

Authority.

5. The Client grants Napier the right to operate the Parking Facility on the Land in accordance with the terms of, and for the duration of, the Agreement. The Client accordingly gives authority to Napier to carry out all aspects of the management and enforcement of the Parking Facility, and requires that Napier fulfils its obligations in accordance with an ATA Approved Operator Code of Practice, as updated from time to time. The authority hereby given by the Client may not be revoked so long as the Agreement continues in force.
6. Napier is entitled to contract directly with any individual who may wish to use the Parking Facility and is entitled to enforce such contract(s) according to law. The authority hereby granted to Napier includes, but is not be limited to, the right to pursue outstanding Enforcement Revenue and/or any Car Parking Revenue through due process of law (including, but not limited to, the bringing of legal proceedings in court).
7. The Client agrees to provide Napier with any documentation as may be required to demonstrate Napier's authority under this agreement. Such as documentation that may be mandated by a code of practice or government regulation.

Physical Environment.

8. The Client will be responsible for the upkeep of the Physical Environment. If Napier becomes aware of any hazard or danger contained within or on the Land, it will immediately notify the Client of the same. Napier has no liability in respect of the physical environment. Napier are not responsible for any business rates or utilities payable in respect of the land. Napier have no liability in respect planning matters.

Parking Equipment.

Napier will be responsible for the installation and maintenance of the Parking Equipment and shall keep the Parking Equipment in good and substantial repair and condition. The type of Parking Equipment and systems that are to be used are at the discretion of Napier. All Parking Equipment remains the property of Napier at all times.

Parking Operatives.

10. Napier will employ at its own expense and shall be wholly responsible for the acts or omissions of such individuals employed. Napier may employ such individuals as it considers appropriate for the efficient management of the Parking Facility on the Land.

Parking Permits.

11. The Client will be responsible for informing Napier of vehicles that are authorised to park. The Client must ensure that accurate details and full and correct vehicle registration marks are provided to Napier (and a confirmation response provided by Napier) or the Client must enter onto the allowed vehicle list (provided by Napier via a portal) prior to the vehicles using the Land.

Revenue.

12. The price charged to members of the public in return for a pay-by-phone session, pay and display ticket, or for a parking permit, shall be agreed between the parties and will then be displayed within the Land.
13. The Client will receive 65% of Car Parking Revenue and Napier will receive 35% of Car Parking Revenue and all Enforcement Revenue. Each Party shall be responsible for declaring and paying to HM Revenue & Customs the VAT element contained within their respective share of the gross Car Parking Revenue.
14. In respect of payments taken via our booking providers (where surplus space is marketed online), approved card provider, pay by phone and/or smart phone provider the Car Parking Revenue will be 65% in favour of the Client and 35% to Napier, after the deduction of the service provider's payment and processing charges at cost. Napier will collect and process all cash payments from the Parking Equipment, Napier will charge the Client a 0.9% plus VAT processing fee in relation to their share of cash collected (if cash is accepted).
15. Napier will operate a "Collection Account", through which it will transfer to the Client the 65% of Car Parking Revenue to which the Client is entitled under this Agreement. Payments from the Collection Account to the Client will be made monthly, by the last working day of the month following that to which the Car Parking Revenue relates. A full remittance advice shall be provided by Napier to the Client. The Client are entitled to the accounts to review in relation to the Car Parking Revenue.
16. Napier will provide the Client with an online log in to view the Car Parking Revenue, this will be via Smartfolio and JustPark (or similar).

17. Where an individual parks in a manner which breaches the terms and conditions upon which parking is offered, Napier shall be entitled to issue a Charge Notice in respect of that breach. Napier shall have sole discretion from time to time to alter the sum charged in respect of a Charge Notice, on condition that such charges are always in line with a current ATA (Approved Trade Association) guidance. Napier shall bear the cost of enforcing such Charge Notices as may be issued. Any revenue which may be generated thereby shall fall within the definition of Enforcement Revenue and be retained by Napier.
18. Cancellations of a Charge Notice can be requested by the Client within 28 days from the date that the Notice was issued. Cancellation requests must be accompanied by written authorisation. There is a £15 (plus VAT) charge per cancellation, payable in full by the Client.

Notices.

19. It is a condition that any Notice required or authorised to be given by either Party under the Agreement to the other Party shall be in writing and shall be sent by pre-paid registered delivery mail to the other Party at the address stated in the pre-ambles to the Agreement, or to such other address as may be specified by a Party by Notice from time to time. Any such Notice shall operate and be deemed to have been served at the expiration of 5 days after it is posted.

Relationship of Parties.

20. This agreement creates an independent supplier-client relationship. Napier is not an agent or employee of the Client for any purpose.

Data Protection.

Please refer to the Data Protection Clauses at Appendix 2.

Remedies.

22. The remedies provided by the Agreement are cumulative and not exclusive of any remedies provided by law.

Entire Agreement.

23. The Agreement contains the whole agreement between the Parties in respect of the operation of the Parking Facility on the Land and supersedes any prior written or oral agreement between them relating thereto and the Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated in the Agreement.

Amendment.

24. No amendment or variation of the Agreement shall take effect unless it is in writing and signed by the authorised representatives of both Parties.

Severance.

25. If any term or provision of the Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law that term or provision shall to that extent be deemed not to form part of the Agreement and the enforceability of the remainder of the Agreement shall not be affected.

Confidentiality.

26. The Client undertakes not to disclose the contents of this agreement to any person who is not a party to it or is not acting as their advisor, employee, servant or agent or unless it is required to be disclosed by any rule of law.

Termination.

27. Either party will be entitled to terminate the Agreement if the other Party commits any substantial breach of any of its obligations under the Agreement, and subsequently fails to remedy such breach (if capable of remedy) within 30 days after being given Notice by the first Party to do so.
28. Termination of the Agreement shall not affect any rights of the Parties accrued up to the date of termination.
29. Napier will remove its Parking Equipment upon termination of the Agreement.

Costs.

30. Each Party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation and execution of the Agreement.

Executed by **the Client**

..... [Signed & dated]

.....[Print Name]

.....[Position]

Executed by **JAMES DE SAVARY**, Director for and on behalf of **NAPIER PARKING LIMITED**

..... [Signed & dated]

Appendix 1 – Site Plan.

Appendix 2 – Data Protection.

Clause 1). Where we (The Company) are the Controller and pass you information (The Processor) the following clause is applicable:

1. Under the GDPR and/or equivalent legislation that may be brought in from time to time, it is agreed that:

a) We (“The Company”) are the Controller of personal data and any data we share with the Processor (“You”) means that you are governed by our processes and terms of obtaining and using data under our privacy statement. Under this contract, the Company provides you with permission to use that personal data as a Processor.

b) You shall undertake to the Company you have completed the necessary review and implementation of the GDPR regulations, knowing your responsibilities as a Processor and confirm you are or will be GDPR compliant by 25th May 2018 and will continue to be compliant by undertaking annual training.

c) The Company confirms that we shall only pass information to you whereby we are permitted to do so, within the scope of the GDPR. The Company recognises we are responsible for compliance with the GDPR, in particular the core principle Articles 5 and 6 (lawfulness of processing and their justification for doing so).

d) You will ensure that, as a Processor of personal data, you will provide reference to a privacy statement confirming your position as a Processor and for what purpose you use that data, which will include confirming that you will not share the data with any other “Controller”, “Processor” or “Third Party”.

e) The Company is responsible for the accuracy of providing personal data and the Company relies upon information given from the DVLA or other sources. As soon as the Company knows of a change to the personal details of a data subject, they will update you and you confirm to update your system immediately.

f) The Company confirms that, at the point the data subject’s personal data is passed through to you, there is a lawful and justifiable reason for the purpose of:

- a. Sharing the data with the you; and
- b. Storing of the data with the Company.

g) The Company will only pass on the data subject’s details in compliance with the GDPR and immediately advise you if those justifiable reasons change.

h) The Company confirms to the Processor they have a process in place to deal with “Subject Access” requests and will deliver up to the Processor within the required time scales to pass on that request. The Processor will ensure that any Subject Access requests are communicated back to the Company as a matter of immediacy to ensure timescales can be achieved.

i) The Processor confirms to the Company they will notify the Company immediately if they have a data breach and the extent of that breach.

Clause 2). Where you are the Controller and you pass information to Napier (The Processor) the following clause is applicable:

2. Under the GDPR and/or equivalent legislation that may be brought in from time to time, it is agreed that:

j) The “Landowner” recognises they are the Controller of personal data and any data they share with Napier Parking (“The Company”), will be processed by them. The Company use that personal data as a Processor.

k) The Landowner shall undertake to the Company they have completed the necessary review and implementation of the GDPR regulations, knowing their responsibilities as a Controller and confirm they are or will be GDPR compliant by 25th May 2018 and will continue to be compliant by undertaking annual training.

l) The Landowner shall only pass information to the Processor whereby they are justified to do so, within the scope of the GDPR. The Landowner recognises they must be responsible for compliance with the GDPR, in particular the core principle Articles 5 and 6 (lawfulness of processing and their justification for doing so). Further, the Landowner will ensure that, as a Controller of personal data, they will provide reference to their privacy statements at source (such as their terms of engagement) to their data subjects.

m) The Landowner recognises that the Company will not share the personal data they receive from the Controller with any third party, save for the enforcement of any breach of terms of use and in line with the usual practice of “effective car park management”. The Company confirm that if they do intend to share that personal data, they will have a contract in place and will advise the Landowner in advance, to allow the Landowner to update their own privacy notice.

n) The Landowner is responsible for the accuracy of providing personal data and the Company relies upon that information given. As soon as the Landowner knows of a change to the personal details of a data subject, they will update the Company accordingly.

m) The Landowner confirms that, at the point the data subject’s personal data is passed through to the Company, the data subject is notified by the Landowner of their rights under the GDPR, in particular reference as to why their data is being passed over and are given access to the Landowner’s privacy statement.

p) The Landowner will only pass on the data subject’s details with the data subject’s agreement and immediately advise the Company if those instructions change.

q) The Company confirms to the Landowner that they have a process in place to deal with “Subject Access” requests and can deliver up to the Landowner within the required time scales. The Landowner will ensure that any Subject Access requests are communicated to the Company as a matter of immediacy to ensure timescales can be achieved.

r) The Company confirms to the Landowner they will notify the Landowner immediately if they have a data breach and the extent of that breach.