

Website Terms and Conditions of Use

Dated 27th May 2018

1. About the Website

- 1.1. Welcome to www.driveparkfly.com.au (the '**Website**'). The Website provides car parking, car wash and detailing services (the '**Services**').
- 1.2. The Website is operated by Launceston Drive Park Fly PTY. LTD ATF Launceston Drive Park Fly Unit Trust (ABN 31 157 359 026) ('Launceston Drive Park Fly'). Access to and use of the Website, or any of its associated Products or Services, is provided by Launceston Drive Park Fly. Please read these terms and conditions (the '**Terms**') carefully. By using, browsing and/or reading the Website, this signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Website, or any of Services, immediately.
- 1.3. Launceston Drive Park Fly reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Launceston Drive Park Fly updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

2. Acceptance of the Terms

You accept the Terms by remaining on the Website. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by Launceston Drive Park Fly in the user interface.

3. Registration to use the Services

- 3.1. In order to access the Services, you must register for an account through the Website (the '**Account**').
- 3.2. As part of the registration process, or as part of your continued use of the Services, you may be required to provide personal information about yourself (such as identification or contact details), including:
 - (a) an email address
 - (b) preferred username
 - (c) a mailing address
 - (d) a telephone number
 - (e) a password
- 3.3. You warrant that any information you give to Launceston Drive Park Fly while completing the registration process will always be accurate, correct and up to date.

- 3.4. Once you have completed the registration process, you will be a registered member of the Website ('**Member**') and agree to be bound by the Terms.
- 3.5. You may not use the Services and may not accept the Terms if:
- (a) you are not of legal age to form a binding contract with Launceston Drive Park Fly; or
 - (b) you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.

4. Your obligations as a Member

- 4.1. As a Member, you agree to comply with the following:
- (a) you will use the Services only for purposes that are permitted by:
 - (i) the Terms; and
 - (ii) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions;
 - (b) you have the sole responsibility for protecting the confidentiality of your password and/or email address. Use of your password by any other person may result in the immediate cancellation of the Services;
 - (c) any use of your registration information by any other person, or third parties, is strictly prohibited. You agree to immediately notify Launceston Drive Park Fly of any unauthorised use of your password or email address or any breach of security of which you have become aware;
 - (d) access and use of the Website is limited, non-transferable and allows for the sole use of the Website by you for the purposes of Launceston Drive Park Fly providing the Services;
 - (e) you will not use the Services or the Website in connection with any commercial endeavours except those that are specifically endorsed or approved by the management of Launceston Drive Park Fly;
 - (f) you will not use the Services or Website for any illegal and/or unauthorised use which includes collecting email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Website;
 - (g) you agree that commercial advertisements, affiliate links, and other forms of solicitation may be removed from the Website without notice and may result in termination of the Services. Appropriate legal action will be taken by Launceston Drive Park Fly for any illegal or unauthorised use of the Website; and
 - (h) you acknowledge and agree that any automated use of the Website or its Services is prohibited.

5. Online booking

- 5.1. The **Website** provides the ability to Online Booking by which you may make request for Services via the Online Booking system which you specify (the '**Online Booking**'). You warrant that all information provided by you to us is true and correct.
- 5.2. When you have submitted an Online Booking on the Website, you will receive an email confirmation of your booking details and receipt for payment of the Services. Your booking is not complete until this email confirmation is received.
- 5.3. Launceston Drive Park Fly reserves the right to limit the number of bookings per person and the number of car park spaces available for Online booking.
- 5.4. If you wish to amend an Online Booking you may do so provided that:
 - (a) The amendment is done at least 1 day before the Services were booked;
 - (b) By making a new booking; and
 - (c) By contact us via email to cancel the existing booking.
- 5.5. You may cancel an Online Booking subject to the Refund Policy below.
- 5.6. We do not warrant that:
 - (a) the Online Booking system, the software or the Website will provide any function for which it is not specifically designed;
 - (b) the Online Booking system, the software or the Website will provide any minimum level of performance;
 - (c) the Online Booking system, the software or the Website will be virus free or free of performance anomalies or be operational without interruption;
 - (d) the Online Booking system, the software or the Website will be available for use at all times.
- 5.7. You warrant to us that at the time of entering into the Online Booking system or the Website, you were not relying on any representation made by us.
- 5.8. Except as expressly provided to the contrary in these **Terms**, and to the extent permitted by law, we make no representations or warranties of any kind, express or implied as to the operation of your access to or the results of your access to the software, the Online Booking system or the Website (including any related or linked websites) or the correctness, accuracy, timeliness, or completeness or reliability of the information or content included on the Online Booking system or the Website.
- 5.9. You agree that you will not attempt to resell or market any booking, whether on its own or bundled with other products or services, without our prior express written consent.

6. **Booking period**

- 6.1. The maximum booking period (the '**Booking Period**') is 120 days. Any longer bookings or stays are at the full discretion of Launceston Drive Park Fly.
- 6.2. The Booking Period is limited to one entry and one exit only. Any further entry or exit(s) are at the full discretion of Launceston Drive Park Fly.
- 6.3. There are no refunds or adjustments available if your stay at the Launceston Drive Park Fly is shorter than the Booking Period.

6.4. If your vehicle is parked at Launceston Drive Park Fly for any time outside the Booking Period (e.g. if you arrive early and/or leave late by more than 2 hours) you will be charged for the time outside of the Booking Period at our drive-in rates as noted on the Website. These rates may vary from the rates quoted via the Online Booking system at the time of making your Booking.

7. Gift Vouchers

- 7.1. Electronic Gift Vouchers can be purchased through the Online Booking System.
- 7.2. When you purchase a Gift Voucher, it is your responsibility to make the recipient aware of these terms and conditions.
- 7.3. Gift vouchers are not valid unless they have a valid gift voucher code generated in the Online Booking System.
- 7.4. Gift vouchers may be redeemed for goods and/or services through the Online Booking System.
- 7.5. To redeem the gift voucher the gift voucher code must be entered at Checkout or in the gift voucher holders Cart.
- 7.6. Gift Vouchers expire 12 months after the date of purchase ('expiry date').
- 7.7. Any balance remaining on the Gift Voucher after the expiry date will not be able to be redeemed by the gift voucher holder.
- 7.8. A Gift Voucher cannot be reloaded and/or reactivated at anytime.
- 7.9. A Gift Voucher cannot be used for cash advances or otherwise redeemed for cash.
- 7.10. A Gift Voucher shall be treated as cash – it will not be reissued, refunded or honoured if lost or stolen.
- 7.11. Gift Voucher use and safety are the responsibility of the gift voucher holder at all times.

8. Payment

- 8.1. Where the option is given to you, you may make payment for the Services (the '**Services Fee**') by way of:
 - (a) Credit Card Payment ('**Credit Card**')
 - (b) PayPal Australia Pty Limited (ABN 93 111 195 389) ('**PayPal**')
- 8.2. All payments made in the course of your use of the Services are made using CommWeb and PayPal ('**CommWeb and PayPal**'). In using the Website, the Services or when making any payment in relation to your use of the Services, you warrant that you have read, understood and agree to be bound by the CommWeb and PayPal terms and conditions which are available on their website.
- 8.3. You acknowledge and agree that where a request for the payment of the Services Fee is returned or denied, for whatever reason, by your financial

institution or is unpaid by you for any other reason, then you are liable for any costs, including banking fees and charges, associated with the Services Fee.

- 8.4. You agree and acknowledge that Launceston Drive Park Fly can vary the Services Fee at any time.
- 8.5. We may, from time to time, offer discounted or promotional rates for Services. These discounts or promotions will be subject to such terms and conditions as advised at the time. All such discounts and promotions are subject to limited availability depending on availability of Services, and we reserve the right to add or remove allocated Services to or from the promotion, or to vary, amend or cancel promotional rates at any time.
- 8.6. Not all promotions will be available via the Online Booking system. Conversely some promotions may be exclusive to the Online Booking system.

9. Refund Policy

- 9.1. Launceston Drive Park will only provide you with a refund of the Service Fee:
 - a) If the booking is cancelled at least the day before the Services were to be provided;
 - b) in the event they are unable to continue to provide the Services; or
 - c) if the manager of Launceston Drive Park Fly decides, at its absolute discretion, that it is reasonable to do so under the circumstances (the '**Refund**').
- 9.2. Refunds will be subject to a \$3.00 refund payment charges fee (the '**Refund Fee**'), except in the circumstances where you modify a booking by making a new booking and cancelling the existing booking in which case no **Refund Fee** will be payable.
- 9.3. You are not entitled to a refund if your vehicle exceeds the size limits we impose from time to time (Vehicles to be a maximum of 4.9m long x 1.9m wide x 4.0m high (if parking outside) and x 2.4m (if parking undercover)). Please contact us if you wish to make special arrangements to park a larger Vehicle.
- 9.4. Gift vouchers will not be refunded unless there has been a breach of any condition or warranty implied under the Australian Consumer Law.

10. Earning reward points

- 10.1. When you book online with Launceston Drive Park Fly you earn points (the '**Reward Points**').
- 10.2. You may use **Reward Points** towards future purchases through the Online Booking system only.
- 10.3. **Reward Points** are not transferable to another user.
- 10.4. Launceston Drive Park Fly reserves the right at all times to make any changes to rewards or benefits offered at its sole discretion, including but not limited to:
 - (a) Changes to rules governing;
 - (b) Base **Reward Points** rate;
 - (c) Expiry of accrued **Reward Points**;
 - (d) Awarding of **Reward Points**; or
 - (e) Changes to benefits offered.

- 10.5. You are solely responsible for any government tax, duty or other charge imposed by law in any country in respect of your participation in the **Reward Points** program including earned, using any other transaction through the Online Booking system.
- 10.6. Launceston Drive Park Fly reserves the right to terminate the **Reward Points** program at any time by giving you at least 30 days prior written notice in which case you will cease to earn **Reward Points**, your existing allocation of **Reward Points** will be cancelled and Launceston Drive Park Fly shall have no further liability to you.

11. Copyright and Intellectual Property

- 11.1. The Website, the Services and all the related products of Launceston Drive Park Fly are subject to copyright. The material on the Website is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Services and compilation of the Website (including but not limited to text, graphics, logos, button icons, video images, audio clips, Website, code, scripts, design elements and interactive features) or the Services are owned or controlled for these purposes, and are reserved by Launceston Drive Park Fly or its contributors.
- 11.2. All trademarks, service marks and trade names are owned, registered and/or licensed by Launceston Drive Park Fly, who grants to you a worldwide, non-exclusive, royalty-free, revocable license whilst you are a Member to:
 - (a) use the Website pursuant to the Terms;
 - (b) copy and store the Website and the material contained in the Website in your device's cache memory; and
 - (c) print pages from the Website for your own personal and non-commercial use.

Launceston Drive Park Fly does not grant you any other rights whatsoever in relation to the Website or the Services. All other rights are expressly reserved by Launceston Drive Park Fly.

- 11.3. Launceston Drive Park Fly retains all rights, title and interest in and to the Website and all related Services. Nothing you do on or in relation to the Website will transfer any:
 - (a) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or
 - (b) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or
 - (c) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process),

to you.

- 11.4. You may not, without the prior written permission of Launceston Drive Park Fly and the permission of any other relevant rights owners: broadcast, republish, upload to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Services or third-party Services for any purpose, unless

otherwise provided by these Terms. This prohibition does not extend to materials on the Website which are freely available for re-use or are in the public domain.

12. Privacy

12.1. Launceston Drive Park Fly takes your privacy seriously and any information provided through your use of the Website and/or Services are subject to Launceston Drive Park Fly's Privacy Policy, which is available on the Website.

13. General Disclaimer

13.1. Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.

13.2. Subject to this clause, and to the extent permitted by law:

- (a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and
- (b) Launceston Drive Park Fly will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Services or these Terms (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

13.3. Use of the Website and the Services is at your own risk. Everything on the Website and the Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of Launceston Drive Park Fly make any express or implied representation or warranty about the Services or any products or Services (including the products or Services of Launceston Drive Park Fly) referred to on the Website. This includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:

- (a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third-party conduct, or theft, destruction, alteration or unauthorised access to records;
- (b) the accuracy, suitability or currency of any information on the Website, the Services, or any of its Services related products (including third party material and advertisements on the Website);
- (c) costs incurred as a result of you using the Website, the Services or any of the products of Launceston Drive Park Fly; and
- (d) the Services or operation in respect to links which are provided for your convenience.

14. Limitation of liability

- 14.1. Launceston Drive Park Fly's total liability arising out of or in connection with the Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Services to you.
- 14.2. You expressly understand and agree that Launceston Drive Park Fly, its affiliates, employees, agents, contributors and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

15. Termination of Contract

- 15.1. The Terms will continue to apply until terminated by either you or by Launceston Drive Park Fly as set out below.
- 15.2. If you want to terminate the Terms, you may do so by:
- (a) providing Launceston Drive Park Fly with 1 days' notice of your intention to terminate; and
 - (b) closing your accounts for all of the services which you use, where Launceston Drive Park Fly has made this option available to you.
- Your notice should be sent, in writing, to Launceston Drive Park Fly via the 'Contact Us' link on our homepage.
- 15.3. Launceston Drive Park Fly may at any time, terminate the Terms with you if:
- (a) you have breached any provision of the Terms or intend to breach any provision;
 - (b) Launceston Drive Park Fly is required to do so by law;
 - (c) the provision of the Services to you by Launceston Drive Park Fly is, in the opinion of Launceston Drive Park Fly, no longer commercially viable.
- 15.4. Subject to local applicable laws, Launceston Drive Park Fly reserves the right to discontinue or cancel your membership at any time and may suspend or deny, in its sole discretion, your access to all or any portion of the Website or the Services without notice if you breach any provision of the Terms or any applicable law or if your conduct impacts Launceston Drive Park Fly's name or reputation or violates the rights of those of another party.

16. Indemnity

- 16.1. You agree to indemnify Launceston Drive Park Fly, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:

- (a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with Your Content;
- (b) any direct or indirect consequences of you accessing, using or transacting on the Website or attempts to do so; and/or
- (c) any breach of the Terms.

17. Dispute Resolution

17.1. Compulsory:

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).

17.2. Notice:

A party to the Terms claiming a dispute ('**Dispute**') has arisen under the Terms, must give written notice to the other party detailing the nature of the dispute, the desired outcome and the action required to settle the Dispute.

17.3. Resolution:

On receipt of that notice ('**Notice**') by that other party, the parties to the Terms ('**Parties**') must:

- (a) Within 14 days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;
- (b) If for any reason whatsoever, 14 days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the Australian Mediation Association or his or her nominee;
- (c) The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;
- (d) The mediation will be held in Tasmania, Australia.

17.4. Confidential

All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.

17.5. Termination of Mediation:

If 28 days have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so.

18. Venue and Jurisdiction

The Services offered by Launceston Drive Park Fly is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Website, you agree that the exclusive venue for resolving any dispute shall be in the courts of Tasmania, Australia.

19. Governing Law

The Terms are governed by the laws of Tasmania, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of Tasmania, Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

20. Independent Legal Advice

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

21. Severance

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.