



## ***Terms and Conditions of Tipperary eParking - January 2017***

By opening or using a Tipperary eParking Account with Tipperary County Council or its appointed Contractor, you agree to be bound by the Terms & Conditions contained in this Agreement. Please read this Agreement carefully.

### **1. General**

In these Terms and Conditions for Tipperary eParking the following definitions apply:

1.1. "Service User" is a private parking user or a company that uses the parking system of Tipperary eParking with or without a third party, or using other services offered by Tipperary County Council.

1.2. Tipperary eParking is a Tipperary County Council service and is operated on behalf of the Council by ParkMagic Mobile Solutions Ltd.

1.3. "Tipperary County Council Parking area" means a parking space on a street or in a Tipperary County Council operated car park designated for pay parking in the Towns of:

- Cahir
- Carrick-On-Suir
- Cashel
- Clonmel
- Nenagh
- Roscrea
- Templemore
- Thurles
- Tipperary Town
- Any other future location in County Tipperary that has County Council pay parking in operation.

1.4. "Tipperary eParking service" refers to the service that facilitates a request and the processing of a payment for the issue of permission to park in a Tipperary County Council Parking area for a period of time by use of a telephone, mobile device or website, and operated by Tipperary County Council and its Appointed Contractor.

1.5. "Account" means the Service User's Tipperary eParking Account.

1.6. "Parking Event" means the request and payment processed by the Service User for the issue of permission to park in a Tipperary County Council Parking area at a certain time for a period of time.

1.7. "Service" means the service offered by Tipperary eParking allowing you to pay for parking by telephone, mobile device or website.

1.8. "The Appointed Contractor" is the operator of the Tipperary eParking service on behalf of Tipperary County Council for parking payment, which is identified by reference to the vehicle registration number or as otherwise specified by Tipperary County Council from time to time.

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The Appointed Contractor operates as a “Disclosed Agent”, operating the parking system on behalf of the parking space provider and is not the owner of parking spaces.

1.9. “Fees” means all charges associated with the use of the Tipperary eParking Service.

1.10. “Schedule of Fees” is a listing of all charges that are applicable to Tipperary County Council eParking which is available to customers on the website [www.tipperaryeparking.ie](http://www.tipperaryeparking.ie) along with these Terms and Conditions. By accepting these terms and conditions, the Service User is also accepting the Schedule of Fees.

### **2. Display of Terms**

2.1. The General Terms and Conditions of the use of this service are displayed on the website of Tipperary eParking at [www.tipperaryeparking.ie](http://www.tipperaryeparking.ie) Tipperary County Council 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.

2.2. Service Users are prohibited from assigning rights and/or obligations to third parties relating to services supplied by Tipperary eParking and contained in these General Terms and Conditions without a prior written permission from Tipperary County Council.

2.3. The Terms and Conditions may be changed by Tipperary County Council at any time and any such changes will be notified to the Service User prior to coming into effect.

2.4. At the request of Tipperary County Council the Appointed Contractor – ParkMagic - may also notify Service Users of changes to this Agreement by publishing a notice of such changes on [www.tipperaryeparking.ie](http://www.tipperaryeparking.ie) and/or emailing the Service User to the address last notified to the Appointed Contractor and/or by text message to the telephone number last notified to the Appointed Contractor.

It is the sole responsibility of the Service User to ensure that the contact information provided is correct and changed contact details are notified as required.

### **3. Using Tipperary eParking Services**

3.1 The Service involves the use of a telephone, mobile device or website to request and make payment for the issue of permission to park in a certain location at a certain time for a period of time in accordance with prevailing Tipperary County Council Parking Bye-Laws and on-street Parking Regulations.

3.2 In order to complete a successful parking transaction, the Service User must:

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- (a) Contact the Tipperary County Council Designated Phone Number. 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 with that mobile phone operator.
- (b) Use the Tipperary eParking Mobile App or
- (c) Use the Tipperary eParking website

And further:

- Confirm the zone in which the Service User wishes to park and
- Confirm the vehicle registration number of the vehicle being parked.
- Payment must be confirmed by the Appointed Contractor in order for a successful parking transaction to be completed.

If using the Designated Phone Number, the Service User should have the Calling Line Identity (CLI) service enabled on their mobile phone in order that the Tipperary eParking service can speedily process the call.

3.3. The Service User must provide the vehicle registration number for the vehicle being parked. Failure to provide the correct vehicle registration number (VRN) will result in the parking transaction being invalid. It will be deemed that the valid parking transaction has not been enabled and a fine in the form of a Fixed Charge Penalty Notice (FCPN) may be issued.

3.4. The Service User cannot claim any right to a parking space by using Tipperary eParking services. Instructions to Tipperary eParking via mobile telephone, landline or website are subject to the regulations of Tipperary County Council in force at that given time or place.

3.5. 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 telephone call to the Service. Where the Service is activated by Smart Phone App or by the eParking website a text based confirmation is displayed.

3.6. In the case of unavailability of the service due to a fault in the parking system of the Appointed Contractor 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 pay and display parking ticket as defined by the regulations of Tipperary County Council in force at that given time or place.

3.7. Tipperary eParking customers who may wish to use any other services offered or made available by the Appointed Contractor now or in the future must register independently with the Appointed Contractor for that purpose and cannot assign funds allocated for the Tipperary eParking service for any other purpose.

3.8. The Service User hereby agrees to use Tipperary County Council or its Appointed Contractor's service in a proper manner and only in an area permitted by Tipperary County

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Council. Should the Service User fail to abide by this requirement then the Service User is solely responsible for any penalties incurred.

3.9. The Service User is responsible for cautious handling of any password and/or P.I.N necessary for accessing their personal account on the Appointed Contractor's website. Should any password or PIN become disclosed to any unauthorised third party, the Service User agrees to notify the Appointed Contractor by email or phone in order to deactivate the account and reopen it with a new PIN or password.

3.10. Where the Service User no longer wishes to use the services of Tipperary eParking he/she should no longer place calls to the Service or access the service via the website of Smartphone App.

3.11. Tipperary eParking 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.

3.12. By activating and using a Tipperary eParking account 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 Tipperary eParking in writing or by email where upon your name will be removed from the service.

3.13 By activating and using a Tipperary eParking account you permit Tipperary County Council and its Appointed Contractor to communicate with you by SMS text message to the number(s) you used to register the Tipperary eParking account in order to advise you of service upgrades, enhancements and other parking associated announcements. You may withdraw this consent at any time by contacting the Appointed Contractor at [support@parkmagic.net](mailto:support@parkmagic.net)

3.14 By activating a personal account on [www.tipperaryeparking.ie](http://www.tipperaryeparking.ie) you are required to provide an email address for account verification purposes and consent to allow the Appointed Contractor to use this address solely by the Appointed Contractor for the purposes of providing service alerts, notifications of enhancements, discount programs and other parking service related information. This email will not be declared to any third party. You may withdraw this consent at any time by contacting the Appointed Contractor at [support@parkmagic.net](mailto:support@parkmagic.net)

3.15 The terms and conditions of the Agreement may be changed by Tipperary County Council and/or the Appointed Contractor at any time and any such changes will be notified to the User prior to coming into effect.

3.16 The Appointed Contractor may also notify Users of changes to this Agreement by publishing a notice of such changes on the Tipperary eParking website, [www.tipperaryeparking.ie](http://www.tipperaryeparking.ie) and/or emailing the User to the address last notified. Such changes shall not come into effect until at least 14 days after such publication.

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### **4. Payment**

4.1. The Service User may apply credit to their Account by means of any of the methods made available by Tipperary County Council and its Appointed Contractor 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 Event.

#### 4.1.1. Methods for applying the credit:

- The service User may apply credit to their account by logging in to their account on [www.tipperaryeparking.ie](http://www.tipperaryeparking.ie)
- The Service User may apply credit to their account through the Smartphone App.
- In the event that the Service User is unable to use any of the above means, they may apply credit to their account by calling service customer care on 0818 220 107 or 061 311422. 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 with that mobile phone operator.

4.2 No Parking Events will be allowed to the Service User once the Account balance reaches a level insufficient to pay for the Parking Event in its entirety. If the Service User does not use the Tipperary eParking Service for a period of 6 months or such other period as Tipperary County Council and its Appointed Contractor may advise from time to time the account may be placed in suspension for security reasons.

4.3 The Appointed Contractor provides a Top-up service which is accessible by calling the telephone number as defined by Tipperary County Council from time to time. The Top-up Service permits callers to check their Account balance and to enter credit/debit card information for the purpose of topping up the 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 with that mobile phone operator.

4.4 The Appointed Contractor will deduct all amounts due for parking and other services as they occur from the Service Users account.

4.5 The parking fee payable in respect of the use of the Tipperary eParking service may be changed from time to time by Tipperary County Council. Any such changes shall become immediately binding upon the Service User. All such fees shall be charged in Euro.

4.6 Details of parking and other transactions 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/its bank account or other agreed payment method to enable the Appointed Contractor to collect fees due. Where

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this is not the case the Appointed Contractor may, at its sole discretion, cease or temporarily suspend service to that Service User.

4.8 Certain additional services shall be available to the Service User on an 'opt in' basis (e.g. optional text reminders prior to the expiry of the paid parking event) and shall be subject to charges as set out in the Schedule of Fees. The provision and delivery of such services shall be provided by the Appointed Contractor and any queries or disputes in relation to such additional services shall be a matter for resolution exclusively between the Service User and the Appointed Contractor.

### **5. Refunds, Disputes & Dormant Accounts**

5.1. Refunds: Once credit is used the Service is deemed to have been delivered and consumed. Therefore, refunds on used credit will not be made by the Appointed Contractor. Refunds on unused credit will be made by the Appointed Contractor should a user wish to cease use of the Service in accordance with 3.12 above. To defray the costs incurred by the Appointed Contractor in providing the top-up service and which are unrecoverable by the Appointed Contractor 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. Credit/Debit Card Top-Ups: 15%

5.2. Fee & Charge Disputes: Service Users who wish to dispute any service Fee or charge on their Account may do so by submitting a query to [support@parkmagic.net](mailto:support@parkmagic.net). This submission must be made within 90 days of the charge or Fee first being debited from the Account. Where a submission is made outside of this 90 day period the Appointed Contractor regrets that it may not be possible to investigate the complaint as records from third parties who have provided the services to the Service User may no longer be available in order to validate any claim. Neither Tipperary County Council nor its Appointed Contractor will be liable for any disputed Fees or Charges that cannot be validated.

5.3. Dormant Accounts: When an Account has been inactive for a continuous period of 24 months, the Account will be deemed to be dormant and closed. Credit remaining in the account at this time will be deemed expired.

### **6. Limitation of Liability**

6.1. The following provisions set out Tipperary County Council's and its Appointed Contractor'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.

6.2. Any act or omission on the part of Tipperary County Council, its Appointed Contractor or its employees, agents or sub-contractors falling within Clause 6.1 above shall, for the purposes of this clause, be known as an Event of Default.

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6.3. Tipperary County Council and its Appointed Contractor's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to the amount paid to the Appointed Contractor by the Service User pursuant to these General Terms and Conditions.

6.4. Neither Tipperary County Council nor its Appointed Contractor shall 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 Appointed Contractor had been advised of the possibility of the Service User incurring the same.

6.5. 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.

6.6. The Service User hereby agrees to afford Tipperary County Council and its Appointed Contractor not less than 15 business days (following notification thereof by the Service User) in which to remedy any Event of Default.

6.7. Tipperary County Council and its Appointed Contractor 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 Appointed Contractor 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.

6.8. 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.

6.9. The Service User acknowledges that the responsibility for registering transactions via telephone, mobile device or website as well as the possibility of receiving mobile text 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. The Appointed Contractor 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 text messages in time.

#### 6.10 Force Majeure

If the use of the eParking service is prevented or hindered by any matter beyond the control of the Appointed Contractor including but not limited to acts of God, acts of government, strikes, lockouts, industrial disputes, winds, fire, lightening, aircraft, explosion, flooding, drought, riots, civil commotion, acts of war, malicious mischief or theft then the performance of the Agreement shall be suspended without any liability on the part of Tipperary County Council eParking until such prevention or hindrance comes to an end.

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### **7. Parking Regulations & Parking Byelaws**

7.1. The Local Authority bye-laws, parking regulations and other relevant regulations apply to all Service Users of the Tipperary eParking system in County Tipperary.

7.2. Tipperary County Council can change parking tariffs and conditions at its discretion without prior warning. Tipperary County Council shall have no liability to any Service User for any changes made by local authorities to parking tariffs and conditions.

### **8. Applicable Law**

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

### **9. Disputes**

9.1. 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 whose decision shall be final and binding on the parties.

### **10. Disclosure of Account Information to Third Parties**

From time to time, subject to any applicable legislation or regulations, the Appointed Contractor may provide information about your Account:

- In response to any subpoena, summons, court or administrative order, or other legal process which the Appointed Contractor believes requires our compliance.
- In compliance with any agreement between the Appointed Contractor and a professional, regulatory or disciplinary body.
- To the Appointed Contractor's appointed service providers and merchant partners who help the Appointed Contractor meet the Appointed Contractor's needs by providing or offering Appointed Contractor's services.
- In relation to requests for the purposes of audit inspection by both the Local Government Auditor and Tipperary County Council's Internal Auditor.