

TERMS AND CONDITIONS OF PARKING

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. THEY ARE PROMINENTLY DISPLAYED AT THE ENTRANCE, ON OUR WEBSITE AT www.napierparking.co.uk AND ALSO AVAILABLE (UPON THE SUPPLY OF A STAMP ADDRESSED ENVELOPE) BY POST. ADDITIONAL COPIES MAY BE DISPLAYED FOR CONVENIENCE IN THE CAR PARK.

1. DEFINITIONS.

- (a) "Car Park" means the area of private land offered as a facility for the parking of vehicles subject to these Terms and Conditions.
- (b) "Fixed Charge Notice" is the document by which we notify you of the additional charges which the driver of a vehicle has incurred as a result of any breach of these Terms and Conditions of Parking. This has the same meaning as a Parking Charge Notice ["PCN"] for the purpose of an appeal to POPLA.
- (c) "POPLA": this is the independent body Parking on Private Land Appeals to which you are entitled to appeal a Fixed Charge Notice.
- (d) "Us", "Our" and "We" refers to Napier Parking Ltd, Atterbury Lakes, Fairbourne Drive, Atterbury, Milton Keynes, MK10 9RG.
- (e) "Vehicle" means the vehicle which enters into the Car Park and includes any mechanical device on wheels or tracks, its equivalent and accessories.
- (f) "Virtual Permit" has the same meaning and effect as "Parking Permit", unless otherwise stated.
- (g) "Windscreen" means a vehicle's principal forward facing glass window.

2. OWNERSHIP OF CAR PARK/ASSIGNMENT OF RIGHTS.

- (a) This Car Park is owned by **Leisure Activity LLP**. **Leisure Activity LLP** has entered into a contract with us whereby all rights and obligations concerning the management and administration of the parking services at the Car Park are assigned to us. If you leave a vehicle parked in this Car Park, you enter into a contract with us and will signify acceptance of this fact. Your obligation includes, but is not limited to, the obligation to pay us charges for parking and also the charges applied under a Fixed Charge Notice if you breach these Terms and Conditions of Parking. In the event that any Fixed Charge Notice remains unpaid, you acknowledge that we shall be entitled to issue court proceedings as the claimant.
- (b) For the avoidance of doubt, we are not responsible for the maintenance of the physical fabric of the Car Park and shall bear no liability for any claim(s) of whatever nature arising from the same.

3. CONTRACT.

- (a) We are members of the British Parking Association ["BPA"] and operate in conformity with the best practices as set out in the BPA's Approved Operator Scheme. We offer to allow you to park in the Car Park strictly subject to these Terms and Conditions. By leaving a vehicle, you signify acceptance of our offer. We operate in conformity with the requirements of Schedule 4 of the Protection of Freedoms Act 2012 ["the 2012 Act"]. The full text of Schedule 4 can be found at:

<http://www.legislation.gov.uk/ukpga/2012/9/schedule/4/enacted>.

- (b) If a vehicle is left in our Car Park, the driver has accepted these Terms and Conditions. In the first instance, we will seek payment of any unpaid charges from the driver. If we issue a Fixed Charge Notice and do not receive an appeal within 28 days, then after that period has elapsed, we may apply to the DVLA to request the details of the registered keeper. We will use such personal details only for the purpose of taking steps to recover payment of the Fixed Charge Notice. We will then write to the registered keeper, asking for the details of the driver at the time that the parking contravention occurred. The registered keeper will be allowed 28 days to provide the serviceable name and address of the driver, or to appeal the Fixed Charge Notice, or to pay in full. If the registered keeper adopts none of those three courses within that time, we will employ the power conferred on us by the 2012 Act to recover the unpaid charges in full from the registered keeper. For the avoidance of doubt, Schedule 4, clause 4(1) provides that: "The creditor has the right to recover any unpaid parking charges from the keeper of the vehicle."
- (c) In the event that it is impracticable (for whatever reason) to attach the Fixed Charge Notice to the vehicle, or to hand it to its driver, we may request details of the registered keeper from the DVLA (as soon as possible after the event) in order to send the Fixed Charge Notice by post to the registered keeper. If the registered keeper was not the driver then they will have the ability to provide us with the serviceable name and address of the driver.

4. OUR LIABILITIES.

We are responsible for using reasonable skill and care in the operation of the Car Park. However, that responsibility is limited, and we will only be liable in the limited circumstances set out in (a), (b), (c) below.

(a) We are liable for any death or personal injury arising from our negligence and the negligence of our servants or agents. Nothing in these Terms and Conditions shall exclude liability.

(b) We are liable for the loss of or damage to or theft from arising out of our negligence and the negligence or dishonesty of our servants or agents.

(c) Except as set out in condition 4(a), we shall only be liable for losses which were:

i. reasonably foreseeable at the time of entering the contract with you on the basis of these Terms and Conditions; or

ii. incurred as a result of our negligence or the negligence of our servants or agents; or

iii. incurred as a result of our failure to comply with these Terms and Conditions.

Please note that although we have the above responsibility to you, you should bear in mind that public car parks are open to everyone. We cannot guarantee that people will not enter the Car Park and cause damage to property or engage in criminal behaviour. Accordingly, you park in our Car Park at your own risk. We do not guarantee the security of your vehicle and/or its contents.

5. POSSESSIONS.

(a) Whenever possible, you and your passengers must take your possessions with you when you leave your vehicle.

(b) If you do leave possessions in your vehicle, you do so at your own risk. Therefore, please do not leave them where they are visible. You should lock them in the boot or an equivalent secure, out-of-sight storage area within your vehicle.

6. COURTESY TO OTHER CUSTOMERS.

If you damage another customer's vehicle, you must report the matter to us, giving the registration numbers of both vehicles. You must also notify the owner/driver of the other vehicle by leaving a note on the windscreen of their vehicle providing your vehicle and contact details and any other details relevant to the incident.

7. TICKETS.

(a) It is a condition of this contract that before leaving your vehicle in the car park, you *must* comply with one of the following:

- i. Purchase a ticket from **the ticket machine** within the Car Park *before* leaving the vehicle and the car park. It is essential that the ticket is clearly displayed in the windscreen of the vehicle. You must ensure that you have the correct change to pay for your parking on arrival. Going to obtain change after entering the car park will make you liable to receive a Fixed Charge Notice because your vehicle will be parked in breach of these Terms and Conditions of Parking. It is still necessary to buy a ticket if a passenger remains present within or near the parked car; or
- ii. Clearly display in the windscreen of the vehicle a Parking Permit valid for the Car Park and comply with the Parking Permit's Terms and Conditions. These are set out at clause 10 below; or
- iii. Possess a valid Virtual Permit, details of which are to be found at clause 10 below.

(b) To be clearly displayed in the windscreen of the vehicle for the purposes of clause 7(a) above, the ticket must be clearly evident to anyone standing next to the vehicle's windscreen. If, for whatever reason, a ticket is not so evident, the vehicle shall be deemed not to be displaying a valid ticket, and a Fixed Charge Notice will apply.

(c) If one of our ticket machines is out of order, you must obtain a ticket from another machine which is functioning. If there is only a single machine you should contact our office to get your parking authorised should that machine not function.

(d) A ticket from **one of the ticket machines** may only be used in conjunction with a single vehicle and may not be transferred to a further vehicle. A parked vehicle displaying a ticket which has previously been displayed in another vehicle is liable to a Fixed Charge Notice.

(e) For the avoidance of doubt, all users of the car park are required either to purchase and display a valid parking ticket purchased from **one of our machines** to cover the period of parking, or to display a valid Parking Permit, or to possess a valid Virtual Permit.

8. PARKING CONTRAVENTIONS.

(a) It is important to the effective management of the Car Park:

- i. That you do not park within a bay designated for a specific purpose when you are not entitled to do so (e.g. parking in a space for the disabled without an appropriate disability badge displayed);
- ii. That you comply with the requirements set out at clause 7 above and that the vehicle for which you are responsible does not remain in the Car Park for longer than the duration paid for and allocated;
- iii. That you do not obstruct any entrances, exits or any other vehicles;

- iv. That you do not trade within the car park **or park a vehicle classed as a heavy goods vehicle or coach within the car park**; and
- v. That you comply with all of the signs within the Car Park, and ensure you park within the markings of a bay.

(b) If you fail to comply with these requirements, then we may charge you a **£90 Fixed Charge Notice**.

(c) The **£90 Fixed Charge Notice** represents liquidated and ascertained damages. We are entitled to this sum because we will incur a loss as your actions will prevent the efficient management of the Car Park. The amount of the Fixed Charge Notice represents a genuine pre-estimate of the additional expense incurred by us as a result of your incorrect parking. For the avoidance of doubt, your actions will necessitate the expenditure by us of additional resources upon the management of the contract. The amount claimed under the Fixed Charge Notice represents those additional costs incurred up to the time that we have exhausted our own attempts to recover payment from you.

(d) Once we have exhausted our own attempts to recover payment from you, we reserve the right to pass the debt to third party agents for collection. This will incur additional charges of up to £100, which will be added to the debt owed to us and claimed in any legal proceedings which may be issued against you.

(e) If you breach these Terms and Conditions, a Fixed Charge Notice will be attached to your vehicle, handed to the driver or sent by post. If payment is received within 14 days of the Fixed Charge Notice being issued, the amount of the charge will be reduced in accordance with the provisions of the Notice.

(f) Payment may be made by one of the methods detailed in the "How to Pay" section of the Fixed Charge Notice. Please quote your vehicle registration number and Fixed Charge Notice number when making payment.

(g) Failure to pay the Fixed Charge Notice within 28 days of it being issued may result in legal action being taken against you for breach of contract, and may result in court proceedings.

9. REPEAT BREACHES.

(a) If you do not park in accordance with the terms of clauses 7 and 8, you will become liable to pay a Fixed Charge Notice. If you subsequently move your vehicle within the Car Park and again fail to park in accordance with the terms of clauses 7 and 8, you will become liable to pay a further Fixed Charge Notice. There is no limit to the number of Fixed Charge Notices for different breaches of these Terms and Conditions which can be issued to you within a 24 hour period.

(b) If a vehicle is neither moved nor parked in accordance with clauses 7 and 8, once a Fixed Charge Notice has been issued, you will be liable for a further Fixed Charge Notice every 24 hours. There is no limit to the number of Fixed Charge Notices which can be issued in respect of any particular vehicle.

10. PERMITS.

These Terms and Conditions of Parking shall apply to Parking Permit holders and to Virtual Permit holders as well as to pay-and-display customers.

(a) A Parking Permit enables one vehicle to park in the designated car parks.

(b) A Parking Permit is issued in respect of a single specific vehicle, the registration details of which must be provided at the time of application. That permit may only be used in conjunction with that vehicle. We will consider, at our sole discretion, making exceptions to this clause at the time of the permit application. Any exceptions will only be valid if evidenced in writing from us.

(c) The Parking Permit must be displayed on the inside of the windscreen on the vehicle. If the Parking Permit is not displayed, the customer must pay the normal daily parking tariffs and at all times park in accordance with the Terms and Conditions of Parking. There is no requirement for the holder of a Virtual Parking Permit to display the permit. In all other respects, the rights and obligations applicable to a Virtual Parking Permit shall be identical to those applicable to a Parking Permit.

(d) If a Permit is lost or stolen, a replacement may be obtained. A replacement fee at the full retail price will be made. The full retail price will be advertised on our website at www.napierparking.co.uk or be available on request from us.

(e) Each Permit has a unique serial number and once cancelled it will become invalid.

(f) A Permit does not guarantee that a parking space is available within the Car Park; all parking is on a first-come first-served basis.

(g) Permits can be used within the times specified on the permit or at time of application. We reserve the right to close areas of the car parks and offer alternative parking areas.

(h) We reserve the right not to renew the Permit at our discretion. We reserve the right to terminate the Permit at any time and in the case of such termination, we will refund the full pro-rata amount for the unused period.

(i) If the user of a Permit commits a breach of the Terms and Conditions of Parking, we reserve the right to terminate the Permit. In such circumstances, no refunds will be given. We may also terminate a Permit for improper use. Examples of improper use are duplication by photocopying/scanning or forgery. In such cases we may notify the police and a criminal prosecution may follow.

(j) It is the Permit holder's responsibility to ensure that the Permit is kept in good condition for the whole validity period. Should a Permit be damaged or become illegible, we may at our own discretion offer a replacement and only if the damaged Permit is exchanged for the new Permit. An administration charge will be made. This will be advertised on our website at www.napierparking.co.uk or be available on request.

(k) Should a breach of any of these Terms and Conditions occur, the vehicle involved will be liable to be issued with a Fixed Charge Notice.

11. APPEALS.

You are entitled to appeal any Fixed Charge Notice which is issued to you, but you must do so no later than 28 days from the date that it was issued. Appeals must be in writing and state in detail the reason(s) for the appeal, and include the name, address, contact telephone number, vehicle registration number and Fixed Charge Notice number. We aim to respond or confirm receipt of your appeal within 14 days from the date it is received. If your appeal is rejected by us, we will notify you in writing and provide you with the details of the independent appeals service POPLA.

12. ACCESS AND RE-LOCATION OF VEHICLES.

We reserve the right to refuse the admission of any vehicle to the Car Park for any reason whatsoever and may move within the Car Park any vehicle by whatever method we consider reasonable.

13. INTEREST.

It is a condition of parking that we shall be entitled to, and will, charge interest on any sums due and owed to us (whether arising from Fixed Charge Notice, or howsoever) at an annual rate of 5% above the base interest rate set by the Bank of England from time to time. For the purposes of this clause, time shall run from the date that you exhaust the appeal process, or 28 days after the Fixed Charge Notice was issued, if you do not appeal it.

14. TARIFF.

The parking fees payable by you (as varied from time to time) shall be displayed on the ticket dispensing **machines** within the Car Park. There is no automatic entitlement to a refund of any tariff paid for parking, whether paid at **a machine** for a ticket, or for a parking permit. Any refund which may be allowed shall be granted at our sole discretion.

15. VARIATION OF TERMS AND CONDITIONS.

These Terms and Conditions shall not be varied except in writing by our Company Director. Nothing said or done by any of our employees is capable of varying these Terms and Conditions.

16. GENERAL.

Each of these Terms and Conditions shall be construed separately, applying and surviving even if for any reason provisions are held inapplicable or unenforceable in any circumstances.