

Terms of Use of Service

Effective date: 1 March 2019

Park Agility Pty Ltd (ABN 63 164 061 045) (**Park Agility, we, us and our**) offer an online parking reservation service (**Service**) in accordance with the Terms of Use. The Terms of Use apply as a contract between you and us, our successors and assigns, and our officers, employees and agents (where applicable).

1 Terms of Use

- 1.1 By completing an application for the registration of an account (**Account**) through our website which is located at: www.sharepark.com.au (**Website**), you agree to be bound by:
 - a. these Terms of Use;
 - b. any additional terms of use displayed at a car parking location where you book a parking space through the Service (**Parking Facility**);
 - c. our Privacy Policy and our Website Terms of Use, which are incorporated into and form part of these Terms of Use; and
 - d. any other terms of use which we provide to you.
(collectively, the **Terms of Use**).
- 1.2 We may amend the Terms of Use as listed in this clause 1.1 a, c and d at any time by publishing the amended terms on our website and advising you by email of the publication of the amended Terms of Use and Parking Facility operators can amend the Terms of Use by displaying new terms of use at a Parking Facility.
- 1.3 By continuing to use the Service after the Terms of Use have been amended you are agreeing to the amended Terms of Use.
- 1.4 Visitors using the Service without a registered Account are bound by the same terms and conditions and by entering any parking facility via a Share Park enabled reservation, you (the Parker) agree to the Terms of Use.

2 Registration and eligibility

- 2.1 In order to use the Service you must register an Account through the Website.
- 2.2 To be eligible to register an Account, you must be at least 17 years of age, hold a valid drivers' licence, have a credit or debit card account and provide us with all information that is specified as mandatory for the establishment of an Account. You warrant that all information provided is true and correct and that you will update your information to ensure it is kept current at all times.
- 2.3 If you are registering an Account on behalf of a corporate entity, you warrant that you have authority to bind the corporate entity to the Terms of Use.
- 2.4 We may refuse your Account registration in our sole discretion without the need to provide a reason.
- 2.5 It is your responsibility to ensure that you keep your Account access information, including username and password, confidential and secure at all times. You must not permit any other person to use your Account access information. If you suspect that any other person has accessed your Account you must notify us in writing immediately.
- 2.6 Your Account is unique to you and is not transferable. You are fully responsible for all activities that occur through your Account even if the activities are carried out by someone else.
- 2.7 You must ensure that all details you provide when registering your Account are accurate. You must notify us of any change to your details by updating your Account profile.
- 2.8 You may cancel your Account through our website or by contacting us and asking us to cancel your Account.
- 2.9 We may suspend or cancel your Account at any time in our sole discretion without the need to provide a reason.

3 Making a Booking

- 3.1 You can request to use the Service by:
 - a. accessing your Account through the Website and following the directions to request a booking; or
 - b. accessing your Account through third party partner websites and following the directions to request a booking; or
 - c. directing your vehicle to a Parking Facility and following the directions on our user interface (provided you have previously established an Account through our Website) (**Casual Booking**).
(each, a **Booking Request**)

- 3.2 We may refuse to accept your Booking Request at our sole discretion and without the need to provide a reason.
- 3.3 If we accept your Booking Request we will send you an email or SMS confirming the details of your booking (**Booking Confirmation**).
- 3.4 Bookings are only valid for the date, time, location, price and other details as set out in your Booking Confirmation.
- 3.5 You may not resell, lease, licence or otherwise transfer a booking to any other person.

4 Payment

- 4.1 You must pay us the fees specified at the time of making your Booking Request (**Fees**), including any additional fees incurred in accordance with clause 6.2 unless otherwise specified.
- 4.2 You must supply valid payment details with your Booking Request. By submitting a Booking Request you authorise us to debit all Fees and other amounts payable pursuant to the Terms of Use from your credit card or other payment method (including any additional Fees payable pursuant to clauses 6, 7, and 9). Your authorisation may not be withdrawn until all Fees have been paid in full.
- 4.3 You agree to pay us for any costs incurred by us (including legal costs on a full indemnity basis and debt collection costs) in connection with your breach of the Terms of Use.

5 Cancellation of Booking

- 5.1 You may cancel or amend your booking at any time up to one hour prior to the commencement of the Booking time period specified in your Booking Confirmation (**Booking Period**) by accessing your Account through the Website.
- 5.2 We may cancel your booking at our sole discretion and without the need to provide a reason. If we are unable to provide you with the service requested in your Booking Request for any reason this will be deemed to be a cancellation by us.
- 5.3 If your booking is cancelled, we will refund you the relevant Fees unless the cancellation is due to your failure to comply with the Terms of Use or attend at the Parking Facility during the Booking Period in which case, we will not refund any Fees.

6 Booking Period

- 6.1 Payment of the Fees entitles you to park your vehicle in a Parking Facility in accordance with a Booking Confirmation.
- 6.2 Your vehicle must enter and leave the Parking Facility within the Booking Period. If you arrive before the commencement of or leave after the conclusion of your Booking Request's Period, then additional Fees will be charged in accordance with clause 4 and/or this clause 6.
- 6.3 If you arrive before the Booking Period commences your vehicle may not be granted access to the Parking Facility unless the Parking Facility has capacity for a Casual Booking, in which case a new Casual Booking will be made and additional Fees will be charged for the new Casual Booking additional to the original booking period.
- 6.4 If you arrive after the Booking Period concludes your vehicle will not be granted access to the Parking Facility unless the Parking Facility has capacity for a Casual Booking, in which case a new Casual Booking will be made and additional Fees will be charged for the Casual Booking. If you arrive after the Booking Period for a booking that has concluded, the Fees for that booking will not be refunded to you.
- 6.5 If your vehicle remains in the Parking Facility after the Booking Period has concluded, you will automatically be charged an additional Fee for every hour or part thereof equal to the minimum one-hour parking rate published on our Website for the Parking Facility. We may also (but are not required to) send you an SMS detailing the additional Fees incurred. Fees will continue to accrue until you collect your vehicle from the Parking Facility or we remove your vehicle from the Parking Facility pursuant to clause 9.
- 6.6 In the event a Parking Facility closes while your vehicle is in the Parking Facility and your Booking Period has concluded, we may (but are not required to) arrange for the Parking Facility to be reopened for the purpose of you removing your vehicle from the Parking Facility. If we agree to do this, you agree that we may charge you additional Fees that we consider are reasonable to cover our costs of arranging for the Parking Facility to be reopened.
- 6.7 We will not provide any refund if your total stay is shorter than the Booking Period.

7 Arrival at Parking Facility

- 7.1 When you arrive at the Parking Facility within the Booking Period your car may automatically be granted access to the Parking Facility by matching the number plate registration on your vehicle to your booking. Alternatively, if your vehicle is not automatically granted access you may need to scan the QR code sent to you via email or SMS in order to be granted access to the Parking Facility.
- 7.2 If your licence plate registration or the QR Code presented cannot be reconciled with the details used when making a Booking Request you may not be able to access the Parking Facility.
- 7.3 You agree to comply with any Terms of Use displayed at the Parking Facility as amended from time to time.
- 7.4 Upon arrival at the Parking Facility you must follow the directions displayed on the electronic dynamic signage at or near the Parking Facility entry to locate the parking bay which has been allocated to you. We may provide alternative directions in relation to locating your allocated parking bay at any time.
- 7.5 If you park your vehicle in a parking space that has not been allocated to you, we may charge additional Fees equal to the Fees that would have been applicable had you parked in the correct parking space (i.e. you will be charged for two simultaneous bookings). If you do this on more than one occasion we may suspend or cancel your Account. If you incorrectly park your vehicle in a parking space that we do not have authority to allocate, we will attempt to contact you but reserve the right to arrange for your vehicle to be towed or moved to a location determined by us and you agree to pay us the costs and Fees specified in clause 9.1.

8 Vehicle restrictions

- 8.1 Each Parking Facility has specific height limits for vehicles. It is your responsibility to ensure that your vehicle does not exceed the height limit for the Parking Facility.
- 8.2 You can check on the height limit for a Parking Facility through our Website. You are not entitled to a refund of Fees if your vehicle is too large to fit into the Parking Facility.

9 Overstays and Abandonment of Vehicle

- 9.1 If you fail to remove your vehicle within 24 hours of the Booking Period concluding, we may arrange for your vehicle to be towed to a location determined by us, and you agree to pay us:
 - a. the costs of towing, storage and sale of your vehicle (if permissible pursuant to clause 9.2); and
 - b. a daily overstay rate of \$100.00 per day until the date your vehicle is collected by you or sold by us.We are not liable for any damage occurring as a result of your vehicle being towed.
- 9.2 If you fail to collect your vehicle from us within 30 days of your Booking Period concluding, you agree that we can sell your Vehicle and use the proceeds to pay the amounts you owe us. You agree to take all steps required by us to permit us to sell your vehicle. We are not required to sell your vehicle and any decision to do so is solely in our discretion.

10 Direct marketing activities

- 10.1 By registering an Account, you agree to:
 - a. us sending you messages (including electronic messages such as email, SMS, and MMS) regarding any promotional, marketing and publicity activities that we may offer; and
 - b. our selected third-party partners sending you messages (including electronic messages such as email, SMS, and MMS) regarding any promotional, marketing and publicity activities that they may offer.
- 10.2 You have the right to unsubscribe from receiving any further messages of the kind described in clause 10.1 by:
 - a. emailing us at: support@sharepark.com.au or following the unsubscribe directions in electronic messages received; or
 - b. contacting the third party directly (in the case of messages from third party partners).

11 Disclaimer, Limitation on Liability and Indemnity

- 11.1 We do not guarantee that:
 - a. the Service or any Parking Facility will be available at all times; or
 - b. your use of the Service will be secure, uninterrupted or error free.
- 11.2 All implied terms, conditions, warranties and guarantees, except those which by law cannot be excluded or modified, are expressly excluded.
- 11.3 To the extent permitted by law, our liability for breach of any implied terms, conditions, warranties or guarantees which by law cannot be excluded is limited to one of the following (as determined by us in our discretion):

- a. if the breach relates to goods, the replacement or cost of replacing the goods or repairing or the cost of repairing the goods; or
 - b. if the breach relates to services, the supplying of the services again or the cost of supplying the services again.
- 11.4 We exclude all liability for any direct or indirect loss (including in each case, consequential loss, loss of profits, economic loss, loss of revenues, loss of production or loss of data), damages, expenses or cost suffered or incurred by you in connection with your use of the Service, howsoever arising, including as a result of breach of these Terms of Use, tort (including negligence), under an indemnity, under statute, in equity or otherwise.
- 11.5 To the extent that our acts or omissions are shown to have caused physical injury or death, and that liability is not excluded, our liability is capped to the greater of \$500 or to the insurance proceeds we receive in relation to the injury.
- 11.6 You acknowledge that you do not rely on any representation, warranty or other provision made by us or on our behalf which is not expressly stated in the Terms of Use and that you have taken whatever independent advice in relation to this agreement you have deemed necessary.
- 11.7 When using the Service and any Parking Facility you agree to take reasonable care to avoid damage to yourself, other persons and property.
- 11.8 You are liable for and indemnify us against any loss, damage or claim arising in connection with any breach by you of the Terms of Use.

12 **Privacy**

- 12.1 We are committed to handling your personal information in accordance with the Privacy Act 1988 (Cth).
- 12.2 Our contact details are available on our Website.
- 12.3 We generally collect personal information about you directly from you, but may also collect personal information about you from third parties. We will collect personal information from you when you interact with our Website or the Service but may also collect personal information from you in other circumstances.
- 12.4 We use your personal information to provide our services to you, improve our services, carry out management and administrative activities, conduct research and to communicate with you. If all the information requested is not provided, we may not be able to supply our services or may not be able to supply our services in full.
- 12.5 Your personal information may be disclosed to our related entities, service providers, contractors, auditors, and owners or operators of Parking Facilities. Your personal information may also be disclosed to relevant entities or authorities in order to meet our obligations under the law.
- 12.6 Our privacy policy is part of the Terms of Use and is accessible through our Website and it includes information about how we collect, store, use and disclose your personal information; how you may access the personal information about you that we hold and how you may seek correction of that information; how you may complain about a breach by us of the Australian Privacy Principles, and how we will deal with such a complaint.
- 12.7 A copy of our privacy policy is available upon request or by visiting our Website.

13 **General information**

- 13.1 The Terms of Use supersede any prior agreements between you and us in respect of the Service.
- 13.2 Our failure to exercise or enforce any right or provision of the Terms of Use does not constitute a waiver of the right or provision.
- 13.3 If any of the terms in the Terms of Use are held to be invalid, unenforceable or illegal for any reason and in any respect that provision will be severed and the remaining terms continue in full force and effect.
- 13.4 Your rights and obligations under the Terms of Use are personal to you and may not be assigned or dealt with in any way without our prior written approval, which we may withhold in our absolute discretion.
- 13.5 The Terms of Use do not create any tenancy or confer any interest upon you by way of licence, lease or otherwise in any Parking Facility.
- 13.6 The Terms of Use and the relationship between you and us are governed by the laws in force in the State of New South Wales, Australia without regard to its conflict of law provisions. You agree to submit to the personal and non-exclusive jurisdiction of the courts in the State of New South Wales.
- 13.7 If you would like more information on these Terms of Use, please contact support@sharepark.net