

## **VALET PARKING SERVICES AGREEMENT**

**THIS VALET PARKING SERVICES AGREEMENT** ("Agreement") is entered into this 6<sup>th</sup> day of March 2017 between the Village of Oak Park, an Illinois home rule municipal corporation (hereinafter referred to as the "Village"), and SP Plus Corporation, a Delaware corporation authorized to conduct business in the State of Illinois (hereinafter referred to as the "Operator").

### **RECITAL**

**WHEREAS**, the Village intends to have valet parking services performed by the Operator pursuant to the Operator's Proposal dated October 9, 2015 (the "Operator's Proposal"), the Oak Park Valet Pro Forma dated December 23, 2015 attached hereto and incorporated herein by reference (hereinafter referred to as the "Pro Forma"), the Village's Request for Proposals, attached hereto and incorporated herein by reference (hereinafter referred to as the "RFP"), and this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

#### **1. RECITAL INCORPORATED.**

1.1. The above recital is incorporated herein as though fully set forth.

#### **2. SERVICES OF THE OPERATOR AND TERM OF AGREEMENT.**

2.1. The Operator shall provide the services set forth in the Operator's Proposal (hereinafter referred to as the "Services") for one (1) year commencing on March 7, 2017 ("Commencement Date") and expiring March 6, 2018 unless sooner terminated under any applicable terms of this Agreement.

2.2. Notwithstanding any contrary provision herein, the termination rights of the parties as set forth elsewhere in this Agreement (including, without limitation, Section 4 below) may be exercised at any time during this Agreement.

2.3. The Operator shall submit to the Village all reports, documents, data, and information set forth in the Operator's Proposal in a format customarily used in the industry. The Village shall have the right to require such corrections as may be reasonably necessary to make any required submittal conform to this Agreement. The Operator shall be responsible for any delay in the Services to be provided pursuant to this Agreement due to the Operator's failure to provide any required submittal in conformance with this Agreement.

2.4. In case of a conflict between provisions of the Operator's Proposal and/or the Operator's Pro Forma and the Village's RFP and/or this Agreement, this Agreement and then the Village's RFP shall control to the extent of such conflict.

2.5. Village Authorized Representative. The Village's Director of Parking and Mobility Services or the Director's designee shall be deemed the Village's authorized representative, unless applicable law requires action by the Corporate Authorities, and shall have the power and authority to make or grant or do those things, certificates, requests, demands, approvals, consents, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village and with the effect of binding the Village as limited by this Agreement. The Operator is entitled to rely on the full power and authority of the person executing this Agreement on behalf of the Village as having been properly and legally given by the Village. The Village shall have the right to change its authorized representative by providing the Operator with written notice of such change which notice shall be sent in accordance with Section 18 of this Agreement.

2.6. Operator's Authorized Representative. In connection with the foregoing and other actions to be taken under this Agreement, the Operator hereby designates Patrick McCue as its authorized representative who shall have the power and authority to make or grant or do all things, certificates, requests, demands, approvals, consents, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Operator and with the effect of binding the Operator. The Village is entitled to rely on the full power and authority of the person executing this Agreement on behalf of the Operator as having been properly and legally given by the Operator. The Operator shall have the right to change its Authorized Representative by providing the Village with written notice of such change which notice shall be sent in accordance with Section 18 of this Agreement.

2.7. Independent Contractor. The Village and the Operator are not to be considered joint venturers or partners, or one as the agent of the other. The relationship of the Operator and the Village is and at all times hereafter shall remain solely that of an independent contractor, and nothing herein shall be deemed to create any other relationship between them. No party to this Agreement shall have the power to legally bind or obligate any other party to this Agreement, nor shall any party be liable for debts incurred by any other, except as may be specifically otherwise provided herein.

2.8. Employment and Personnel. The Operator shall employ, hire, supervise, direct and discharge all management supervisors and qualified personnel, including managers, attendants, customer service representatives, cashiers and maintenance personnel, necessary to provide the valet parking services in accordance with the terms of this Agreement. All persons so employed shall be deemed to be employees of the Operator and not of the Village, and they shall have no authority to act as the agent of or to bind the Village. All employees shall be uniformed and neatly groomed and shall conduct themselves in a courteous and professional manner. All employees shall, in every instance, be employees of the Operator, and

the Operator shall have total responsibility for and shall fully comply with all Laws respecting such employment, including without limitation, hours of labor, wages and working conditions.

2.9. The Operator will be and will continue to be throughout the term of this Agreement an equal opportunity employer, and the Operator agrees not to discriminate against any applicant or employee because of age, race, religion, color, handicap, height, sex, physical condition, developmental disability, sexual orientation or national origin in any of the following or in any other regard: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, and the Operator hereby agrees to indemnify and hold the Village and its officials, officers, employees, agents, and volunteers harmless from and against any and all claims, actions, penalties, damages and liabilities, to the extent the same are caused by the Operator, which may be asserted by any governmental body having authority or by any person claiming to be aggrieved by reason of any acts or failure to act by the Operator in accordance with or in violation of any such anti-discrimination Laws. In hiring employees, the Operator shall include in its recruiting materials and post in a conspicuous place, available for employees and applicants for employment, a notice setting forth the provisions of this nondiscrimination clause.

### **3. COMPENSATION FOR SERVICES.**

3.1. The Village shall compensate the Operator for the Services pursuant to the Operator's Proposal as amended by the Pro Forma. The Operator shall only receive a Base Management Fee and not an Incentive Management Fee. The Operator irrevocably waives payment for an Incentive Management Fee. Payments shall be due and owing by the Village in accordance with the terms and provisions of the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*, except as set forth herein.

In addition to the Base Management Fee, the Village shall reimburse the Operator for all expenses and costs incurred by the Operator in the performance of its duties, obligations and services pursuant to this Agreement as established in the Pro Forma (collectively, "Operating Expenses"). Operating Expenses shall be reimbursed in accordance with Section 3.6 below.

3.2. The Operator's valet services shall be provided at two (2) locations, which shall be designated by the Village, in the general vicinity of an area within the Village bounded by Harlem Avenue on the west, Pleasant Street on the south, Ontario Street on the north, and Euclid Avenue on the east. Vehicles that are valet-parked by the Operator shall be parked in Village-owned or Village-controlled parking lots that shall be designed by the Village for such purpose. The Village may, at any time, by written order, make changes regarding the general scope of this Agreement in the Services to be performed by the Operator. If such changes cause an increase or decrease in the amount to be paid to the Operator or time required for performance of any Services under this Agreement, whether or not changed by any order, an equitable adjustment shall be made and this Agreement shall be modified in writing

accordingly. No service for which additional compensation will be charged by the Operator shall be furnished without the written authorization of the Village.

3.3. The Operator shall, as a condition precedent to its right to receive a monthly payment, submit to the Village an invoice accompanied by such receipts, vouchers, and other documents as may be necessary to establish costs incurred for all labor, material, and other things covered by the invoice and the absence of any interest, whether in the nature of a lien or otherwise, of any party in any property, work, or fund with respect to the Services performed under this Agreement. In addition to the foregoing, such invoice shall include (a) employee classifications, rates per hour, and hours worked by each classification; and (b) total amount billed in the current period and total amount billed to date.

3.4. Notwithstanding any other provision of this Agreement and without prejudice to any of the Village's rights or remedies, the Village shall have the right at any time or times to withhold from any payment such amount as may reasonably appear necessary to compensate the Village for any actual or prospective loss due to: (1) services that are defective, damaged, flawed, unsuitable, nonconforming, or incomplete; (2) damage for which the Operator is liable under this Agreement; (3) claims of suppliers, or other persons performing any Services pursuant to this Agreement; (4) delay in the progress or completion of the Services; (5) inability of the Operator to complete the Services; (6) failure of the Operator to properly complete or document any pay request; (7) any other failure of the Operator to perform any of its obligations under this Agreement; or (8) the cost to the Village, including reasonable attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of the Village's remedies set forth in this Agreement. The Village must notify the Operator of cause for withholding within fourteen (14) days of the Village's receipt of an invoice.

3.5. The Village shall be entitled to retain any and all amounts under this Agreement until the Operator shall have either performed the obligations in question or furnished security for such performance satisfactory to the Village. The Village shall be entitled to apply any money withheld or any other money due the Operator under this Agreement to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, attorneys' fees, and administrative expenses incurred, suffered, or sustained by the Village and chargeable to the Operator under this Agreement.

3.6 "Gross Receipts" are defined as all cash earned and collected by the Operator for the parking and storage of motor vehicles in the provision of the valet parking services. The Operator covenants that it will use methods generally accepted in the parking industry to collect or cause to be collected all of the Gross Receipts from the valet parking services, but Operator is not a guarantor of revenues. The Operator shall deposit all Gross Receipts in the Operator's federally insured bank account. The Operator may deduct from each month's Gross Receipts all applicable credit card and payment processing fees and any sales, service, parking and other similar taxes imposed on the Operator by any governmental authority for services rendered by the Operator or imposed or assessed for the use and operation the valet parking

services, but specifically excluding taxes on the income of the Operator and business taxes, other than franchise taxes on income or profit. In addition, the Operator may deduct Operating Expenses and the Base Management Fee from Gross Receipts each month to the extent such Gross Receipts are sufficient.

(a) With respect to any month in which Gross Receipts exceed Operating Expenses (creating "NOI"), Operator shall remit to the Village the NOI for such month, less Operator's Base Management Fee, on or before the twenty-fifth (25<sup>th</sup>) day of the succeeding month. Such remittance shall be accompanied by the documentation required pursuant to Section 3.3 above, to the extent such documentation is applicable.

(b) Notwithstanding Section 3.6(a) above, the parties anticipate that monthly Gross Receipts shall be exceeded by monthly Operating Expenses. Therefore, the Village and the Operator agree to the following payment terms:

- (i) Upon execution of this Agreement, the Operator shall invoice the Village for the estimated "Operating Deficit" (defined as the excess of Operating Expenses over Gross Receipts) for the first month of this Agreement, which estimate shall be based on the Pro Forma (the "Budgeted Operating Deficit"). The Village shall pay such invoice within thirty (30) days of the date of the invoice.
- (ii) With respect to all subsequent months, the Operator shall invoice the Village for the Budgeted Operating Deficit of the forthcoming month, adjusted by the actual NOI or actual Operating Loss of the preceding month. Each such invoice shall be accompanied by a statement of the preceding month's actual Gross Receipts, Operating Expenses and (as applicable) NOI or Operating Deficit. The Village shall pay each invoice within thirty (30) days of the date of the invoice.

#### **4. TERMINATION.**

4.1. This Agreement may be terminated, in whole or in part, by either party if the other party substantially fails to fulfill its obligations under this Agreement through no fault of the terminating party, provided the party which has allegedly failed to fulfill its obligations is given written notice of such alleged failure and permitted fifteen (15) days after receipt of such notice which to cure the alleged default and thereby avoid termination. Either party may terminate this Agreement, in whole or in part, for its convenience. No such termination for convenience may be effected unless the terminating party gives the other party not less than thirty (30) calendar days written notice from the Village to the Operator and ninety (90) calendar days written notice from the Operator to the Village pursuant to Section 18 below of its intent to terminate.

4.2. If this Agreement is terminated by either party, the Operator shall be paid for Services performed to the effective date of termination, including reimbursable Operating Expenses. In the event of termination, the Village shall receive (as applicable) reproducible copies of drawings, specifications and other documents completed by the Operator pursuant to this Agreement.

4.3. Promptly after the expiration or prior termination of the term, the Operator shall: (i) cease all activity of the Operator provided herein or otherwise related to operation or management of any valet parking locations pursuant to this Agreement; (ii) vacate the locations and surrender and deliver to the Village all equipment, signs, tools, supplies and other fixtures, materials, records and other personal property except for the Operator's trademark or logos and any Operator-owned personal property.

## **5. INDEMNIFICATION.**

5.1. The Operator shall, without regard to the availability or unavailability of any insurance, either of the Village or the Operator, indemnify, save harmless, and defend the Village, its officers, employees, agents, and volunteers against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including reasonable attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, out of or in connection with the Operator's performance of, or failure to perform, the Services or any part thereof, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the Operator, but only to the extent caused by the negligence of the Operator or its respective employees.

## **6. INSURANCE.**

6.1. The Operator must purchase and maintain for the term of this Agreement, the lines of insurance described in this section. All insurance coverage shall be on an occurrence basis. The Operator shall provide evidence of such insurance to the Village together with its proposal, and will provide evidence that the Village has been added as an additional insured, where applicable, before commencement of the services and on an annual basis thereafter. Certificates of Insurance shall contain a clause stating that the coverage afforded by the policies listed will not be canceled or materially altered, except after thirty (30) days advance written notice to the Village. The limits of liability for the insurance required shall provide coverage for not less than the following amounts, or greater where required by law:

### **(a) Crime and Fraud Coverage**

I. Crime coverage such as that provided by Standard Financial Institution Bond Form 24 or standard Employee Dishonesty Liability insurance with a limit of \$1,000,000 including coverage for fraud, client coverage, third party coverage and theft on and off premises.

(b) **Commercial General Liability:**

- i. Coverage to include, Broad Form Property Damage, Contractual and Personal Injury.
- ii. Limits:

General Aggregate	\$ 2,000,000.00
Each Occurrence	\$ 1,000,000.00
Personal Injury	\$ 1,000,000.00
- iii. Coverage for all claims arising out of the Operator's operations or premises, anyone directly or indirectly employed by the Operator.

(c) **Workers' Compensation:**

- i. Workers' compensation insurance shall be in accordance with the provisions of the laws of the State of Illinois, including Employer's Liability covering occupational disease provisions, for all employees who perform work pursuant to this Agreement. In case employees engaged in hazardous work under this Agreement are not protected under said workers' compensation insurance, the Operator shall provide adequate and suitable insurance for the protection of employees not otherwise provided.

(d) **Comprehensive Automobile Liability:**

- i. Coverage to include all owned, hired, non-owned vehicles, and/or trailers and other equipment required to be licensed, covering personal injury, bodily injury and property damage.

- ii. Limits:

Combined Single Limit	\$1,000,000.00
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(e) **Garage Keeper's:**

- i. Garage keeper's legal liability insurance insuring any and all automobiles that are parked by the Operator's attendants or for which a bailment otherwise is created, with limits of liability not less than \$1,000,000 per occurrence.

(f) **Umbrella:**

- i. Minimum Limits:

Each Occurrence/Aggregate	\$5,000,000.00
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- (g) The Village, its officers, officials, employees, agents and volunteers shall be named as additional insureds on Commercial General Liability, Automobile Liability and Garage Keeper's Legal Liability insurance policies. Umbrella Liability insurance policy follows form. The Operator shall be responsible for the payment of any deductibles for said insurance policies.

6.2. The Village and the Operator agree to waive against each other all claims for special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.3. The Operator understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Operator, shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the Village as herein provided. The Operator waives and agrees to require its insurers to waive its rights of subrogation against the Village, its officers, officials, employees, agents and volunteers.

**7. SUCCESSORS AND ASSIGNS/NO SUBCONTRACTING.**

7.1. The Village and the Operator each bind themselves and their partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement. Except as above, neither the Village nor the Operator shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body that may not be a party hereto, nor shall it be construed as giving any right or benefits hereunder to anyone other than the Village and the Operator.

7.2. The Operator shall not subcontract any of the Services to be performed pursuant to this Agreement without the prior written approval of the Village.

**8. FORCE MAJEURE.**

8.1. Neither the Operator nor the Village shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to: acts of nature, war or insurrection, strikes or lockouts, walkouts, fires, natural calamities, riots or demands or requirements of governmental agencies.

**9. AMENDMENTS AND MODIFICATIONS.**

9.1. This Agreement may be modified or amended from time to time provided, however, that no such amendment or modification shall be effective unless reduced to writing and duly authorized and signed by the authorized representative of the Village and the authorized representative of the Operator.

**10. STANDARD OF CARE.**

10.1. The Operator is responsible for the quality, timely completion, and coordination of all Services furnished or required under this Agreement, and shall endeavor to perform such Services with the same skill and judgment which can be reasonably expected from similarly situated entities in the valet parking industry.



10.2. The Operator shall promptly make revisions or corrections regarding its Services resulting from its errors, omissions, or negligent acts without additional compensation. The Village's acceptance of any of the Operator's Services shall not relieve the Operator of its responsibility to subsequently correct any such errors or omissions, provided the Village notifies Operator thereof within one year of completion of the Operator's Services.

10.3. The Operator shall respond to the Village's notice of any errors and/or omissions within seven (7) days of written confirmation by the Operator of the Village's notice. Such confirmation may be in the form of a facsimile confirmation receipt by the Village, or by actual hand delivery of written notice by the Village to the Operator.

10.4. The Operator shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

10.5. The Operator shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, and other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including, but not limited to, the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.* ("ADA"), and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* The Operator shall also comply with all conditions of any federal, state, or local grant received by the Village or the Operator with respect to this Agreement. Notwithstanding the foregoing, to the extent that the ADA or similar laws require physical modifications to the Village-owned or controlled lots designated by the Village for the parking of the valet-parked vehicles, the Village, rather than the Operator, shall be responsible for such compliance.

10.6. The Operator shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with the Operator's performance of, or failure to perform, the Services required pursuant to this Agreement or any part thereof.

## **11. DOCUMENTS AND BOOKS AND RECORDS.**

11.1. Reports, examinations, information, observations, calculations, notes and any other reports, documents, data or information, in any form, prepared, collected, or received by the Operator in connection with any or all of the Services to be provided pursuant to this

Agreement (“Documents”) shall be and remain the property of the Village upon completion of the project and payment to the Operator all amounts then due under this Agreement. At the Village’s request, or upon termination of this Agreement, the Documents shall be delivered promptly to the Village. The Operator shall have the right to retain copies of the Documents for its files. The Operator shall maintain files of all Documents unless the Village shall consent in writing to the destruction of the Documents, as required herein.

11.2. The Operator’s Documents and records pursuant to this Agreement shall be maintained and made available during performance of the Services under this Agreement and for three (3) years after completion of any Services. The Operator shall give notice to the Village of any Documents to be disposed of or destroyed and the intended date after said period, which shall be at least ninety (90) days after the effective date of such notice of disposal or destruction. The Village shall have ninety (90) days after receipt of any such notice to given notice to the Operator not to dispose of or destroy said Documents and to require the Operator to deliver same to the Village, at the Village’s expense. The Operator shall maintain for a minimum of three (3) years after the completion of this Agreement, or for three (3) years after the termination of this Agreement, whichever comes later, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with the Agreement. The Agreement and all books, records and supporting documents related to the Agreement shall be available for review and audit by the Village and the federal funding entity, if applicable, and the Operator agrees to cooperate fully with any audit conducted by the Village and to provide full access to all materials. Failure to maintain the books, records and supporting documents required by this subsection shall establish a presumption in favor of the Village for recovery of any funds paid by the Village under the Agreement for which adequate books, records and supporting documentation are not available to support their purported disbursement. The Operator shall make the Documents available for the Village’s review, inspection and audit during the entire term of this Agreement and three (3) years after completion of the Project as set forth herein and shall fully cooperate in responding to any information request pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* by providing any and all responsive documents to the Village.

11.3. Notwithstanding any contrary provision herein, the record retention period for tickets shall be one (1) year. For so long as the Operator also operates the garage at Lake and Forest (in which the City has an ownership interest), the Operator may store Documents at such garage, free of charge.

11.4. The Operator shall furnish all records related to this Agreement and any documentation related to the Village required under an Illinois Freedom of Information Act (ILCS 140/1 *et. seq.*) (“FOIA”) request within five (5) business days after the Village issues notice of such request to the Operator. The Operator shall not apply any costs or charge any fees to the Village regarding the procurement of records required pursuant to a FOIA request. The Operator agrees to defend, indemnify, and hold harmless the Village, and agrees to pay all reasonable costs connected therewith (including, but not limited to reasonable attorney’s and witness fees, filing fees, and any other expenses) for the Village to defend any and all causes,

actions, causes of action, disputes, prosecutions, or conflicts arising from the Operator's actual or alleged violation of the FOIA, or the Operator's failure to furnish all documentation related to a request within five (5) days after the Village issues notice of a request. Furthermore, should the Operator request that the Village utilize a lawful exemption under FOIA in relation to any FOIA request thereby denying that request, the Operator agrees to pay all costs connected therewith (such as reasonable attorney's and witness fees, filing fees, and any other expenses) to defend the denial of the request. The defense shall include, but not be limited to, challenged or appealed denials of FOIA requests to either the Illinois Attorney General or a court of competent jurisdiction. The Operator shall defend, indemnify, and hold harmless the Village, and agrees to pay all costs connected therewith (such as reasonable attorney's and witness fees, filing fees and any other expenses) to defend any denial of a FOIA request by the Operator's request to utilize a lawful exemption to the Village.

**12. SAVINGS CLAUSE.**

12.1. If any provision of this Agreement, or the application of such provision, shall be rendered or declared invalid by a court of competent jurisdiction, or by reason of its requiring any steps, actions or results, the remaining parts or portions of this Agreement shall remain in full force and effect.

**13. NON-WAIVER OF RIGHTS.**

13.1. No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

13.2. This Agreement shall not prohibit the Operator from providing services to any other public or private entity or person. In the event that the Operator provides Services to a public or private entity or person, the Village, at its sole discretion, may determine that such Services conflict with a service to be provided to the Village by the Operator, and the Village may select another Operator to provide such Services as the Village deems appropriate.

**14. REMEDIES.**

14.1. If it should appear at any time prior to payment for Services provided pursuant to this Agreement that the Operator has failed or refused to prosecute, or has delayed in the prosecution of, the Services to be provided pursuant to this Agreement with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has attempted to assign this Agreement or the Operator's rights under this Agreement, either in whole or in part, or either party has falsely made any representation or warranty, or has otherwise failed, refused, or delayed to perform or satisfy any other requirement of this Agreement or has failed to pay its debts as they come due ("Event of

Default”), and has failed to cure, or has reasonably commenced to cure any such Event of Default within fifteen (15) business days after receipt of written notice of such Event of Default, then the non-defaulting party shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

14.1.1. The Village may require the Operator, within such reasonable time as may be fixed by the Village, to complete or correct all or any part of the Services that are defective, damaged, flawed, unsuitable, nonconforming, or incomplete and to take any or all other action necessary to bring the Operator and the Services into compliance with this Agreement;

14.1.2. The Village may accept the defective, damaged, flawed, unsuitable, nonconforming, incomplete, or dilatory Services or part thereof and make an equitable reduction;

14.1.3. The non-defaulting party may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement except for amounts due for Services properly performed prior to termination;

14.1.4. The Village may withhold any payment from the Operator, whether or not previously approved, or the non-defaulting party may recover from the defaulting party any and all costs, including attorneys’ fees and administrative expenses, incurred by the non-defaulting party as the result of any Event of Default or as a result of actions taken by the non-defaulting party in response to any Event of Default; or

14.1.5. The non-defaulting party may recover any damages suffered it as a result of the Event of Default.

## **15. NO COLLUSION.**

15.1. The Operator hereby represents and certifies that the Operator is not barred from contracting with a unit of state or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Operator is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of the tax, as set forth in 65 ILCS 5/11-42.1-1; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Operator hereby represents that the only persons, firms, or corporations interested in this Agreement are those disclosed to the Village prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Operator has in procuring this Agreement, colluded with any other person, firm, or corporation, then the Operator shall be liable to the Village for all loss or damage that the Village may suffer thereby, and this Agreement shall, at the Village’s option, be null and void and subject to termination by the Village.

**16. ENTIRE AGREEMENT.**

16.1. This Agreement sets forth all the covenants, conditions and promises between the parties, and it supersedes all prior negotiations, statements or agreements, either written or oral, with regard to its subject matter. There are no covenants, promises, agreements, conditions or understandings between the parties, either oral or written, other than those contained in this Agreement.

**17. GOVERNING LAW AND VENUE.**

17.1. This Agreement shall be governed by the laws of the State of Illinois both as to interpretation and performance. Venue for any action arising out of or relating to this Agreement shall be in the Circuit Court of Cook County, Illinois.

**18. NOTICE.**

18.1. Any notice required to be given by this Agreement shall be deemed sufficient if made in writing and sent by certified mail, return receipt requested, by personal service, by facsimile or by email to the persons and addresses below or to such other addresses as either party shall notify the other party of in writing pursuant to the provisions of this subsection:

**If to the Village:**

Village Manager  
Village of Oak Park  
123 Madison Street  
Oak Park, Illinois 60302  
Fax: (708) 358-5101  
Email: [villagemanager@oak-park.us](mailto:villagemanager@oak-park.us)

**If to the Operator:**

SP Plus Corporation  
Attn: James F. Buczek Senior V.P.  
200 East Randolph, Suite 5475  
Chicago, Illinois 60601  
Fax: (312) 640-6164  
Email: [jbuczek@spplus.com](mailto:jbuczek@spplus.com)  
And:

SP Plus Corporation  
Attn: Legal Department  
200 East Randolph, Suite 7700  
Chicago, Illinois 60601  
Fax: (312) 640-6162  
Email: [jburdett@spplus.com](mailto:jburdett@spplus.com)

18.2. Mailing of such notice as and when above provided shall be equivalent to personal notice and shall be deemed to have been given at the time of mailing.

18.3. Notice by facsimile or email transmission shall be effective as of date and time of facsimile transmission, provided that the notice transmitted shall be sent on business days during business hours (9:00 a.m. to 5:00 p.m. Chicago time). In the event facsimile or email

notice is transmitted during non-business hours, the effective date and time of notice is the first hour of the first business day after transmission.

**19. HEADINGS AND TITLES.**

19.1. The headings or titles of any provisions of this Agreement are for convenience or reference only and are not to be considered in construing this Agreement.

**20. BINDING AUTHORITY.**

20.1. The individuals executing this Agreement on behalf of the Consultant and the Village represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this Agreement.

**21. COUNTERPARTS; FACSIMILE OR PDF SIGNATURES.**

21.1. This Agreement shall be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement.

21.2. A facsimile or pdf/email copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

**22. EFFECTIVE DATE.**

22.1. As used in this Agreement, the "Effective Date" of this Agreement shall be the date this Agreement is fully executed by the parties.

**23. AUTHORIZATIONS.**

23.1 The Operator's authorized representatives who have executed this Agreement warrant that they have been lawfully authorized by the Operator's board of directors or its by-laws to execute this Agreement on its behalf. The Village Manager and Village Clerk warrant that they have been lawfully authorized to execute this Agreement. The Operator and the Village shall deliver upon request to each other copies of all articles of incorporation, bylaws, resolutions, ordinances or other documents which evidence their legal authority to execute this Agreement on behalf of their respective parties.

**24. EQUAL OPPORTUNITY EMPLOYER.**

24.1. The Operator is an equal opportunity employer and the requirements of 44 Ill. Adm. Code 750 APPENDIX A are incorporated herein if applicable.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed by their duly authorized representatives as of the Effective Date.

**VILLAGE OF OAK PARK**

**SP PLUS CORPORATION**

\_\_\_\_\_  
By: Cara Pavlicek  
Its: Village Manager

\_\_\_\_\_  
By: James F. Buczek  
Its: Senior Vice President

Date: March \_\_\_\_, 2017

Date: March \_\_\_\_, 2017

**ATTEST**

**ATTEST**

\_\_\_\_\_  
By: Teresa Powell  
Its: Village Clerk

\_\_\_\_\_  
By:  
Its:

Date: March \_\_\_\_, 2017

Date: March \_\_\_\_, 2017