

Terms and Conditions V3.2 Effective July '06

The ParkMagic Mobile Parking Service is operated under the following terms and conditions.

General Terms and Conditions for service users of Park Magic Mobile Solutions Limited parking payment service and warranty terms for the ParkMagic Display

1. General

- 1.1. In these General Terms and Conditions for Park Magic Mobile Solutions Limited Service Users, we define “**Service User**” as a private parking user or a company that uses the parking system of Park Magic Mobile Solutions Limited with or without a third party, or using other services offered by Park Magic Mobile Solutions Limited (from now on called “**ParkMagic**”).
- 1.2. “**Account**” means the Service User’s ParkMagic account.
- 1.3. “**Bonus**” means additional parking credit added to the user account by ParkMagic from time to time for the sole purpose of purchasing additional parking. Any and all of these bonus awards have no cash redemption value whatsoever and on cessation of the ParkMagic service by the user or by ParkMagic in compliance with the terms of this agreement any such unused bonus awards are forfeit.
- 1.4. ParkMagic is the operator of a parking system for on-street parking by means of a in car display (“**Display**”) used for the purpose of displaying a parking permit and a mobile phone. (“**Service**”). ParkMagic operates as a Disclosed Agent, operating the parking system on behalf of the parking space owner and is not the owner of parking spaces.
- 1.5. These General Terms and Conditions are displayed on the website of ParkMagic at www.parkmagic.net. ParkMagic may alter these General Terms and Conditions at its discretion. In the event of any of these General Terms and Conditions being declared null and void, the remaining General Terms and Conditions shall continue to apply. Service Users are prohibited from assigning rights and/or obligations to third parties relating to services supplied by ParkMagic and contained in these General Terms and Conditions without a prior written permission from ParkMagic.

2. Display Warranty

The Display is covered by a 6 month back to base warranty subject to the following conditions:

- Repair or replacement will be carried out by ParkMagic
- All expenses incurred transporting the Display to and from ParkMagic premises will be borne by the Service User.
- In the event of repairs/replacement of any part/s of the Display, this warranty will thereafter continue and remain in force only for the unexpired period of the warranty. Moreover, the time taken for repair/replacement and in transit whether under the warranty or otherwise shall not be excluded from the warranty period.
- ParkMagic's obligation under this warranty shall be limited to repairing or providing replacement of part/s, which are found to be defective.

THIS WARRANTY IS NOT APPLICABLE IN ANY OF THE FOLLOWING CASES:

- A valid proof of purchase (till receipt, invoice etc) is not presented to authorised personnel at the time of repair.
- The Display is not used according to instructions given in the instruction manual.
- Defects caused by improper use as determined by the ParkMagic personnel.
- Modification or alteration of any nature is made in the electrical circuitry/ or physical construction of the Display.
- Repair work is carried out by persons/agency other than ParkMagic.
- Display has been exposed to conditions that do not conform to the recommended operating conditions.
- The original serial number and unit number (as printed on front of the Display) is removed, obliterated or altered on the Display.
- Defects due to acts of God or while in transit to ParkMagic or Service User.

3. Using ParkMagic Services

- 3.1. The Service involves the use of a mobile phone and associated Display to request and make payment for the issue of a permission to

park in a certain location at a certain time for a period of time ("Parking Permit"). At all times the issue of the Parking Permit is subject to the regulations of the Local Authority in force at that given time or place. The Service User does not pay a registration fee to ParkMagic to use the Service.

- 3.2. The Display is only suitable for normal use (placing inside the front window of the vehicle) and any damage, loss or theft to the Display is at the Service User's own risk. In the case of loss or theft of the Display, the Service User is responsible for reporting the loss or theft to ParkMagic by phone at 1-890-222-555 or by email support@parkmagic.net in order to have the Display removed from the Service. The Service User is responsible for cautious handling of any password and P.I.N necessary for accessing their personal account on the website. Should any password or PIN become disclosed to any unauthorised third party the Service User agrees to notify ParkMagic by email or phone in order to deactivate the account and reopen it with a new PIN or password.
- 3.3. The Service User should place the Display in a clearly visible position inside the front window of the vehicle (preferably on the passenger side).
- 3.4. To validate a parking transaction, the Service User must call the ParkMagic phone number applicable to the location in which the Service User wishes to park. The Service User should have the Calling Line Identity (CLI) service enabled on their mobile phone in order that the ParkMagic Service can speedily process the call. The tariff for this call will be the same as a normal mobile to landline call with the cost depending on the Service User's mobile phone operator and the service the Service User has subscribed to.
- 3.5. The Service User cannot claim any right to a parking space by using ParkMagic services. Instructions to ParkMagic via mobile telephone or landline are subject to the regulations of the Local Authority in force at that given time or place.
- 3.6. The Service User should note that not all parking areas use ParkMagic. The Service User hereby agrees to use ParkMagic in a proper manner only in areas permitted by the parking space owner (normally but not exclusively the Local Authority). Should the Service User fail to abide by this requirement then the Service User is solely responsible for any liabilities incurred.
- 3.7. A Service User can only presume that a parking transaction is valid after a confirmation has been given to him/her by the system. A machine generated verbal confirmation will be issued to the Service User at the end of a call to the Service requesting a Parking Permit. In addition, the system will attempt to send a text message to the

Display associated with the mobile phone used to call the Service. If the transmission network is unable to deliver the text message, the transaction will still be valid as long as the machine generated verbal confirmation described above has been issued.

- 3.8. In the case of unavailability of the service due to a fault in the parking system of ParkMagic or in a network system of any third party/parties, the Service User shall be obliged to pay for parking by another valid method i.e. the display of a valid pre-paid parking disc or machine issued ticket or other means as defined by the regulations of the Local Authority in force at that given time or place.
- 3.9. Where the Service User no longer wishes to use the services of ParkMagic he/she should no longer place calls to the Service.
- 3.10. ParkMagic retains the right to cancel or refuse to provide the service to a Service User or to a new applicant without stating any reason. Parking contrary to these General Terms and Conditions is considered to be parking without paying the appropriate parking fee.
- 3.11. By activating and using your ParkMagic Display you agree to these terms and conditions. If you do not agree, or subsequently change your mind, then you should not use the Service and contact ParkMagic in writing or by email whereupon you will be removed from the service.
- 3.12. By activating and using your ParkMagic Display you permit ParkMagic to communicate with you by SMS text message to the number(s) you used to register the ParkMagic Display in order to advise you of service upgrades, enhancements and other announcements. You may withdraw this consent at any time by contacting ParkMagic at 1890-22-25-55 or by logging into your personal ParkMagic account at www.parkmagic.net.
- 3.13. By activating your personal account on www.parkmagic.net you are required to provide an email address for account verification purposes and consent to allow ParkMagic to use this address solely by ParkMagic for the purposes of providing service alerts, notifications of enhancements, discount programs and other service related information. . This email will not be declared to any third party.

4. Payment

- 4.1. ParkMagic provides a “Pay as You Go” Payment option. The Service User may apply credit to their Account by means of any of the methods made available by ParkMagic from time to time and may thereafter use the Service. The amount of the credit will reduce as a result of calls to the Service that result in the issue of a Parking

Permit. No Parking Permits will be issued to the Service User once the Account balance reaches a level insufficient to pay for the Parking Permit in its' entirety. If the Service User does not use the ParkMagic Service for a period of 6 months or such other period as ParkMagic may advise from time to time the account may be placed in suspension for security reasons.

- 4.2. ParkMagic provides a "Premium Line Service" which may be used by the Service User to purchase a Parking Permit should he/she have insufficient credit in his/her account to purchase a Parking Permit by the "Pay as You Go" payment option or by other ParkMagic payment options. This call is a premium rated call and the tariff for this call will be dependent on the Service User's mobile phone operator and the service the Service User has subscribed to.
- 4.3. ParkMagic provides a "TopUp" service which is accessible by calling the telephone number as defined by ParkMagic from time to time. The TopUp Service permits callers to check their Account balance and to enter the details of the TopUp voucher they may wish to apply to their account. The tariff for this call will be dependent on the Service User's mobile phone operator and the service the Service User has subscribed to, however, ParkMagic do not apply any additional charge for the use of the TopUp service.
- 4.4. ParkMagic provides a "BillPay" payment option, where, on agreement in writing with ParkMagic the Service User is invoiced in arrears the Service. Where the Service User uses this payment method, the Service User must authorise ParkMagic to avail of direct debit and other agreed payment methods to collect the parking fees. Any bank fees incurred by ParkMagic on the Service User's behalf will be deducted from the Service User's ParkMagic account.
- 4.5. ParkMagic will deduct all amounts due for parking, S.M.S and other services as they occur from the Service User's account.
- 4.6. Details of parking and other transactions and fees incurred can be viewed on the Service User's statement, which can from time to time be accessed via the internet. There is no charge for this account statement service.
- 4.7. The Service User must have a sufficient facility on his/her/it's bank account or other agreed payment method to enable ParkMagic to collect fees due. Where this is not the case ParkMagic may, at its' sole discretion, cease or temporarily suspend service to that Service User.
- 4.8. Except in the case of the "Pay as You Go" payment method, Service Users have the right to cancel the payment method they have chosen at any time, but this will lead to a denial of services when the available balance in the Service User's account reduces to zero or

the transaction requested would take the balance below zero. For Service User's who have a BillPay account with ParkMagic a closing invoice will be issued and become due.

4.9. Refund Policy. Once credit is used the Service is deemed to have been delivered and consumed. Therefore refunds on used credit will not be made by ParkMagic. Refunds on unused credit will be made by ParkMagic should a user wish to cease use of the Service in accordance with 3.9 above. To defray the costs incurred by ParkMagic in providing the top-up service and which are unrecoverable by ParkMagic a service fee for refunds is payable and is deducted from the balance remaining in the user account at time of cessation of service. The service fee is applied based on the mechanism used to top-up.

- Over the counter Top-Ups at PostPoint outlets: 30%
- Credit/Debit Card Top-Ups via the internet: 15%

4.10. Refund Policy for purchase of In-Car Display purchased via the internet. If you purchase a ParkMagic in car display via the internet. You have the right within 7 days to return the display to ParkMagic and cancel the purchase provided that the unit has not been activated in accordance with the "To Activate Your ParkMagic Display".

5. Limitation of Liability

- 5.1. The following provisions set out ParkMagic's entire liability (including any liability for the acts and omissions of its employees, agents and sub-contractors) to Service Users in respect of any breach of its contractual obligations arising under these General Terms and Conditions.
- 5.2. Any act or omission on the part of ParkMagic or its' employees, agents or sub-contractors falling within Clause 5.1 above shall, for the purposes of this clause, be known as an "Event of Default".
- 5.3. ParkMagic's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to the amount paid to ParkMagic by the Service User pursuant to these General Terms and Conditions.
- 5.4. ParkMagic shall not be liable to the Service User in respect of any Event of Default for loss of profits, loss of goodwill, loss of business, loss of opportunity, loss of reputation, loss of and/ or damage to property or corruption of data or any type of special indirect or inconsequential loss (including loss or damage suffered by the Service User as a result of an action brought by a third party) even if such loss was reasonably foreseeable or ParkMagic had been advised of the possibility of the Service User incurring the same.
- 5.5. If a number of Events of Default give rise substantially to the same loss, they shall be regarded as giving rise to only one claim under these General Terms and Conditions.
- 5.6. The Service User hereby agrees to afford ParkMagic not less than 15 business days (following notification thereof by the Service User) in which to remedy any Event of Default.
- 5.7. ParkMagic shall have no liability to the Service User in respect of any Event of Default unless the Service User shall have served notice of the same upon ParkMagic within 6 months of the date it became aware of the circumstances giving rise to the Event of Default or of the date when it ought reasonably to have become so aware.
- 5.8. Nothing in these provisions shall confer any right or remedy upon the Service User to which he/she/it would not otherwise be legally entitled.
- 5.9. The Service User acknowledges that the responsibility for registering transactions via mobile or fixed line telephone as well as the possibility of receiving S.M.S messages with information in regard to the parking transaction depends on sufficient functioning of the network of the Service User's mobile and fixed line telephone provider and the service of the telephone company. ParkMagic

cannot be made accountable for damage caused by insufficient functioning of a network or telephone company or for not receiving a transaction request or the sending or receiving of S.M.S messages in time.

6. Regulations

- 6.1. The Local Authority bye-laws and parking and other relevant regulations apply to all Service Users of the ParkMagic system in the areas concerned.
- 6.2. The Local Authority can change parking tariffs and conditions at its discretion without prior warning. ParkMagic shall have no liability to any Service User for any changes made by local authorities to parking tariffs and conditions.
- 6.3. ParkMagic complies with the provisions off the Republic of Ireland Data Protection Acts 1988 and 2003. ParkMagic takes great care with personal information that is provided by Service Users, taking steps to keep such information secure and to ensure that it is used only for legitimate purposes. In summary all personal data held by ParkMagic on behalf of the customer will be used for the purpose of administration and notification of bonus awards only and not for any other purpose. It will not be disclosed to any 3rd Party unconnected with the parking system outlined herein.
- 6.4. By using the ParkMagic website, Service Users accept the practices described in the privacy policy described in 6.3 above. ParkMagic may update its privacy policy from time to time to take account of changing requirements such as changes in technology or legislation and requests that Service Users refer back to this privacy policy frequently to become aware of any such revisions. In addition, ParkMagic recommend that Service Users review the privacy policy of any other website accessed through the ParkMagic website as these sites may be subject to different privacy practices. ParkMagic shall not be responsible for these websites or the information made available thereon.

7. Applicable Law

- 7.1. These General Terms and Conditions are to be governed by and construed in accordance with the laws of the Republic of Ireland.

8. Disputes

- 8.1. In the event of any dispute between any of the parties arising directly or indirectly from the provisions of these General Terms and Conditions, such dispute shall, in the absence of agreement between the relevant parties, be referred to arbitration pursuant to the provisions of the Arbitration Acts, 1954 and 1980 and any amendment, extension or re-enactment thereof. If the parties involved in such dispute cannot agree as to the appointment of an Arbitrator, the matter shall be referred by such parties or any of them to the President for the time being of the Law Society of Ireland who shall appoint an Arbitrator to determine such dispute and who's decision shall be final and binding on the parties.