

## **Terms of Service**

Whoosh by Yellowbrick International (YBI) - June 2016

### **Clause 1. Preamble**

YBI has implemented a Service called WHOOSH, deployed on behalf of parking operators, so that parking users can remotely pay their parking fees.

YBI is a technical intermediary between the Operator and the User (both as defined below) which, by means of a platform, enables parking time to be purchased in a simplified manner by use a bank card (credit or debit) authorized by use of a phone or other device accessing the internet, and, based upon the payment and technical options selected by the Operator.

### **Clause 2. Definitions**

In these general terms of use, the following terms have the meaning indicated below:

- WHOOSH Mobile Applications: Applications available on the download platforms dedicated to the types of mobile devices supported by the WHOOSH Service.
- WHOOSH Account: Technical account by which the User is identified on the WHOOSH service; it is created by the User in its own name during registration either on the Website [www.whooshstore.com](http://www.whooshstore.com), using the WHOOSH mobile application.
- Operator: Legal person or authority operating the parking service.
- WHOOSH Service or Service: Service provided by YBI whereby parking fees are paid in accordance with the terms herein.
- WHOOSH website: Website co-held and controlled by YBI and any successor, currently located at the following address: [www.whooshstore.com](http://www.whooshstore.com)
- The User: Person who sets up the Account.
- User Telephone: Telephone used by the user which has the feature and subscriptions required (voice and/or data plan) to access the service, or mobile telephone number entered in the Account.
- Ticket: Summary of the order relating to the parking fees featured on the home page screen of the WHOOSH Mobile applications and Websites consisting of the items set out in Clause 7.
- Parkeon Inc.: Company which operates the WHOOSH Service in the USA

### **Clause 3. Purpose**

YBI is offering a remote parking fee payment service called WHOOSH at the request of an Operator. These General Terms of Service set out the terms of use of the WHOOSH service

by the User.

#### **Clause 4. Acceptance of the General Terms of Service**

Any confirmation by the User of a payment of parking fees, irrespective of the payment medium used (Mobile website, Mobile Applications, WHOOSH Website, interactive voice response, call center, SMS), represents complete acceptance by it of these General Terms of Service.

The User therefore acknowledges that it is fully aware, upon the creation of its Account, of these General Terms of Service, and, at the time of payment, of the special terms of sale indicated **by the operator or in force at the parking spot** (cost of the service(s), length of stay, etc.) and expressly acknowledges that it unconditionally accepts and agrees to both these General Terms of Service and the special terms of sale **and/or local regulations** pertaining to any particular transaction.

These General Terms of Service apply for the full period during which they are available on line on the WHOOSH Website. The General Terms of Service shall prevail over any other terms and conditions featured in any other document.

The version of the General Terms of Service binding on the User shall be the version provided on the Website [www.whooshstore.com](http://www.whooshstore.com) at the time of validation of the payment.

#### **Clause 5. Modification**

YBI reserves the right to modify and update access to the Website at any time as well as these General Terms of Service. These modifications and updates are binding on the User which must accordingly refer to this section on a regular basis to confirm the applicable General Terms of Service.

Before confirming the purchase of the ticket, the User will be able to correct or modify its choices. This mechanism may be accessed at each stage of the purchase process.

#### **Clause 6. Set up and management of the WHOOSH account**

The role of YBI is to facilitate the payment of parking fees from a phone or other device accessing the internet, without the requirement that bank card details be entered for each payment.

In order to personalize the Account of each User, the following information constitutes minimum requirements:

- E-mail
- Login
- Telephone number
- PIN number defined for access to the WHOOSH service
- Zip code

- Bank card details: card number, expiry date, card holder's name, card security code

The login or telephone or license plate number, along with the PIN, will constitute proof of the User's identity and is binding on User for any payment made by their intermediary.

The User undertakes to provide authentic information and not to distort its identity and/or not to provide a false identity.

YBI reserves the right to terminate or suspend any User Account if it contains inaccurate or false information.

User is and remains exclusively responsible for any personalized content of its WHOOSH Account. The User undertakes to update the content whenever necessary and to ensure that it is accurate, complete and current at all times.

User alone bears any and all consequences which may arise from use by third parties (whether authorized or not), unless it can be demonstrated that the disclosure of its login and password is the result of a fault attributable to YBI.

## **Clause 7. Use of the WHOOSH Service**

The Account enables the WHOOSH Service to be used by any Operator which provide the WHOOSH Service.

### **7.1. Start a transaction**

Based on the features selected by an Operator, the transaction may be completed:

- By following the steps required by the Mobile applications
- By following the steps required by the Website
- By following the steps required by the interactive voice response
- By following the steps required by SMS
- By following the steps required by the call center
- By any other means proposed at a later stage

The parking area is selected either by geolocation, by address or by area code. This area defines the applicable parking price(s). The User shall ensure that the parking fee purchased through WHOOSH corresponds to the parking fee applicable to the area. The User may be subject to a fine for its own mistake.

If applicable, the choice of the service user type is the responsibility of the User. Any User which selects a service user type, for which it has not acquired the rights from the city, may be subject to a fine.

If a payment is initiated by SMS, the payment shall be directly made in accordance with the information sent by the User for the vehicle registered as a "vehicle by default" (may be modified on the website).

YBI may not be held responsible for errors by the User.

The price represents the parking cost established by the Operator, including the cost of the service based on the options selected, as well as any applicable taxes.

After payment has been validated, the amount of the parking fee is debited from the account associated with the bank card entered into the WHOOSH Account. The payment is made in US dollars.

The Ticket shall be valid for use by the User only if one of the following occur:

- Ticket appears in the list of ongoing tickets of its Account if it has paid via the Website or the applications (the ongoing ticket interface is accessible via all these media).
- Receipt of the confirmation SMS if it has been paid by SMS
- Verbal confirmation upon payment by the voice response or call center

The confirmation or rejection of payment is indicated to the User. In the event of any doubt as to the confirmation or rejection of the payment, and/or absence of confirmation or rejection of payment, the User should contact Customer Service. In such case, as it is likely that the Ticket has not been validated at all, and the User is urged to pay its parking fee by any other means available. Failing this, a fine may be issued by the Operator, for which YBI is not responsible.

The successful completion of the payment is related to the User's updating of its bank details. The User agrees not to use a card that is expired or an account that does not have the sufficient funds.

YBI is not responsible for any fine that may be issued prior to the validation of the Ticket. User acknowledges and agrees that some of its data will necessarily be disclosed to third parties as part of the payment processing procedures.

As soon as the parking time on a ticket has elapsed, the customer may choose to consult, export and/or print it via the WHOOSH Website.

## **7.2. Extension of the ticket**

The User may at any time extend the validity of an already issued Ticket via the interface "ongoing tickets", provided that the Ticket has not expired, that it has not reached the maximum parking time established in the price policy of the Operator, and that the Operator accepts extensions of tickets.

## **7.3. Information featured on the ticket**

The ticket includes the following information:

- a parking beginning and end time, and/or parking duration
- a total corresponding amount
- a parking area
- a service user type (if it is not the standard service user type)

- a license plate number

## **Clause 8. Price and payment**

Registration to the service is free. A convenience fee for using the Whoosh! service is added to the parking fee. The total fee is summarized for you before you complete your transaction. The convenience fee varies by location

User is responsible for all charges associated with its device and access to the internet. The use of the WHOOSH Service is subject to any rules of the Operator, including, but not limited to: prices, price bands, parking time limits, maximum or minimum prices applied, parking durations, timetables, and terms of extension. The parking service prices and fees of the Operator shall be those established and applicable on the date of use of the service.

For each purchase initiated by the User, the amount of the transaction, including any applicable taxes and convenience fees (if any at all) of the Operator shall be invoiced to the bank account associated with the bank card entered in the Account.

The use of the WHOOSH service is in addition to other payment methods available by the Operator.

In the event that the WHOOSH service is interrupted for technical or any other reason, the payment of required parking fees must be made by the User by any other payment method made available by the Operator.

A record of User transactions for a period not to exceed one year is available in the dedicated area of the WHOOSH Website.

## **Clause 9. Security and confidentiality of payments**

The bank details used (card number, expiry date, security number) in the Whoosh Service are securely managed by a banking service provider which holds PCI-DSS certification (Payment Card Industry Data Security Standard) or equivalent.

## **Clause 10. Liability**

YBI shall only be solely liable for any losses or direct damage caused by and to the extent of its own negligence or wrongful act. The liability of YBI shall be limited to a maximum amount of the Ticket amount. In no event shall YBI be liable for any indirect, special or consequential damages.

YBI shall not be responsible for any damage of any kind, which may arise from an improper use of the WHOOSH Website, Smartphone Applications, SMS, interactive voice response and/or call center.

The liability of YBI may not be incurred on account of any risk inherent to the use of the internet, such as, in particular, any suspension of the service, intrusion or presence of

electronic viruses, loss of files, malfunction and/or interruption of the mobile networks or any other fraudulent use. As online payment operations are complex and involve the intervention of a number of parties, it is thus expressly acknowledged that YBI may not be held responsible for any incidents that occur on the infrastructure that it does not manage or exercise control. No claim of any kind may therefore be made that result from events originating upstream or downstream. In particular, YBI is not responsible for losses or damage arising from a payment refusal involving the User's card, a malfunction involving a third party (for instance, a failure in the connectivity to the Internet with the payment processors). YBI is not liable for any damages incurred by the User or Third parties which arise from a case of force majeure or any event outside of the reasonable control of YBI.

### **Clause 11. License for the Software and other intellectual property rights**

YBI grants to the User, which accepts, a non-transferable access-limited license to its WHOOSH Websites and Smartphone applications, exclusively for its personal use in connection with the use and maintenance of User's Account. This license does not include any resale or commercial use of the WHOOSH service, any collection or use of information, description of price, any use arising from this Site or its content, any downloading or copying of the account information to be employed by third parties, any use, research of data, automations or other data collection or extraction tools.

No material or information related to YBI may be reproduced, duplicated, copied, sold, resold, visited or otherwise exploited for a commercial end without the express written consent of YBI.

All audiovisual elements of the WHOOSH website, the WHOOSH Smartphone Applications, as well as graphics, logos, headers, icons, scripts, service names including underlying technology, are the exclusive property of YBI and are protected.

In this capacity only the uses specifically defined herein are authorized. Any other use which is not expressly authorized in advance is prohibited. By connecting to the Websites, the User undertakes not to copy or download all or part of their content.

### **Clause 12. Loss, theft and unauthorized use**

The User is liable for any use of its Account including any transactions carried out by a person authorized to use its Telephone, its Account, its PIN number. or its password.

The User shall immediately inform Parkeon Inc. of any fraudulent use of its Account, Password or PIN number. or as soon as it becomes aware of the same by calling: 1-855-4-Whoosh or 1-855-494-6674. This information shall be confirmed in writing by registered letter with acknowledgement of receipt to the following address: 40 Twosome Drive, Suite 7

Moorestown, NJ 08057.

In the event of loss or theft of the User's access device or the bank card associated with the Account or as soon as it becomes aware of the same, the User shall immediately inform its telephone operator/internet service provider or the entity which issued the bank card.

In both cases, YBI advises the User to close and/or update the information of its account, pursuant to the provisions of Clause 15 herein, in order to minimize any risk of fraudulent use.

## **Clause 13. Resolution of disputes relating to the Service**

### 13.1. Disputes relating to the parking Service

YBI does not undertake to provide parking services, parking fee collection services or to issue any fines.

YBI assumes no liability or administrative responsibility with respect to any dispute relating to the parking service which falls within the exclusive responsibility of the Operator.

In the event of a dispute relating to the Parking service, all claims shall be made to the Operator in charge of the parking service. In support of the claim, the User may attach the Ticket which may be exported or printed from the WHOOSH website.

### 13.2. Disputes relating to the Whoosh Service

In the event of any technical issues related to its WHOOSH Account, the User may access the WHOOSH Website to consult the FAQ available on line, or contact the support service whose details and terms of access are provided on the WHOOSH Website.

## **Clause 14. Personal data**

Any personal data will be maintained in accordance with the personal data and security policy, available at the WHOOSH website. Subject to User's opt-out rights, YBI/Parkeon Inc. or other companies may send to the User any sales offers concerning its products and services. Whenever e-mails are received, the User may indicate at any time that it wishes to opt out by altering the preferences of its WHOOSH User Account.

YBI/Parkeon Inc or the licensee may use Account information, including confidential information for internal processing of parking transaction data or for statistical analysis.

## **Clause 15. Closure of the Account**

YBI reserves the right to close the User Account at any time for any reason or no reason. Any such closure shall not affect any of the ongoing parking fees paid by the User, or any of the obligations of YBI in existence at the time of the closure.

The User may close its Account at any time and free of charge by sending a written request to the following address: 40 Twosome Drive, Suite 7, Moorestown, NJ 08057.

## **Clause 16. Duration**

These General Terms of Service shall apply for the full period during which they are available on line on the WHOOSH website.

## **Clause 17. Assignment**

YBI reserves the right to assign any its rights and obligations arising from this agreement to third parties.

## **Clause 18. Entire contract clause**

The invalidity of any provision of these General Terms of Use, as determined by a court of competent jurisdiction, shall not result in the invalidity of the other clauses of the agreement.

## **Clause 19. Applicable law**

These General Terms of Service are governed by the laws of the USA.

## **Clause 20. Language**

These General Terms of Service and the special terms are drafted in the English language.

## **Clause 21. Disputes**

These General Terms of Service are subject to the laws of the USA. In the event of a dispute, the User shall notify Parkeon Inc in writing within 30 days of its knowing the basis of the dispute.

## **Clause 22. Warnings**

The User acknowledges that YBI has provided all information and warnings particular to the proposed WHOOSH service, by which User can evaluate and implement the technical and legal measures that are appropriate under the circumstances. The creation of the WHOOSH Account and/or the use of the WHOOSH Service requires the full and complete agreement by the User to these General Terms of Service.

The User acknowledges that it is fully aware of the fact that its agreement as to these General Terms of Service does not require the handwritten execution of this document. User may however save and print this document by accessing the WHOOSH Site:

[www.whooshstore.com](http://www.whooshstore.com).

YBI reminds the User that the use of a mobile phone or any other device while driving is dangerous. YBI advises against the use of this service while driving a vehicle. YBI assumes no liability for any losses caused by the use of the WHOOSH Service or the Account while driving a vehicle.

