the Agencies is strictly

prohibited and all rights are reserved.

21.3 Nothing shall be construed as granting, by implication, estoppel or otherwise, any license or right to make commercial use of any ORCA trademark, intellectual property right or copyrighted material without the Agencies' prior written permission. Any unauthorized commercial use of these materials will violate the Agencies' intellectual property rights and will be subject to the Agencies' full legal rights and remedies.

22.0 Contact Information

Please direct any questions or comments regarding these Terms of Use to the ORCA Regional Program Administrator as follows:

ORCA Regional Program Administrator
E-mail: contactus@orcacard.com
Phone: 888-988-6722 / TTY Relay: 711 during regular business hours
Mail: ORCA Regional Program Administrator
401 S Jackson St
Seattle WA 98104

When we receive formal written questions or complaints at this address, it is our policy to contact the complainant regarding his or her concerns.

23.0 Changes to Terms of Use and ORCA Program

The ORCA Agencies retain the right to terminate or modify any of the Terms of Use and any other aspect of the ORCA Program at any time, at their own discretion and without notice to Cardholders, Business Accounts, or any other person or entity. Revised versions will be posted on the ORCA Website and will be available from any ORCA customer service office. Individuals and entities are encouraged to review from time to time these Terms of Use, the ORCA Websites and other Agency communications to be aware of any revisions. If the revisions are significant, a notice will be posted on the ORCA Cardholder Website homepage. The date of the most recent revision of these Terms of Use will be identified at the top of the page and we will keep prior versions in an archive for your review upon your request. Oral statements made by Agency employees or representatives will not constitute a change to these Terms of Use.

24.0 Notice to Users

Any Agency may provide notice to you, including (without limitation) legal notices, notices of amendments, and notice (as/if required) of breach of an information security system, by posting notice on www.orcacard.com, by emailing you, or by any other means that is lawful.

In order to allow us to obtain feedback, you also agree that the Agencies may contact you using any of the contact information you provide on your application to participate in the program, including by phone.

25.0 Notice to Copyright Agent

25.1 The ORCA Agencies respect the intellectual property rights of others and requests that users do the same. Anyone who believes that their work has been reproduced in an ORCA Website or a Card in a way constituting copyright infringement may provide a notice to the designated Copyright Agent for the site (specified below) containing the following:

- a. An electronic or physical signature of a person authorized to act on behalf of the owner of the copyright interest.
- b. Identification of the copyrighted work claimed to have been infringed.
- c. Identification of the material that is claimed to be infringing and information reasonably sufficient to permit ORCA to locate the material.

- d. The address, phone number, and, if available, an e-mail address at which the complaining party may be contacted.
- e. A representation that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- f. A representation that the information in the notice is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

25.2 Copyright infringement claims and notices should be sent to the attention of the ORCA Regional Program Administrator as follows:

ORCA Regional Program Administrator
E-mail: contactus@orcacard.com
Phone: 888-988-6722 / TTY Relay: 711 during regular business hours
Mail: ORCA Regional Program Administrator
401 S Jackson St
Seattle WA 98104

26.0 Notice of Availability of Filtering Software

The ORCA Agencies do not believe that the Site contains materials that would typically be the subject of filtering software. Nevertheless, you are hereby informed by the provider of this interactive computer service that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist in limiting access to material that is harmful to minors. A report detailing some of those protections can be found at: <http://www.ntia.doc.gov/ntiahome/ntiageneral/cipa2003/index.html> (Children's Internet Protection Act: Report on the Effectiveness of Internet Protection Measures and Safety Policies).

27.0 NOTICE: NO HARVESTING OR DICTIONARY ATTACKS ALLOWED

THE ORCA AGENCIES WILL NOT GIVE, SELL, OR OTHERWISE TRANSFER ADDRESSES MAINTAINED BY THEM TO ANY OTHER PARTY FOR THE PURPOSES OF INITIATING, OR ENABLING OTHERS TO INITIATE, ELECTRONIC MAIL MESSAGES EXCEPT AS AUTHORIZED BY APPROPRIATE ORCA AGENCY PERSONNEL OR POLICIES. EXCEPT FOR PARTIES AUTHORIZED TO HAVE SUCH ADDRESSES, PERSONS MAY VIOLATE FEDERAL LAW IF THEY: (1) INITIATE THE TRANSMISSION TO ORCA (OR AN ORCA AGENCY'S) COMPUTERS OR DEVICES OF A COMMERCIAL ELECTRONIC MAIL MESSAGE (AS DEFINED IN THE U.S. "CAN-SPAM ACT OF 2003") THAT DOES NOT MEET THE MESSAGE TRANSMISSION REQUIREMENTS OF THAT ACT; OR (2) ASSIST IN THE ORIGINATION OF SUCH MESSAGES THROUGH THE PROVISION OR SELECTION OF ADDRESSES TO WHICH THE MESSAGES WILL BE TRANSMITTED.

Alternate formats of ORCA Terms of Use are available upon request.

888-988-6722
TTY Relay: 711
contactus@orcacard.com