

**HOLDBACK AGREEMENT
BETWEEN BROWARD COUNTY AND SP PLUS CORPORATION**

This Holdback Agreement (“Agreement”) by and between Broward County, a political subdivision of the State of Florida (“County”), and SP Plus Corporation, a Delaware corporation authorized to transact business in the State of Florida (“Contractor”) (individually referred to as a “Party” and collectively referred to as the “Parties”), is entered into by the Parties and shall be effective as of the date this Agreement is fully executed by both Parties (“Effective Date”).

RECITALS

A. County and Contractor had entered into the Agreement for the Management of Airport Public and Employee Parking Facilities at Fort Lauderdale-Hollywood International Airport (RFP # R1043206P1), dated November 12, 2013, as amended by the First Amendment dated December 8, 2015, as further amended by the Second Amendment dated October 26, 2017, as further amended by the Third Amendment dated February 27, 2018, and as further amended by the Fourth Amendment dated November 13, 2018 (collectively the “Prior Agreement”).

B. County and Contractor are currently parties to the Agreement for the Management and Operation of the Public and Employee Parking Facilities at Fort Lauderdale-Hollywood International Airport (RFP # 2018-06-12-0-AV-04) dated June 4, 2019 (the “Current Agreement”).

C. Contractor and County are defendants in *Jennifer Orsi v. SP Plus Corporation, et al.*, Case No. 18-62589 (United States District Court, Southern District of Florida) (the “Orsi Federal Action”) and *Jennifer Orsi v. SP Plus Corporation, et al.*, Case No. 19-022989 (Circuit Court of the Seventeenth Judicial Circuit of Florida) (the “Orsi State Action”) (the Orsi Federal Action and the Orsi State Action are collectively referred to as the “Orsi Lawsuits”) for allegedly breaching the Fair and Accurate Credit Transactions Act of 2003 (“FACTA”) sections to the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) by allegedly allowing electronic receipts issued by the payment equipment and software provided by others and located at the Parking Facilities at Fort Lauderdale-Hollywood International Airport to print more than the last five digits of credit card numbers. Contractor and County deny these allegations.

D. County filed crossclaims against Contractor in the Orsi Federal Action claiming, *inter alia*, a right to a defense and indemnification from Contractor under the terms of the Prior Agreement. Contractor denies that County is entitled to a defense or indemnification from Contractor in connection with the Orsi Lawsuits.

E. County filed a separate action against its insurer, Beazley USA Services, Inc. a/k/a Certain Underwriters at Lloyd’s, London, Syndicates 2623/623 (“Beazley”) in *Broward County v. Beazley USA Services, Inc.*, Case No. 19-cv-63007 (the “Beazley Action”) seeking a declaration that Beazley has a duty to defend and indemnify County in connection with the Orsi Lawsuits.

F. Beazley filed a Third-Party Complaint in the Beazley Action against HUB Parking Technology USA, Inc. (“HUB”) and Contractor, seeking declarations that HUB and Contractor,

each separately, have a duty to defend and indemnify County in connection with the Orsi Lawsuits that are primary to any obligation Beazley may have to defend and indemnify County in connection with the Orsi Lawsuits. Contractor denies the Beazley allegations directed at Contractor in the Beazley Action.

G. County has withheld funds in the amount of \$480,916.67 (the "Withheld Funds") Contractor alleges are due it under the terms of the Prior Agreement. County asserts it has a right to do so under the indemnity provisions contained in the Prior Agreement. Contractor disputes County's right to retain the Withheld Funds.

H. Simultaneously with the negotiation of this Agreement, the Parties have negotiated a First Amendment to the Current Agreement, entitled First Amendment to Agreement Between Broward County and SP Plus Corporation for the Management and Operation of the Public and Employee Parking Facilities at Fort Lauderdale-Hollywood International Airport (RFP # 2018-06-12-0-AV-04) ("First Amendment").

I. The Parties now desire to partially resolve their respective claim to the Withheld Funds in the manner set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties Agree as follows:

1. The foregoing recitals are true and correct, and are incorporated herein by reference.
2. On the Payment Date, as defined below, County shall pay to Contractor the amount of \$380,916.67 (the "Released Funds"), which amount represents payment of the Withheld Funds less \$100,000 (the "Retained Funds"). The "Payment Date" shall be: a date that is no later than ten (10) days after the date on which Contractor has delivered to the County the First Amendment executed by Contractor.
3. County shall be permitted to continue to retain the Retained Funds pending further discussions between the Parties regarding a potential agreement or other disposition providing for either the County to use the Retained Funds to pay for attorneys' fees and costs incurred by the County in defending the Orsi Actions or the return of the Retained Funds to Contractor.
4. Notwithstanding any provision in this Agreement to the contrary, County shall pay to Contractor the Retained Funds, or the balance of the Retained Funds, as described below, within thirty (30) days after any one of the following events occurs:
 - (a) In the event that, either by execution of any agreement or the entry of a final non-appealable order, HUB and/or Beazley are, separately or together, unconditionally required to fund 100% of County's litigation attorneys' fees and costs incurred in the Orsi Lawsuits, then County shall pay over the full amount of the Retained Funds (\$100,000); or
 - (b) In the event that, either by execution of any agreement or the entry of a final non-appealable order, HUB and/or Beazley are, separately or together, unconditionally required to fund a portion of County's litigation attorneys' fees and costs incurred in the Orsi Lawsuits, and the resulting unfunded amount of such litigation attorneys' fees and costs are less than the full amount of the Retained Funds, then County shall pay over the

balance of the Retained Funds in excess of the unfunded amount of County's litigation attorneys' fees and costs incurred in the Orsi Lawsuits; or

(c) In the event that a court of competent jurisdiction enters a final non-appealable order providing that Contractor is not obligated to pay any of County's litigation attorneys' fees and costs incurred in the Orsi Lawsuits, the County shall pay over the full amount of the Retained funds (\$100,000).

5. Upon request, County shall provide Contractor an accounting of all funds provided by HUB and/or Beazley as referenced in paragraphs 4(a) and (b) above. However, such accounting shall not include any privileged information, and shall be limited to amounts of funding provided by HUB and/or Beazley.

6. Nothing in this Agreement constitutes an admission, agreement, or compromise by a Party to this Agreement regarding any obligation to defend and indemnify County under the Prior Agreement in the Orsi Lawsuits.

7. Contractor waives and releases any and all rights and claims it has or may have to interest on the amount of, and attorneys' fees incurred in seeking collection of, the Withheld Funds, the Released Funds, and/or the Retained Funds, except in connection with any action to enforce this Agreement.

8. The Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

9. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

10. The Parties agree that this Agreement shall not be used or otherwise construed by either Party to support their respective positions in the Orsi Lawsuits, in the Beazley Action or in any future litigation relating to the Orsi Lawsuits. The Parties further agree that neither Party will introduce this Agreement as evidence in the *Orsi* Lawsuits, in the Beazley Action, or in any future litigation relating to the Orsi Lawsuits or the Prior Agreement, except any action commenced to enforce the terms of this Agreement, and that they will both object to any attempt to such introduction as evidence by any other person or entity.

11. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Director of Purchasing, authorized to execute same, and SP PLUS CORPORATION, signing by and through its President, Airport Division, duly authorized to execute same.

COUNTY

WITNESS:

BROWARD COUNTY, by and through its Director of Purchasing

(Signature)

By: _____
Director of Purchasing

(Print Name of Witness)

_____ day of _____, 2021

(Signature)

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center
115 S. Andrews Ave., Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

(Print Name of Witness)

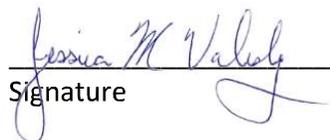
Alexander J. Williams,
Senior Assistant County
By: Atty _____
Alexander J. Williams (Date)
Senior Assistant County Attorney

Digitally signed by Alexander J. Williams, Senior Assistant County Atty
Date: 2021.01.13 10:07:16 -05'00'

CONTRACTOR

WITNESS:

SP PLUS CORPORATION


Signature

By: 
Authorized Signor

Jessica M Valesky
Print Name of Witness

Jack Ricchiuto, President - Airport Division
Print Name and Title


Signature

28 day of December, 2020

Robert Reiser
Print Name of Witness

ATTEST:

Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)