

## SOFTWARE LICENSE AND SERVICE AGREEMENT

The following terms, including the terms and conditions found in Exhibits A, B, C, and D (the "Agreement"), represent the full understanding of PassportParking, Inc. ("Passport") and the Party named below ("Provider" and with Passport, the "Parties" and each individually a "Party"). In exchange for the mutual covenants herein and other good and valuable consideration, the Parties agree and intend to be bound as follows:

### I. GENERAL TERMS

<b>Provider Legal Name:</b> Village of Palos Park		<b>Contact:</b> Richard Boehm	
<b>Email:</b> <a href="mailto:rboehm@palospark.org">rboehm@palospark.org</a>		<b>Phone:</b> (708) 671- 3700	
<b>Provider Contact Address</b>		<b>Provider Billing Contact Address</b>	
8999 W. 123 <sup>rd</sup> St. Palos Park, IL, 60464		Barbara Maziarek 8999 W. 123 <sup>rd</sup> St. Palos Park, IL, 60464	
<b>Effective Date:</b> June 20, 2017			
<b>Launch Delays:</b> If Provider fails to launch the MPP, as applicable, within ninety (90) days after the Effective Date above, Provider will pay a monthly platform fee to Passport equal to the lesser of \$1,500.00 or any applicable monthly fee per platform (MPP) for which the launch has been delayed beyond ninety (90) days from the Effective Date.			
<b>Services:</b> Passport will provide services (the "Services") and license all software, including all web and mobile applications and related documentation, (the "Software") necessary for Provider to operate: <ul style="list-style-type: none"> <li>a mobile payment for parking program ("MPP") which allows all parking customers in any parking facilities owned or managed by Provider (the "Premises") the ability to pay for parking using a smartphone application or mobile web application. The scope of the Premises will be determined at the Village's own discretion, with reasonably timely written notice to Passport</li> </ul>			
<b>Governing State Law and Venue:</b>		Illinois law, Cook County Circuit Court	
<b>Termination:</b> Either Party may terminate this Agreement for convenience by providing thirty days' written notice to the non-terminating Party.  Either Party may terminate the Agreement at any time for material breach if such breach remains uncured fifteen (15) days after the non-breaching Party provides written notice of its intent to terminate the Agreement as a result of the breach.			

## II. MOBILE PAYMENT FOR PARKING TERMS

<b>Equipment Provided by Passport:</b>	<b>Initial Signs:</b> 8	<b>Initial Decals:</b> 3
<p><b>Installation:</b>            Provider will be solely responsible for installing all signs and decals in the Premises. This obligation includes the responsibility to provide all Hardware necessary to affix and display signs and decals, including without limitation, all hooks, poles, posts, brackets, screws, bolts, and nuts. For the purposes of this Agreement, "Hardware" includes only signage and decals and all Hardware necessary to affix and display such signs and decals, and nothing else. Nothing in this Agreement shall be construed to give the Provider any obligation or duty to provide, install or maintain any computer or technical related hardware.</p>		
<p><b>Marketing Services:</b>            Passport will provide the marketing services described in Exhibit C for the fees it provides.</p>		
<p><b>Optional Fees:</b>            If and when such items become necessary, the fees for the following items will be agreed between the Parties in writing at a future time. The prices shown in parentheses represent Passport's current prices, as may be modified from time to time:</p> <ul style="list-style-type: none"> <li>a) Zone setup fees (\$3.00 per space)</li> <li>b) Initial Signage and Sticker fees (\$20.00 per sign and \$3.00 per decal)</li> <li>c) Administrative fee over sign and shipping costs per sign for any replacement signs purchased through Passport (\$10.00)</li> <li>d) Administrative fee over decal and shipping costs per decal for any replacement decals purchased through Passport (\$1.00)</li> <li>e) Reimbursement of Passport for reasonable travel, lodging, and food expenses incurred by Passport employees while traveling at Provider's request (case-by-case basis)</li> <li>f) Custom design fee for changes to the design of Passport's signs and decals (\$1,500.00)</li> <li>g) All other fees and charges contained in all other Exhibits</li> </ul>		

**III. FEES**

<b>Per Transaction MPP ("Mobile Payment Platform") Service and License Fee</b>	\$0.37
<b>Maximum Convenience Fee Passed through to Parking Customers:</b>	\$0.37
<b>Monthly Minimum MPP Fees:</b>	N/A
<b>Monthly Minimum:</b> Passport will not charge Provider any Monthly Minimum MPP Fees, nor will Provider be responsible for any Monthly Minimum MPP fees to Passport.	
<b>Merchant Processing Costs:</b> Provider will be responsible for paying all merchant processing costs, including, without limitation, settlement fees, payment gateway fees, chargeback fees, and interchange reimbursement fees.	
<b>Merchant of Record for Transactions:</b>	X      Passport      Provider
<b>Passport Merchant Processing Rate Per Transaction:</b>	2.9% + \$0.30
<b>Payment Gateway Provider:</b>	X      Passport      Other
<b>Passport Gateway Fee Per Transaction:</b>	\$0.05

This Software License and Service Agreement ("Agreement") is entered into, as of the Effective Date first written above, between PassportParking, Inc. and the Provider named above. This Agreement includes and incorporates the terms and conditions found in this document, the Standard Terms and Conditions found in Exhibit A, and the terms and conditions found in all other Exhibits hereto. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the Effective Date, unless such future amendment is specifically called for in this Agreement, in which case those later amendments will control the Parties' conduct and obligations.

PassportParking, Inc:

By:



Name: Khristian Gutierrez

Title: CBDO

Provider:

By:



Name: Richard B Boehm

Title: Village Manager

## EXHIBIT A

### STANDARD TERMS AND CONDITIONS ATTACHMENT

#### Service Levels

Passport will provide hosting for the Software in accordance with all local laws and regulations. Passport's sole and exclusive obligation in the event of an error or interruption of the Software is to use Passport's best efforts to restore or repair the Software as quickly as practicable.

#### System Uptime; Reimbursements

Passport will provide the Software with uptime of at least ninety-nine percent (99%) calculated over a rolling six-month period ("Uptime Guarantee"). For any month during which system uptime drops below the Uptime Guarantee, Passport will provide a billing credit in an amount equal to: the percentage difference between a) the lowest uptime reached at any point during the month (calculated on a rolling six month period) and b) the Uptime Guarantee multiplied by the total fees payable to Passport for such month. For example, if during a given month the Software uptime fell as low as ninety-five percent (95%) and during that month, the fees payable to Passport were one hundred dollars (\$100.00), Passport would issue a billing credit of four dollars (\$4.00). For the purposes of this Agreement, Uptime is defined as any period of time during which end users of the Software can use the Software to pay for parking, pay for mobile tickets, or issue parking citations, as applicable.

#### Data Ownership

Passport hereby acquires a perpetual license, subject to revocation by end users, to store, display, transmit, and use all data provided by parking customers and all data stored, created, or transmitted by Passport as a result of any end user's use of any component of the Software, strictly in accordance with Passport's Privacy Policy, which Passport will provide upon Provider's request and which Passport reserves the right to update or modify from time to time. Passport hereby acquires a non-revocable perpetual license to store and use any data created as a result of the Provider's use of the Software for its internal business purposes. Upon the expiration or termination of this Agreement, Passport will provide a copy of all data associated with end users and their associated transactions in the Premises to Provider in a mutually agreed machine-readable format within thirty (30) days

after receipt of a written request for such data from Provider.

#### Intellectual Property

- (a) Provider hereby acquires a revocable, non-exclusive, non-assignable, non-transferrable, and non-subleaseable right and license to use and access the Software for its internal business purposes. All intellectual property rights including, without limitation, trade names, source code, trademarks, copyrights, patents, and trade secrets, not explicitly granted to Provider in this Agreement are reserved to Passport.
- (b) Provider will not, directly, indirectly, alone, or with another party, (i) copy, disassemble, reverse engineer, or decompile the Software or any subpart thereof; (ii) modify, create derivative works based upon, or translate the Software or source code; (iii) transfer or otherwise grant any rights in the Software or source code in any form to any other party; (iv) attempt to do any of the foregoing or cause or permit any third party to do or attempt to do any of the foregoing, except as expressly permitted hereunder.

#### Technical Support

Passport will field all technical support questions from Provider related to the mobile pay program.

#### Wallet Services

Each end user will be required to pre-fund a virtual wallet (a "Wallet Program") to be used to fund future parking transactions. The minimum allowable wallet load will be jointly determined by Provider and Passport.

#### Marketing Services

The marketing and public relations services and materials, if any, provided by Passport and any optional marketing services, including associated fees, can be found in Exhibit C of this Agreement. The marketing services to be

performed by Provider at Provider's sole cost, if any, can be found in Exhibit D.

#### **Public Relations Cooperation**

The Parties hereby agree that each Party will have the right to discuss and display qualitative information regarding the Parties' relationship. The Parties further agree that prior to any disclosure of any quantitative information regarding the Parties' relationship, the utilization of the Software, or any other element of the Parties' relationship, the disclosing Party must obtain the written permission of the non-disclosing Party.

#### **Payment Gateway**

Provider must supply a payment gateway for the payment of all fees by end users, and Provider will bear all costs associated with providing such payment gateway, including all per transaction costs. Passport can provide such gateway services to Provider. Exhibit B contains a list of payment gateways supported by Passport. For all other payment gateways, Passport will charge a two hundred and fifty dollar (\$250.00) per development hour necessary to perform necessary integrations.

#### **Refunds and Discounts**

Passport agrees to forego or return, as applicable, its per transaction fees for any refund granted by Provider. Provider will be responsible for reimbursing Passport for all merchant processing fees, including without limitation payment gateway fees, settlement fees, and interchange reimbursement fees, if any, incurred by Passport for all transactions, including refunded transactions.

#### **Invoicing**

If any services are to be billed to Provider, Passport will send monthly invoices to Provider by the tenth day of each month for all fees payable to Passport that accrued during the preceding month. If Provider fails to remit payment according to such invoices within thirty (30) days after the date on the invoice, Passport will have the right to suspend Provider's access to the Software.

#### **Scheduled Maintenance**

If Passport plans to perform any scheduled maintenance during business hours, Passport will provide notice to Provider at least twenty-four (24) hours in advance of the commencement of such scheduled maintenance. For the purpose of this section, "business hours" means Monday through Friday between 9 AM Eastern Time and 5 PM Eastern Time.

#### **Product Updates**

Any system-wide improvements or modifications made by Passport to the Software platform will be promptly provided to Provider and will automatically be subject to the terms of this Agreement. The Provider may request new features or functionality to be built into the system, and, to the extent that Passport plans to incorporate such requested new features or functionality into the Software, Passport will develop such features and functionality at no cost to the Provider. If the Provider desires to expedite such development, Passport may, at its sole discretion, charge Provider an expedite fee of two hundred dollars (\$200.00) per development hour necessary to develop the requested features or functionality. If the Provider's requested features or functionality are created for the Provider's use and not incorporated into the Software, Passport may, at its sole discretion, charge Provider custom development fee of two hundred and fifty dollars (\$250.00) per hour for the development of such features or functionality and a monthly maintenance fee that will be mutually agreed between the Parties and reduced to a written addendum to this Agreement that the Parties must execute.

#### **Other Services**

Passport will provide only the Services set forth in this Agreement. If Provider wishes to add additional services, Provider and Passport shall agree upon the scope and price of such additional services in a separate written document signed by the Parties, which shall be incorporated in and subject to this Agreement.

#### **Piggyback Procurements**

Provider will allow any public agency located in the United States to purchase, and Passport to offer to those public agencies, a substantially similar mobile pay program at the same price and under the same conditions agreed upon in this Agreement between the Parties, without any further competitive bidding, to the extent permitted by law. Each public agency will execute its own contract with Passport for its requirements, funding such service out of its own funding sources. Provider shall not incur any financial responsibility in connection with Passport's contracting with such other public agencies for such services.

#### **Capacity**

Provider represents and warrants that it has obtained or will obtain all licenses and

authorizations necessary to license the Software. Provider further represents and warrants that the signer of this document has the authority to bind Provider to the terms herein.

#### **Confidentiality.**

Provider and Passport agree to treat all information furnished, or to be furnished, by or on behalf of the other party and information analyses, summaries and other work product derived from such information (collectively, the "Information") in accordance with the provisions of this section and to take, or abstain from taking, all actions set forth herein. The Information will be used solely in connection with the consummation of this Agreement between Passport and Provider and Provider's use and operation of the Software, and will be kept confidential by the Provider and Passport and each party's officers, directors, employees, representatives, agents and advisors; provided, however, that

- (a) any of such Information may be disclosed to officers, directors, employees, representatives, agents and advisors who need to know such information to execute this Agreement and/or effectively use the Software (so long as such persons only use or disclose such Information in the manner permitted in this section), and
- (b) such information may be disclosed to the extent required by law, including any open records law, open meetings law, or any other local public disclosure law applicable to Provider, and
- (c) upon the request of Provider or Passport, the other party will destroy or return to Passport all material containing or reflecting the Information, to the extent permitted by law.

#### **Force Majeure**

Neither Passport nor Provider will be held liable for any delay or omission in performance of their duties under this Agreement caused by causes beyond their reasonable control, including without limitation, acts of God, acts of the public enemy, fires, natural disasters, wars, or riots (each a "Force Majeure Event").

#### **Disclaimer**

The Software is provided to Provider by Passport "as is" and with all faults. Provider

acknowledges and agrees that Passport bears no liability for any error, omission, defect, deficiency, or nonconformity within the Software except as explicitly provided in this Agreement. Other than as specifically set forth herein, neither of the Parties makes any representations, warranties, or guarantees, express or implied, directly or indirectly, including, without limitation, any warranty of condition, merchantability, or fitness for a particular purpose or use, with respect to, arising out of, or in connection with the Software and related services to be performed pursuant to this Agreement.

#### **Severability.**

Whenever possible, each provision of this Agreement will be interpreted and construed to be valid under applicable law, but if any provision of the Agreement is found to violate applicable law, the violating provision will be ineffective only to the extent that it violates the law, without invalidating the remainder of the section containing the violating provision or any other provisions or sections of this Agreement.

#### **Assignment**

This Agreement and all of its provisions will be binding upon and inure to the benefit of the Parties and their respective successors and assignees. Neither Passport nor Provider may assign any rights, interests, or obligations hereunder without prior written consent of the other party, provided, however, that Passport may, without such written consent, assign this Agreement and its rights and delegate its obligations hereunder in connection with the transfer or sale of all or substantially all of its assets or business related to this Agreement, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement. Any purported assignment in violation of this section shall be void and of no effect.

#### **Contractual Silence**

If the Agreement fails to address a condition, obligation, benefit, or other term necessary to sufficiently define the relationship between the Parties or resolve a disagreement or conflict regarding the interpretation or construction of this Agreement, the Parties agree to reasonably cooperate to draft a mutually agreeable Amendment that clarifies the duties, rights, and obligations of the parties under this Agreement.

**Amendments**

The Parties may not amend or modify this Agreement except by a written instrument executed by the Parties (an "Amendment").

**Cooperate**

If either Provider or Passport has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the Parties Agree to cooperate to achieve a mutually beneficial resolution of such matter. If after sixty (60) days the dispute remains unresolved, the parties may pursue other remedies.

**Independent Contractor**

Passport is an independent contractor and not an agent or employee of Provider. No agency, partnership, franchise, joint venture, or employment relationship exists between Passport and Provider. Passport's employees and agents will not be employees or agents of Provider. Passport shall be fully and solely responsible for the supervision, control, performance, compensation, benefits (including, without limitation, all forms of insurance) withholdings, health and safety of all of its employees and agents. Provider will not be responsible or liable for any withholding taxes or contributions to state worker's compensation, unemployment or other funds or programs.

**Limitation of Liability**

In no event will Passport be liable to Provider for any lost profits, lost savings, or incidental, indirect, special, or consequential damages arising out of Provider use or inability to use the product or the breach of this Agreement, even if Passport has been advised of the possibility of such damages.

**Indemnification**

Passport shall at all times protect, indemnify and hold harmless the Provider, and its past, current and future officers, appointed and elected officials, Mayor, commissioners, employees, volunteers, attorneys, and agents ("Indemnified Parties"), and indemnify them against and from any and all causes of action, claims, demands, liabilities, losses, expenses, penalties, damages or charges of any kind, including reasonable attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, out of or in connection with the negligence or willful misconduct of Passport in the performance of this Agreement, or

for any violation of any laws or ordinances relating to or arising out of the operation of Passport in the performance of this Agreement, or out of or in connection with any negligence or willful misconduct of Passport or its employees, invitees or agents in the performance of this Agreement, whether occasioned by the actions or omissions of Passport or those persons acting under direction of Passport, or arising or occurring as a consequence of any activities performed pursuant to this Agreement, EXCEPT if caused by the omission or fault of the Provider, its employees or any other party acting on its behalf or of any other third party.

Similarly, the Provider shall at all times protect, indemnify and hold harmless Passport, and its past, current and future officers, employees, attorneys, and agents ("Indemnified Parties"), and indemnify them against and from any and all causes of action, claims, demands, liabilities, losses, expenses, penalties, damages or charges of any kind, including reasonable attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, out of or in connection with the alleged acts, omissions, or negligence of the Provider in any respect, or out of or in connection with any actions or omissions of the Provider or its employees, invitees or agents related in any way to this Agreement, whether occasioned by the actions or omissions of the Provider or those persons acting under direction of the Provider, or arising or occurring as a proximate consequence of any activities performed by Passport related to this Agreement, EXCEPT if caused by the omission or fault of the Provider, its employees or any other party acting on its behalf.

**Notices**

All notices, consents, and communications required hereunder shall be given in writing and delivered via electronic mail or mail, shall be deemed to be given upon receipt thereof, and shall be sent to the addresses below:

Passport  
1300 S. Mint Street  
Suite 200  
Charlotte, NC 28203

Email: [jason.idilbi@passportinc.com](mailto:jason.idilbi@passportinc.com)

Village of Palos Park  
c/o Village Manager's Office  
8999 West 123 Street  
Palos Park, Illinois  
Email: [rboehm@palospark.org](mailto:rboehm@palospark.org)

**Entire Agreement**

This Agreement represents the full and complete understanding of the Parties and supersedes any and all prior agreements. Any future written modifications as contemplated in this Agreement will become part of and amend the duties and obligations of the Parties as contemplated in any such future amendment.



## EXHIBIT B

### SUPPORTED PAYMENT GATEWAYS

1. Authorize.net
2. Converge
  - Elavon Gateway Product
3. FirstData Direct Connect
4. Internet Secure
5. Moneris
6. Point and Pay

## EXHIBIT C

### MARKETING SERVICES PROVIDED BY PASSPORT

- **Custom Website**
  - Splash Page \$1,000
    - *or verbiage on existing page*
  - 2-5 Pages \$2,000
  - 5-10 Pages \$5,000
  - 10+ Pages TBD
  
- **Signage and Decals**
  - Logo Addition on Standard Free (must provide hi-res logo file)
  - Custom design/colors \$1,500

For quantities, see "Equipment Provided by Passport" section.

- **Promotional Materials**  
*handouts, coasters, validation cards, direct mail*
  - Passport w/ logo addition Free
  - Custom color / design \$1,500
  - Orders over 4 pieces per space cost (including shipping)
  - Specialty items Quote upon request
    - *shirts, hats, etc*

- **Print Ads**  
*for Provider's use in local newspapers and magazines*
  - Passport Ad Library Free
  - Customized \$1,000

- **Digital Ads**  
*for Provider's use in display, mobile, social (Facebook, Twitter)*
  - - Passport Ad Library Free
    - Customized \$2,000

- **Media Relations**
  - Launch Press Release (local) Free
  - Milestone Press Releases Free
  - Extended PR (national) \$300

## **EXHIBIT D**

### **MARKETING SERVICES PROVIDED BY PROVIDER**

- Distribute information handouts that speak to the flow of the application for the first thirty (30) days after launch.
- Distribute promotional materials, which may include parking fee discount codes
- Incorporate Passport information on Provider's website, specifically in any section that concerns parking.
- Add information around the system to all internal and external Provider newsletters or publications.
- Inform all Provider staff about the application so that they can field questions on the program and spread awareness.
- Include a prompt to download the Passport Parking application on all citations issued through the city's citation management provider.