

Terms Of Use

BY ACCESSING AND/OR USING THE APP, YOU ARE AGREEING TO BE BOUND BY ALL OF THE FOLLOWING TERMS OF USE UNDER THIS AGREEMENT.

1. Agreement

- 1.1. These Terms of Use and any Additional Terms we apply from time to time (together, the "Agreement") set out the terms and conditions governing your access to and use of the RoadHawk Mobile App ("App") and the content available thereon ("App Content") and the relationship between RoadHawk Pty Ltd ACN 687 518 181 ("RoadHawk," "we," "our" and "us") and the account holder ("Account Holder" , "you" and "your").
- 1.2. For individual accounts, the Account Holder is the only person authorised to use the App ("Subscribed User"). Corporate accounts may pay to authorise multiple persons to be Subscribed Users. In all cases, the Account Holder must ensure its Subscribed Users comply with this Agreement, and is responsible for the actions of its Subscribed User(s).
- 1.3. By accessing and/or using our App, you accept and agree to be bound by this Agreement, "as is" and in its entirety. You must not access and/or use our App if you do not agree to be bound by this Agreement.
- 1.4. We can apply additional terms and conditions ("Additional Terms") to some or all services available on our App. Additional Terms form part of this Agreement, and shall be effective and binding on you and us immediately upon us notifying you by email or by posting the update on the App. If you do not agree to the Additional Terms, your sole remedy is to cancel and discontinue your use of the App, or the services within the App that the Additional Terms apply to.

2. Changes

- 2.1. We reserve the right to amend, modify, or add to these Terms at any time, and such changes shall be effective and binding on you and us immediately upon us notifying you by email or by posting the update on the App. If you do not agree to our changes of this Agreement, your sole remedy is to cancel your account and discontinue your use of the App.
- 2.2. We reserve the right at any time to amend, modify, add to, delete, suspend or remove, temporarily or permanently, parts or all the App and/or the App Content without notice. Subject to applicable law, we will have no liability to you or to any third party for any such events.

3. The App's Service

- 3.1. The App provides Subscribed Users with information to assist with navigating a vehicle to their desired location. It allows Subscribed Users to assemble and update maps to reflect road conditions and occurrences on them, examples include height clearances, load limits, traffic congestions, road accidents and police road blocks.
- 3.2. The use of the App is provided by the App's software ("Software").

4. App Database

- 4.1. Information provided by Account Holders and their Subscribed Users is stored in RoadHawk's database ("Database") and used in the App. Some of this information is available to be viewed by other Subscribed Users.

5. User Requirements

- 5.1. Use of the App is only available to a "Subscribed User." Subscribed Users can use all of the App and the App Content, although Additional Terms and additional fees may apply to some premium features. Account Holders must complete the registration procedures on the App and pay the required subscription fee in respect of the Account Holder and all Subscribed Users.
- 5.2. The information provided by the App is not intended to replace or be preferred to any information provided on a road, such as travel direction, time based restrictions, road blockades, traffic signs, traffic lights, police instructions, relevant State or Territory road rules and traffic laws and all other road requirements.
- 5.3. All Subscribed Users must exercise cautious driving according to road conditions and in accordance with relevant State or Territory road rules and traffic laws. It is strictly forbidden to send traffic updates (for example, updates on road accidents and traffic congestion), or to non-verbally interact with the App or use the App Content in a manner for any purpose other than navigation while driving. Any updates that a Subscribed User wishes to submit must only be submitted once the vehicle has stopped in an appropriate location permitted by law. Alternatively, an update submission on the App may be submitted by a passenger, provided the submission does not interfere with the due course of driving, distract the driver's attention or prevent the driver from driving in a safe manner.
- 5.4. Some features of the App and the App Content make use of detailed location and route information, for example in the form of GPS signals and other information sent by your mobile device on which the App has been installed, activated and used. As contained in the Privacy Policy, RoadHawk uses your location and route information to create a detailed route history of all your journeys made using the App. RoadHawk uses this history to offer the App to you, to improve the quality of the App and the App's services to you and all Subscribed Users, to improve and maintain the accuracy of the App's mapping and navigation data, and more as described in detail in the Privacy Policy. This history is associated with the Subscribed User's account. This history is retained by RoadHawk for a period of time and in accordance with the Privacy Policy.
- 5.5. An internet connection required to use the App, and any associated charges (e.g. mobile data expenses) incurred by your use of the App are the sole responsibility of the Subscribed User and made solely at the Subscribed User's expense. Transmitting and receiving real-time updates to and from the App requires an online (i.e. Wi-Fi, 4G, 5G) connection between the Subscribed User's cellular device and the internet. The expenses of such connections are as prescribed by the agreement between you and your communication service provider and are subject to that agreement's terms.
- 5.6. Third party advertisements may appear on the App from time to time. The advertisements are not intended to be, nor should they be, viewed by Subscribed Users unless and until their vehicle has come to a complete stop and it is safe to do so.
- 5.7. The App uses the Software for map displays, updates and road information.
- 5.8. You must be over the age of 18 to use the App. Our App is not directed toward children and we do not knowingly collect information from children. If you know or reasonably suspect that a child has provided information to us through the App, please contact us by email at support@roadhawk.com.au.

- 5.9. Subscribed Users must set a password, provide your email address, and may be required to provide personal information. You are fully responsible and liable for all access to and use of the App and the App Content that occur under your password or account.
 - 5.10. You agree that we may use your account information if required by law or otherwise in accordance with our Privacy Policy.
6. User Restrictions
- 6.1. The use of the App is solely for private and personal purposes, unless the account is a corporate account.
 - 6.2. Subscribed Users cannot, through yourself or through any other means or person:
 - (a) offer to third parties a service of your own that uses the App;
 - (b) resell your subscription under the App;
 - (c) offer to lease your subscription under the App;
 - (d) offer the App to the public via communication or integrate it within a service of your own, without the prior written consent of RoadHawk;
 - (e) copy, print, save or otherwise use data from the App, the App Content, Software or Database;
 - (f) engage in scraping, data mining, harvesting, screen scraping, data aggregating and index;
 - (g) use any means to access the App, the App Content, Software or Database for any purpose outside the Terms of this Agreement;
 - (h) copy, modify, adapt, translate, reverse engineer, decompile, or disassemble any portion of the App Content included in the App, or in any way or publicly display, perform, or distribute them;
 - (i) interfere with or violate any third party or other user's right to privacy or other rights, including copyrights and any other intellectual property rights of others, or harvest or collect personal information about Subscribed Users of the App without their express consent;
 - (j) defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights of other Subscribed Users;
 - (k) transmit or otherwise make available in connection with the App any virus, work, Trojan Horse, time bomb, web bug, spyware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, Software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component;
 - (l) interfere with, or disrupt the operation of the App, the App Content, the Software or Database, or the servers or networks that host the App or make the App available, or disobey any requirements, procedures, policies, or regulations of such servers or networks;
 - (m) frame or mirror any part of the App or the App Content without RoadHawk's prior express written authorisation;

- (n) create a database downloading and storing all or any part of the App, the App Content, Software or database;
- (o) infringe or violate any of the Terms of this Agreement.

6.3. These restrictions do not constitute an exhaustive list of restricted activities involving the App.

7. Fees and Payment

7.1. Use of the App as a Subscribed User requires payment of a fee by the Account Holder ("Fee"). The Fee is payable in AUD or other currency as applicable. You may be required to provide your credit card details at the time of registration. Fees are due and payable on registration and at the choice of the Account Holder, available in one annual payment, or in monthly instalments thereafter.

7.2. If an Account Holder opts for their subscription to be charged in monthly instalments, you irrevocably consent to us automatically charging your card on registration and monthly thereafter during the Term. We can change the Fee at any time by notice to you, either emailed or posted to the App. You must inform us of any changes to your credit card details. If we cannot charge your credit card for any reason we may suspend or terminate your account without notice. You are responsible for our costs (including legal costs) of recovering overdue Fees from you.

7.3. Fees quoted are inclusive of Australian GST unless otherwise indicated. You are responsible for payment of all taxes, duties and excise on the supply.

8. IP and Content

8.1. RoadHawk owns and retains all rights in the App and App Content except to the extent this Agreement expressly states otherwise. Account Holders and Subscribed Users acquire no rights in the App or App Content.

8.2. The App Content includes content owned by RoadHawk (including our trade marks and content created and/or acquired by us ("RoadHawk Content"), and content owned by third parties and licensed or freely available to RoadHawk for use on the App ("Third-Party Content"). RoadHawk and its third-party licensors own and retain all rights, title and interest in and to their respective content subject only to the limited licensed granted herein.

8.3. The App permits Subscribed Users to submit and post information and content, to improve the App's Content, to other users. The Account Holder grants us a permanent irrevocable royalty-free licence to use any such information and content worldwide, and warrants that they have the power to grant that licence.

8.4. The Account Holder assume sole responsibility for any content posted by its Subscribed Users and is liable alone for the consequences of posting content.

8.5. The App may contain third-party advertising and/or links to other sites owned by third parties. We are not endorsing and are not responsible for examining or evaluating, and we do not warrant the products or offerings of, any of these third parties. RoadHawk have no responsibility or liability for the actions, products, services, and/or content of any such advertisements. You should make your own investigations before engaging with them in any way, and you do so at your own risk.

9. Referral Program

- 9.1. If a Subscribed User (“Referrer”) recommends the App to another person who proceeds to subscribe to the App (“Referee”), RoadHawk may reward the Referrer with a cash payment or discount on their subscription (“Reward”).
 - 9.2. To be eligible to receive the Reward, the Referee must subscribe to an annual subscription with the App via the referral link generated by the Referrer.
 - 9.3. The offering of any Reward remains at the discretion of RoadHawk.
10. Term and Termination
- 10.1. This Agreement (as amended from time to time) remains in full force and effect until terminated by RoadHawk or by you.
 - 10.2. You may terminate your account at any time, by notifying us by email at support@roadhawk.com.au, or cancelling your subscription in the App. Such termination will be effective only at the end of the subscription period in which RoadHawk processes the request. You will be able to continue using the App until the termination is processed, or the expiration of the relevant subscription period (at our election). Subject to law, termination of your account is your sole right and remedy with respect to any dispute with RoadHawk.
 - 10.3. RoadHawk may suspend or terminate your status as a Subscribed User, cancel your account, and disable your access to the App and App Content at any time for any reason without notice or liability to you.
 - 10.4. Clauses 4, 5, 6, 7, 8, 10, 11 and 13 survive termination of this Agreement.
11. Warranties and liability
- 11.1. Subject to law, the App and the App Content are offered without warranties of any kind whatsoever by RoadHawk and/or the providers of App Content. The disclaimer of warranties includes, but is not limited to, the following:
 - (a) Your use of the App and the App Content is at your sole risk. The App and the App Content are provided on an “as is” and “as available” basis. We and our affiliates, successors and assigns, and their related entities, licensors and contractors (collectively, the “RoadHawk-Related Parties”) expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement, with respect to the App, the App Content, and any third party websites, advertisements etc with which they are linked.
 - (b) The RoadHawk-Related Parties are not responsible or liable for any loss, damage, injury or health problems that may result from your use of the App Content and/or other aspects of the App.
 - (c) The RoadHawk-Related Parties make no warranty that the App or the App Content will meet your expectations or requirements, or that you will achieve any particular results from the use of any of the foregoing, or that the App or the App Content will be uninterrupted, timely, secure, error-free, or free of any harmless components (including viruses, malware, spyware, or comparable components).
 - (d) Any material obtained through the use of our App is accessed at your own discretion and risk, and you will be solely responsible for any loss or damage to

your cellular device system or loss of data that results from the download of any such material.

- 11.2. Subject to law, you hereby waive, release and discharge the RoadHawk-Related Parties from and against any claims that you may be entitled to make arising from any use of the App or the App Content.
- 11.3. We acknowledge that provisions in the *Competition and Consumer Act 2010* (Cth) (as amended) and other statutes from time to time imply or impose statutory guarantees, conditions or warranties into contracts for the supply of services which cannot be excluded, restricted or modified or can only be restricted or modified to a limited extent ("Non Excludable Terms"). To the maximum extent permissible at law, we hereby exclude all conditions, warranties, guarantees, terms and obligations expressed or implied by law in connection with this Agreement, or any information and services provided under it. Nothing in this Agreement is intended to exclude or restrict the application of the Non Excludable Terms beyond the maximum extent permissible at law.
- 11.4. For the avoidance of doubt and to the maximum extent permissible at law, the application of the Non Excludable Terms is excluded where our products are purchased for purpose of resale to by you to third parties.
- 11.5. We are not liable to you or any other person for any loss or claim of any kind in connection with this Agreement, or any information and services provided under it, except to the extent caused directly by our negligence or wilful misconduct.
- 11.6. If any Non Excludable Terms apply, then to the extent to which we are entitled to do so, our liability under those Non Excludable Terms will be limited at our option to:
 - (a) In the case of services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost (if any) of having the services supplied again.
 - (b) In the case of goods:
 - (i) the replacement of the goods or the supply of equivalent goods; or
 - (ii) the repair of the goods; or
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired.
- 11.7. To the extent permitted by law, we will be under no liability to you or any third party in any circumstances for any indirect, special or consequential loss or damage, including but not limited to loss of revenue or loss of profit howsoever arising and whether in an action in contract, tort, in equity, under statute, or on any other basis.
- 11.8. Notwithstanding anything to the contrary contained in this Agreement, our liability to you for any cause whatsoever and regardless of the form of the action, will at all times be limited to the amount paid, if any, by you for the products or services.
- 11.9. Subject to law, you agree to indemnify us against any claim, loss, liability or damage, costs, charges and expenses (including our legal costs on a solicitor/ own client basis)

suffered or incurred by us which arise directly or indirectly in relation to your use of the App and/or the App Content in violation of this Agreement and/or arising from a breach of this Agreement and/or any breach of your representations and warranties set forth in this Agreement.

12. Access.

- 12.1. You may not attempt to override or circumvent any such security components and usage rules embedded in the App.
- 12.2. You acknowledge and agree that some content may not be available in your geographic location due to licensing restrictions, and therefore, cannot be viewed.

13. General

- 13.1. Entire Agreement. Unless otherwise specified, this Agreement (including the Privacy Policy and Additional Terms), constitutes the entire agreement between you and RoadHawk regarding your use of the App, the App Contents and the Software. This Agreement supersedes any prior agreements, statements or representations between you and RoadHawk with respect to the subject matter.
- 13.2. Jurisdiction. This Agreement is made in and shall be governed by the laws of the State of Victoria, Australia. You and RoadHawk hereby submit to the exclusive jurisdiction of the courts of that State.
- 13.3. No Waiver. Any failure by us to exercise or enforce any right and/or remedy under this Agreement shall not operate as a waiver of that right and/or remedy.
- 13.4. Relationship. This Agreement establishes an independent contractor arrangement only and not a partnership, joint venture, employment, fiduciary, agency or other relationship.
- 13.5. Binding on Successors. This Agreement is binding on and inure to the benefit of the executors, administrators, licensees, successors and/or assignees of the parties
- 13.6. Assignment. RoadHawk may assign, sublicense and/or otherwise transfer this Agreement and/or any of its rights under this Agreement at any time, in its sole and absolute discretion, and without notice to you.
- 13.7. Notices and Questions. If you have any questions regarding this Agreement, please contact us by email at support@roadhawk.com.au. Except as otherwise specified elsewhere in this Agreement, notices to RoadHawk may be given at the foregoing email and postal addresses, and notices to you may be given at the address provided to us at the time of registration and/or the purchase of goods and services from RoadHawk.