

Port of Hood River *BreezeBy* Personal Account Terms and Conditions

These Terms and Conditions, together with your Application, constitute the Port of Hood River ("PORT") *BreezeBy* Customer Agreement (the "Agreement") made and entered into by and between you (the "Customer") and the PORT under the laws of the State of Oregon. Nothing in this Agreement releases you, the Customer, from civil liability or criminal penalties resulting from failure to abide by applicable Oregon State laws and regulations.

Agreement

Subject to the terms of this Agreement, the Customer will incur a *BreezeBy* toll charge for each use of the *BreezeBy* facility and the PORT agrees to provide the Customer with a transponder to be used at those locations accepting *BreezeBy* electronic toll payment.

Failure to comply with this agreement may result in termination of your account/plan.

Failure to pay tolls may result in additional penalties provided by law.

Further, by completing the Application, making a payment into your prepaid *BreezeBy* account, and using the transponder, you agree to the following terms and conditions:

1.0 Transponder Usage

- a. Installation. You agree to install, display, and use the transponder in accordance with the instructions and not to assign or transfer your transponder without formal written transfer approval from the PORT.
- b. Delivery. All *BreezeBy* Account transponders will be delivered by mail or may be picked up at the Port Office at 1000 E. Port Marina Drive, Hood River, Oregon. *BreezeBy* transponders will not be available for pick up at the tollbooth. *BreezeBy* transponders will become active for use within forty-eight (48) hours from issuance.
- c. Speed and Tailgate. The gates optimally work at a pass-through speed between 5-10 miles per hour. Do not exceed this speed or tailgate. This interferes with the *BreezeBy* scan and gate control.
- d. Lights. The light should turn green as soon as the pass has been read. A yellow light indicates your balance is below \$10.00; you need to add funds to your account as soon as possible, either by cash, check or credit/debit card. A red light indicates that your account balance is \$1.50 or less and has been inactivated. You must pay cash to cross at this time.
- e. Receipts. You understand and agree that you will not receive a receipt for individual transponder transactions.

- g. Charges. You understand and agree that electronic payment via transponder will be calculated based on the number of vehicle axles detected by the system in the lanes.
- h. Replacement. You understand that if your transponder malfunctions, the PORT will replace it without charge, within three years of issue date, unless the transponder is defaced, altered, damaged, or shows other signs of misuse. Otherwise, a fee to cover the transponder replacement costs of \$15.00 (\$27.00 for an external mounted transponder) will be assessed after the first three transponders on the account have been issued.
- i. Lost or Stolen. If your transponder is lost or stolen, you must notify the PORT immediately in person at the Port office, by mail, fax or email. You are responsible for all charges on your account until notification is received.

2.0 Account Information

Good Standing. To keep your account open and in good standing you must:

- a. Keep current your vehicle information, make, model, license plate number and axle counts.
- b. Keep current all personal, demographic, and payment information.
- c. Maintain a positive balance for prepaid accounts.
- d. You may set up a user name and password to access your account online at www.portofhoodriver.com.
- e. Statements: You have the option of receiving a monthly or quarterly statement. There will be a statement fee of \$1.00 per Hard Copy paper statements mailed. Email statements are received at no charge.

Closure. Your account may be closed when:

- a. Your request to close the account has been received:
Any remaining balance in a registered account will be refunded, without interest and less any applicable bonus and less any outstanding administrative fees. Refund will be by the original method of payment, when possible, and will occur within fifteen (15) days of your account closure request.
- b. The account shows a negative or zero balance:
Any negative balance and/or outstanding tolls and fees must be paid in full immediately or may be subject to collection procedures and legal action by the PORT.
- c. There has been no activity for twenty-four (24) consecutive months:
A "Notice of Inactivity" will be sent after eighteen (18) months of inactivity. After twenty-four (24) months of inactivity, the account will be closed. Any remaining balance in a registered account will be refunded in the original method of payment received without interest and less any outstanding administrative fees. (See section 9.0)

3.0 Automatic Account Replenishment

The minimum replenishment amount to receive the 33% bonus amount added to your account is \$20. You may place more than the minimum in your account at any time. Customers with seven (7) or more vehicles may be required to establish and maintain a greater minimum balance. If you arrange for Automatic Account Replenishment, you agree to the following:

- a. You acknowledge that your signature is required to enroll or terminate your participation in the Automatic Account Replenishment.
- b. You agree to maintain a valid payment method on file with the PORT.
- c. Account replenishment can be established by credit card. When your account balance falls below the minimum balance, the account will automatically be replenished for a minimum of \$20, or as otherwise identified on your application.
- d. If your automatic payment method is declined you will see a yellow light. If your account falls to a \$0 balance your account will be changed to manual replenishment, the account may be inactivated and you will receive a red light. You must contact the PORT to re-establish automatic replenishment.
- e. The PORT may adjust replenishment amounts based on a Customer's usage patterns over the prior three (3) months. Prior to such adjustment, customers will be notified by the PORT and may contact the PORT to decline this replenishment option.
- f. You may acquire up to three (3) transponders without fees. Fees of \$15.00 (\$27.00 for an external mounted transponder) will be assessed for additional transponders.
- g. Interest will not be paid on prepaid account balances or deposits.

4.0 Manual Account Replenishment

The minimum replenishment amount to receive the 33% bonus amount added to your account is \$20. Customers with seven (7) or more vehicles may be required to establish and maintain a greater minimum balance. If you do not choose the Automatic Account Replenishment option, you must maintain and replenish your account and agree to the following:

- a. Payment for replenishment may be by credit card, check, money order, or cash (in person at the PORT office.). **Do not send cash in the mail.** The PORT reserves the right to refuse counter or temporary checks. If check payments are returned for insufficient funds, the account holder will be charged a fee of \$25.00 and may be required to replenish their account with certified funds or cash for future transactions, and may be liable for statutory damages and PORT attorney fees.
- b. If your account falls below \$10.00 you will see a yellow light. If your account balance falls below \$0 your account will be inactivated and you will see a red light.

- c. Manual payments may require 5-7 business days from receipt to process.
- d. You may acquire up to three (3) transponders without fees. Fees of \$15.00, (\$27.00 for an external mounted transponder), will be charged for additional transponders.
- e. Interest will not be paid on prepaid account balances or deposits.

5.0 Disputes

You may contest fees and tolls applied to your account by submitting your dispute to the PORT in writing within ninety (90) days of the transaction in question. Disputes will be accepted in person at the Port office, by mail, fax, and email. If the fee or toll is rescinded or adjusted, your account will be credited. Payments made by credit card are required to have refunds issued to that same credit card. Refunds will be issued within 30 days of approved request. The PORT may deny reimbursement for a credit card charge if the credit card holder has not followed disputed charge procedures required by the cardholder's credit card use agreement.

6.0 Video Tolls (Vtoll)

A Vtoll is a bill for the use of a *BreezeBy* toll lane when you fail to pay the required toll either via electronic toll collection or manual payment at a toll booth. It may occur when your account has an insufficient balance, when your transponder is not functioning or improperly mounted, or at any time you take an unregistered vehicle through the toll lane without remitting the toll due.

- a. Vtoll by debit. If an account holder's transponder is not detected, a photo monitoring system captures the vehicle's license plate. If the license plate number is listed in your account, the transaction will be processed as a "Vtoll by debit," with the appropriate toll deducted from your account plus a \$10.00 administrative fee. A notice may also be sent to you of the undetected transponder and Vtoll charge.
- b. Vtoll by mail. Any vehicle that uses the *BreezeBy* toll facility without paying the toll will be issued a Vtoll bill by mail, to the registered owner, and will incur a \$10.00 administrative fee along with the toll due. The fee will escalate if not paid per the instructions in the Vtoll bill and must be paid before the Vtoll is cleared.

7.0 Termination

The PORT reserves the right to deactivate any *BreezeBy* Pass/Plan/Account at any time. Your account may be suspended for violation of the Terms & Conditions, such as excessive speed or tailgating. All past due tolls and/or fees must be paid to reactivate the Account/Plan. Use of a *BreezeBy* Tag on a suspended account will result in Account/Plan closure and Account Holder may be subject to civil penalties and/or criminal prosecution for toll evasion.

You may suspend your Account/Plan by notifying the PORT, and you must also notify the PORT of when you wish to reactivate the Account/Plan.

Either the PORT or you, the Customer, may terminate this Agreement at any time and for any reason. If your account is terminated, the PORT will refund any amount in your account remaining after tolls, costs, and fees have been paid within thirty (30) days of notification. No refunds may be provided for unregistered accounts.

8.0 Privacy Policy

The *BreezeBy* Privacy Policy is subject to the requirements of state and federal law and may be amended at any time in accordance with applicable statutory requirements. Notice of any changes to this Privacy Policy will be available via email, on your account statement, and/or at the PORT Office. Notices will also be posted on the web site. Enactment or changes of laws which affect the PORT'S Privacy Policy will not be considered an amendment which requires customer notice.

BreezeBy will not sell or share the *BreezeBy* customer list with outside marketers. *BreezeBy* will only collect and retain customer information which the PORT deems necessary and essential to properly conduct and record transactions, deposits, and fees and to inform Customers of their account status and/or changes to this Agreement. Information collected by the PORT relative to an individual customer's usage will not be released except under the following circumstances:

- a. In response to a court order for specific information.
- b. At the request of authorized law enforcement officials/agencies in the conduct of criminal investigations.
- c. At the request of the individual account holder with proper identification.
- d. As reasonably necessary to collect unpaid tolls.
- e. Or as otherwise required by law.

More information on the privacy guidelines can be found at the Port of Hood River's website at <http://www.portofhoodriver.com>

9.0 Administrative Fees

An administrative fee may be applied under the following circumstances:

- a. After twenty-four (24) consecutive months of no toll activity, your account may be assessed \$10.00 administrative fee. Any remaining funds after the account has been closed will be refunded without interest.
- b. Vtoll (see section 6.0) by debit – An administrative fee of \$10.00 will be assessed when the Vtoll can be debited from your *BreezeBy* account.
- c. Vtoll (see section 6.0) by mail – When a *BreezeBy* account is not associated with the vehicle, a Vtoll bill is mailed to the registered owner of the vehicle, and the administrative fee of \$10.00 will be assessed the registered owner of the vehicle.
- d. Transponder fees to cover costs. Transponder fees may be applicable for either interior mounted or exterior mounted transponders. The PORT will provide up to three (3) transponders, at no additional charge, that meet standard vehicle

requirements. Customers requesting transponders that exceed standard requirements will be assessed a \$15.00 per transponder fee (\$27.00 for an external mount transponder).

- f. Returned check fee of \$25.00.
- g. Statement Fees – There will be a statement fee of \$1.00 per Hard Copy paper statements mailed. Email statements are received at no charge.

Actual administrative fees are subject to change and current fees will be posted at the PORT office, online at <http://www.portofhoodriver.com>, and with your account statement.

10.0 Amendments

The PORT may periodically make changes or amendments to the Terms and Conditions of the Agreement. You will receive notice of any such changes via email, on your account statement, and/or at the PORT Office. Notices will also be posted on the website. Use of your transponder beginning ten (10) days after such notice is provided shall constitute your agreement to the amended Terms and Conditions of the Agreement.

11.0 Liability

The PORT shall have no obligation or liability to the Customer with respect to use or performance of the transponder. The Customer agrees to indemnify and hold the PORT, its commissioners, employees and agents, and all other operating agencies, their agents, representatives, and respective employees harmless from and against any damage, loss, cost, expense, injury, or liability relating to, arising from, or as the result of use or, the performance of the transponder or as the result of inaccurate customer account information.

12.0 Oregon Law

Oregon law shall govern this agreement and all customer activities related to this agreement. Any legal action filed to interpret or enforce this agreement shall be filed in Hood River County, Oregon Circuit Court.

13.0 Port Notice

Notice will not be considered received by the PORT during non-business hours. Notice may be hand delivered to a PORT employee at the PORT Office located at 1000 E. Port Marina Drive, Hood River, Oregon; may be emailed to the Port at porthr@gorge.net; may be phoned in to the office at 541-386-1645; or may be faxed to the Port at 541-386-1395 and will be considered received when entered in Port records.

PORT OF HOOD RIVER PRIVACY POLICY

This Privacy Policy describes the collection, use and security of the information obtained by the Port of Hood River ("Port") from users of the *BreezeBy* system for efficient and effective operations of the Electronic Toll Collection System. This policy is consistent with Federal and State laws governing an individual's rights to privacy.

Personal Information Collected

Port collects personal information to facilitate enrollment processing, account maintenance and to better serve *BreezeBy* accounts. Examples of personal information include a user's name, address, telephone number, email address, credit card number and expiration date, license plate number or other information that personally identifies a *BreezeBy* user. Port obtains this personal information from applications or other forms submitted to Port. Port may also obtain information about a *BreezeBy* user from other sources, such as the Department of Motor Vehicles ("DMV") to ensure that records are correct and complete.

How Personal Information is Used

Personal information will only be used by Port for the purpose of administering a *BreezeBy* user's account and managing the *BreezeBy* operations. In the course of administering *BreezeBy* accounts, Port may disclose personal information to third party service providers for the purpose of operating the *BreezeBy* program (e.g. DMV, courts, account processors or collection agencies); otherwise, personal information will not be disclosed to third parties, except as required by law or ordered by a court of competent jurisdiction. Information about a *BreezeBy* user's use of the Electronic Toll Collection System, but which does not personally identify a user, may be disclosed to others to generate statistical reports for the purpose of managing the *BreezeBy* operation.

Security

Port will take reasonable steps to safeguard personal information through physical, electronic and procedural means. Port will treat *BreezeBy* user information confidentially and require third party service providers to treat it in the same manner.

BreezeBy users retain the right to review and edit all of their personal information pertaining to their accounts, whether stored electronically or on paper. Any inquiry or request to obtain information, in accordance with the above provisions, should be directed in writing to the Port of Hood River office, 1000 E. Port Marina Drive, Hood River OR 97031 by person, by mail, by fax, or by email. Port may adopt procedures for review of such information, including but not limited to charging a fee for processing requests for access to personal information.

Policy Amendments

Port reserves the right to amend this Privacy Policy at any time. If the Privacy Policy is amended the revised policy will be posted on the Port website www.portofhoodriver.com.

Effective Date

The effective date of this Privacy Policy is August 22, 2007.