

PARK AGILITY PTY LTD

SOFTWARE SUPPLY TERMS AND CONDITIONS

These Conditions are the terms and conditions under which Park Agility Pty Ltd (**us** or **our** or **we**) supply application code, Application Programming Interface (API) code, other source code and software licencing for the Park Agility SenseIQ Management System to the purchaser named in the applicable purchase order (**you** or **your**). These Conditions are supplementary to the Parking Sense Limited "Product Supply Terms and Conditions" and collectively prevail over any additional or inconsistent conditions specified by you or appearing in any purchase order from you and no variation to these conditions will be binding on us, unless specifically accepted by us in writing.

SOFTWARE LICENCE RIGHTS.

1. During the agreed Term, Park Agility Pty Ltd grants Customer a non-transferable, nonexclusive licence to use the Software specified and provided during installation, for its internal needs, to be used solely on the Hardware provided, and solely in conjunction with the Parking Guidance Services.
2. **Software Licence Restrictions.** Customer agrees that it will not, directly or indirectly and it will not allow others to:
 - (a) copy the software, except as necessary to install on hardware and for internal, backup and archival purposes. In the event Customer wants to make copies of the Software, Customer should have obtained a written consent from Park Agility Pty Ltd before doing so, reproduce all proprietary notices on such copies;
 - (b) sell, lease, licence, transfer, give possession of, or sub licence the Software or the documentation to others;
 - (c) write or develop any derivative or other software programs, based, in whole or in part, upon the Software or any Confidential Information ("Confidential Information").
3. **Proprietary Rights.** Customer shall not have any right, title, or interest in the

Software, Hardware, documentation or any copyrights, patents or trademarks, embodied or used in connection with the Software and associated Parking Guidance services. Subject to the terms and conditions set forth herein, Park Agility Pty Ltd will provide Customer with telephone, email and remote access based electronic support and technical services and assistance ("Support Services").

SUPPORT SERVICES

4. Customer will be provided with Support Services only for a maximum of three (3) named technical support contacts ("Technical Support Contacts"). Support Services will be delivered by a member of Park Agility Pty Ltd's technical support team to the Technical Support Contacts.
5. For live person to person support, Technical Support Contacts may contact Park Agility Pty Ltd via Park Agility Pty Ltd's "support" email address or by telephone to the Park Agility Pty Ltd support numbers provided during business hours Monday through Friday. Email Submissions may be made at any time but responses will normally be provided to Customer's Technical Support Contacts during

business hours. Telephone inquiries can be made by Customer's Technical Support Contacts during business hours and responses will normally be provided to Customer's Technical Support Contacts during business hours.

6. Park Agility Pty Ltd shall use commercially reasonable efforts to provide code corrections identified by Customer as required to correct Software malfunctions in order to bring the Software into substantial conformity with applicable documentation. If Customer encounters a problem in the usage of the Software, Customer will provide Park Agility Pty Ltd with sufficient detail to permit Park Agility Pty Ltd to understand and reproduce the problem. Park Agility Pty Ltd will use commercially reasonable efforts to diagnose the problem and if it is determined that the problem represents an error in the Software that causes it to not operate in substantial conformity with applicable documentation, Park Agility Pty Ltd will use commercially reasonable efforts to provide code corrections to Customer. In addition, Park Agility Pty Ltd may, at its sole discretion and from time to time, make Fix Releases (as defined below) generally available to users of the Software.
7. Customer shall have access to Park Agility Pty Ltd's Support services via remote computer access ("Electronic Support Services"). Should Customer choose to access the Electronic Support Services, Customer hereby grants permission to Park Agility Pty Ltd to access the Software, including any and all systems on which it resides, for the sole purpose of providing Support Services to Customer. CUSTOMER ACKNOWLEDGES THAT IT MAY CONTROL ALL PARK AGILITY PTY LTD ACCESS TO THE SOFTWARE AND TO CUSTOMER'S SYSTEMS

BY SELECTING A "HIGH" SECURITY SETTING, LOCKING DOWN NETWORK ACCESS AND MONITORING ALL SUCH ACCESS; PROVIDED, HOWEVER PARK AGILITY PTY LTD SHALL NOT BE LIABLE FOR ANY FAILURE TO PROVIDE SUPPORT SERVICES AS A RESULT OF CUSTOMER'S SECURITY SETTINGS AND MONITORING OF PARK AGILITY PTY LTD'S ACCESS TO CUSTOMER'S SYSTEMS.

Customer's Duties.

8. Customer's duties and responsibilities include:
 - (a) Customer shall promptly report all errors or malfunctions of the Hardware or Software to Park Agility Pty Ltd in a reasonable time frame.
 - (b) As the Software supplied by Park Agility Pty Ltd is to be installed on server and infrastructure in the Customer's Data Centre, Customer is responsible for and shall maintain a current backup and archive copy of all Software and data installed. In the event of a critical system failure that involves hardware replacement or management system rebuild, Park Agility Pty Ltd shall restore system to the last backup taken.
 - (c) Customer is responsible for maintaining its own Internet access and all necessary telecommunications equipment, software and other materials at Customer's facilities necessary for its end users to access its information and materials through the Service.
 - (d) Customer is responsible for all software licences eg server operating system and for all applications running on the server that the Park Agility Pty Ltd software is installed on with the exception of the software supplied by Park Agility Pty Ltd.
 - (e) Remote Access Passwords. Customer agrees to provide Park Agility Pty Ltd's support personnel with remote access plus root/administrator level password to the server upon which the Park Agility Pty Ltd software is installed and inform Park Agility Pty Ltd if and when the root level

password changes. In the event that Customer changes passwords or usernames that prevent Park Agility Pty Ltd from remotely accessing Services, Customer waives all rights to Maintenance and Support Services. Customer may sign a waiver to decline the use of such usernames and passwords and assume the risks and liability that may arise by electing to receive Services without Remote Access Passwords.

9. Investigation of Service Interruptions. At Customer's request, Park Agility Pty Ltd will investigate any reported error, malfunctions or downtime, and attempt to remedy expeditiously. If Park Agility Pty Ltd reasonably determines that all facilities, systems and equipment furnished by Park Agility Pty Ltd are functioning properly, and that Downtime arose from some other cause, Park Agility Pty Ltd can continue to investigate the Downtime at Customer request and expense.

MAINTENANCE SERVICES

10. Park Agility Pty Ltd shall provide to Customer, at no additional charge, all minor upgrades for the Software as such upgrades are released, including associated documentation and media. "Upgrades" are defined as those versions of the Software that Park Agility Pty Ltd, at its discretion, deems to be logical improvements or extensions to the Software and that have been released for general commercial distribution. In particular, upgrades are designated point releases by Park Agility Pty Ltd (e.g., 3.1 to 3.2 or 3.2 to 4.0 if 4.0 is the next version release in the series). Releases designated by Park Agility Pty Ltd as third digit releases (e.g., 4.2.2 to 4.2.3) are not considered Upgrades for the purposes of these Support Terms but rather they are considered as fix releases which are not automatically distributed but generally commercially available from Park Agility

Pty Ltd ("Fix Releases"). Fix Releases provided to Customer pursuant to these Support Terms will only be for the current version of the Software.

11. **Exclusions.** Park Agility Pty Ltd shall not be required to provide any Support Services relating to problems or issues arising out of or from:

- (a) tampering, modification, alteration, or addition to the Hardware or Software, which is undertaken by persons other than Park Agility Pty Ltd or its authorised representatives;
- (b) Customer's use of the Software in a manner for which it was not designed;
- (c) damage to the computer on which the Software is installed;
- (d) Patching of application software, middleware and utilities installed by the Customer or at the request of the Customer.
- (e) Versions of Software other than the most recent version and one [major] version back, provided that Park Agility Pty Ltd shall also not be required to provide any Support Services for Software versions that are no longer listed on the Support Site as supported product/versions.

12. **Term and Termination.** Park Agility Pty Ltd shall provide the above Support Services under these Support Terms and Conditions for the agreed Term commencing from the date at which Park Agility acquires receipt and acceptance of Customer's order of Support Services ("Commencement Date"). These Support Terms will automatically continue for subsequent periods of time (in months eg 36, 48 or 60) until such time as the agreed Term lapses or Customer provides Park Agility Pty Ltd with written notice of its desire not to renew beyond the initial Term and providing thirty (30) days of notice. If neither party provides the other party with such written notice of termination, then monthly invoices for the

Monthly Support Fee will be sent to Customer by Park Agility Pty Ltd. If these Support Terms lapse, Customer may be subject to additional fees prior to the reinstatement of Support Services hereunder.

13. Notwithstanding anything to the contrary herein, these Support Terms may be terminated by Park Agility Pty Ltd for failure of Customer to pay Park Agility Pty Ltd the Monthly Support Fee if such failure to pay continues for fourteen (14) days after Park Agility Pty Ltd gives Customer written notice of such failure. Park Agility Pty Ltd may also terminate these Support Terms if Customer materially breaches the terms of these Support Terms and fails to cure such breach within thirty (30) days of written notice thereof, except that a material breach of any license granted to Customer in the terms of use or end user license agreement applicable to the Software shall be grounds for immediate termination.
14. Customer acknowledges that Park Agility Pty Ltd has the right to discontinue the manufacture and development of any of the Software and the Support Services for any Software, including without limitation the distribution of older Software versions, at any time in its sole discretion, provided that Park Agility Pty Ltd agrees not to discontinue the Support Services for the Software during the agreed Term, subject to the termination provisions herein. Park Agility Pty Ltd reserves the right to alter these Support Services from time to time, using reasonable discretion but in no event shall such alterations result in (a) diminished support from the level of support set forth herein; (b) materially diminished obligations for Park Agility Pty Ltd; (c) materially diminished rights of Customer, or (d) higher Annual Support Fees during the defined support term. Park

Agility Pty Ltd shall provide Customer with sixty (60) days prior written notice of any material changes to these Support Services contemplated herein.

15. **Warranty and Disclaimer.** Park Agility Pty Ltd will use commercially reasonable efforts to provide the Support Services in a professional manner, and whilst agreeing to rectify all faults with the Software, Park Agility Pty Ltd cannot guarantee that every question or problem raised by Customer can or will be resolved. Nothing in these Support Terms shall be construed as expanding or adding to the warranty for the Software set forth in the Software Agreement or any other agreement under which Customer has obtained the Software. EXCEPT FOR ANY WARRANTY, CONDITION, REPRESENTATION, OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY LAW APPLICABLE TO CUSTOMER IN ITS JURISDICTION, PARK AGILITY PTY LTD MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, RELATED TO OR ARISING IN ANY WAY OUT OF THESE SUPPORT TERMS OR THE PROVISION OF MATERIALS OR SERVICES UNDER THESE SUPPORT TERMS. PARK AGILITY PTY LTD SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY.

16. IN NO EVENT SHALL PARK AGLITY PTY LTD'S LIABILITY ARISING FROM OR RELATED TO THESE SUPPORT TERMS EXCEED THE AMOUNTS PAID BY CUSTOMER FOR THE SUPPORT SERVICES ORDERED BY CUSTOMER FOR THE ANNUAL TERM IN WHICH THE LIABILITY AROSE. IN NO EVENT SHALL PARK AGILITY PTY LTD HAVE ANY LIABILITY FOR ANY SPECIAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL

DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OF EQUIPMENT OR FACILITIES, OR INTERRUPTION OF BUSINESS, ARISING FROM OR RELATED TO THE SUPPORT TERMS UNDER ANY THEORY OF LIABILITY, WHETHER OR NOT PARK AGILITY PTY LTD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

17. General. These Support Terms may not be assigned by Customer. Any assignment in violation of the foregoing shall be null and void. Any additional services added to these Support Terms by written notice to Customer will be governed by the terms of these Support Terms. These Support Terms supersede all other written and oral proposals, purchase orders, prior agreements, and other communications between Customer and Park Agility Pty Ltd concerning the subject matter hereof and constitutes the entire agreement between Park Agility Pty Ltd and Customer regarding provision of Support Services. These Support Terms shall be governed by the laws of the State of New South Wales; and Customer consents to the personal jurisdiction of the state and federal courts located in New South Wales. If any action at law or in equity is necessary to enforce the terms of these Support Terms, the prevailing party shall be entitled to reasonable attorney's fees, costs and expenses in addition to any other relief to which such prevailing party may be entitled.