

All You Ever Wanted to Know About the Passport Advantage Attachment for Service Providers

Passport Advantage Attachment for Service Providers (xSP Attachment)

Version 2, July 2011

- **History & Applicability**

- The first version of the Passport Advantage Attachment for Service Providers was released in 1998. It is now in its sixth revision
- It is applicable only to a Passport Advantage Agreement and cannot be used as an attachment to the Passport Advantage Express Agreement.
- A PA Agreement with the xSP Attachment can have multiple Sites, but each Site must apply for approval as detailed elsewhere in this document.
- The xSP Attachment is used to overcome the prohibition in the PA Agreement against the use of software licensed under PA for purposes of providing commercial hosting services. The prohibition states: "Eligible Products may not be used to provide commercial hosting or other commercial information technology services to third parties."
- "Commercial hosting" in the context of the PA Agreement means:
 - housing business applications that are based on, use, or are for the purposes of storing, processing, accessing or any combination thereof, data owned by a third party.
 - A web-based application, where the function of the application is centralized (hosted by the Service Provider), but where access to data is decentralized (accessed by others, including clients) may or may not be considered to require the xSP Attachment. Consultation with IBM Sales and Passport Advantage resources is advised in case of doubt, in order to reach a definite conclusion. Here are some examples that illustrate the distinction:

Example of an environment that **does** require the xSP Attachment:

- A company is providing payroll processing for many clients on a centralized server; their clients input online, or otherwise provide, timesheet and other payroll-related data to the payroll company who then processes that data and provides outputs and/or other feeds based on the client's data. The data is the clients' data; the service being provided is the processing of that data. This is a commercial hosting solution and requires the execution of the xSP Attachment together-with a new PA Agreement.

Conversely, two examples of an environment which **does not** require the xSP Attachment:

- A shipping company tracks packages from pick-up at the sending location to delivery at the destination location; both sender and receiver are provided with online access to information regarding the status of the shipped items. The data regarding the packages belongs to the shipping company. This is NOT considered commercial hosting because the data belongs to the shipping company even though it relates to the receiving destination. Therefore execution of the xSP Attachment with a new PA Agreement would not be required.
- Most online banking services, whether they allow actual transactions, or simply a view into the client's account information, do not constitute commercial hosting for purposes of the xSP Attachment because the data really belongs to the bank even though it relates to customer accounts.
- Approval by IBM WW Channels Sales Support & Operations is required to offer the xSP Attachment to an IT Service Provider (xSP). Please ask your IBM Sales Representative for details or contact xsw@us.ibm.com directly for a copy of the Request for Approval form. The nature of the IT services, significance of the added value by the Service Provider, and other criteria will be used to determine whether or not approval can be given. A Program Guide (pdf document) and Reference Sheet are available.

Customer Edition

- If the Service Provider has multiple hosted offerings, they can all be managed through one PA Agreement with the xSP Attachment.
- There are two versions of the xSP Attachment:
 - The general version (Z125-6674-xx), applicable to most Passport Advantage Eligible products; exclusions are listed at www.ibm.com/lotus/xspexcludedprograms in the PDF file called “Excluded Programs”.
 - A special version (Z125-7506-xx), only applicable to certain products in the EAS product portfolio – Entity Analytics Solutions and Global Name Recognition products. See: **Features of the Attachment for Service Providers (Special EAS version, Z125-7506-xx)** below.
- There are instances where the 3-party Access Agreement should be executed instead of the PA Agreement with the xSP Attachment.
 - The PA Agreement with the xSP Attachment should be used where the xSP is acquiring licenses for purposes of running hosted business applications for their customers. The Service Provider remains the licensed party and is held responsible for any/all actions of their customers related to the use of and access to the licensed software.
 - The 3-party Access Agreement should be used where the end-user customer has obtained licenses for IBM software, but where that customer wants to have a third party company (often remotely) perform work using the software on a temporary basis and solely for the benefit of the licensed customer. The end-user customer remains the licensed party and is held responsible for any/all actions of the third party related to the use of that software.
- **Using the xSP Attachment with a Passport Advantage Agreement**
 - A unique Passport Advantage Agreement is required to use the xSP Attachment. Only licenses that will be acquired for use to provide IT services (e.g., hosting) to third parties are acquired under the PA Agreement with the xSP Attachment. Licenses acquired under the xSP Attachment cannot be used for purposes internal to the service provider’s Enterprise.
 - Licenses obtained for internal use by the service provider must be obtained under a separate, standard Passport Advantage Agreement.
 - There is no linkage or points aggregation between these separate Agreements (i.e., the PA Agreement with the xSP Attachment and the separate, standard PA Agreement for obtaining software licenses for internal use).
 - Assuming that the service provider has not already put themselves in a noncompliant situation by having deployed licenses obtained under a standard PA Agreement without the xSP Attachment for purposes of providing a hosted environment, a one-time transfer from a service provider’s standard Passport Advantage Agreement to their new Passport Agreement with the Attachment for Service Providers may be requested at the time the new Agreement is approved and initiated. Licenses transferred in this way are subject to the terms of the new Agreement with the Attachment for Service Providers, and execution of such transfers must be handled using the normal established process for transfers of licenses between Sites in the same Enterprise.
 - The xSP Attachment cannot be used with a Passport Advantage Agreement enrolled using either the Government or Academic Attachments. These Attachments are inconsistent with each other from a terms and conditions perspective and also from a pricing and business intent perspective.
- **Features of the Attachment for Service Providers (General version, Z125-6674-xx)**
 - Allows licensed software to be used solely for purposes of providing hosted applications to end-user clients of the Service Provider by overriding the Passport Advantage prohibition against this mode of use. Software to be licensed for internal use by the Service Provider may not be obtained under a Passport Advantage Agreement with the Attachment for Service Providers, and must instead be obtained under a separate, Passport Advantage Agreement.

Customer Edition

- Provides a minimum RSVP of Level D. An Initial order of anything less than 1000 points will set the Service Provider's RSVP to Level D. All normal Passport Advantage leveling and releveling functions apply except that an Anniversary "down-level" can never result in an RSVP level lower than Level D.
 - Allows the Service Provider to use resellers of their services to take their hosted IT services to market. The Service Provider is required to contract with such resellers to ensure all requirements and obligations under the Service Provider's Passport Advantage Agreement with the xSP Attachment are fulfilled and maintained. Any such reseller may not use Eligible Products obtained by the Service Provider under their Passport Advantage Agreement with the Attachment for Service Providers to provide hosted services of their own.
 - Certain products are not eligible for acquisition and use under the terms of a PA Agreement with the xSP Attachment, and are excluded. The excluded products list is a dynamic list, updated as necessary – products can be added or removed from the list at IBM's sole discretion. The list is currently in its sixth revision, and is located here: www.ibm.com/lotus/xspexcludedprograms under "Excluded Programs".
 - A Service Provider's application for use of the xSP Attachment must always include the products they intend to obtain and use in the delivery of their hosted services. Once approved, the Service Provider can obtain licenses for, continue to use, and to obtain additional authorizations to use, products that are subsequently added to the exclusion list after the Service Provider's initial acquisition of the product under the terms of the PA Agreement with the xSP Attachment.
 - Hosted applications based upon or using software licenses under a PA Agreement with the xSP Attachment require sufficient licenses to be obtained according to the maximum number of users or processor capacity available for use by the hosted applications in support of all current end-user clients at any time. This allows "multiple tenancy" and also "re-use" of IBM licensed software in support of the hosted services by the Service Provider's end-user customers, as the Service Provider initiates and terminates customer engagements using those services over time.
 - Licenses obtained by the Service Provider under the PA Agreement with the xSP Attachment are not transferable to the end user – this is explicitly stated in the xSP Attachment, and transfer is also explicitly prohibited in the underlying PA Agreement.
 - The Service Provider is always responsible for license compliance of their end-user clients in respect of software licensed to the Service Provider under the PA Agreement with the xSP Attachment whether they provide any actual client code to their end-user clients or not.
 - By the use of all possible security measures, the Service Provider must prevent their end-user clients "...from reading, displaying, copying or transmitting the actual code or documentation of the Programs." The "Programs" here meaning the software used for the provision of the hosted application itself.
 - The Service Provider may obtain licenses for client-side software under the PA Agreement with the xSP Attachment and provide software code applicable to such licenses to their end-user clients for purposes of interacting with the Service Provider's hosted application. In such cases, the Service Provider remains the licensee and is required to enter into written agreements with their end-user clients that protects IBM's intellectual property rights in that software, and protects the Service Provider themselves against actions of their end-user clients for which IBM would hold the Service Provider responsible (see above).
 - If a Service Provider is using IBM software within their company to monitor the status of their internal use systems as well as the systems on which they are running hosted applications, licenses for that software do not need to be obtained using the Service Provider Attachment. However, if any part of their hosted solution offering includes the monitoring of systems at their end-user customer sites, licenses for that software must be obtained under the Service Provider's PA Agreement with the xSP Attachment.
- **Features of the Attachment for Service Providers (Special EAS version, Z125-7506-xx)**

Customer Edition

- All the same features provided for in the general version of the xSP Attachment described above apply with these important differences:
 - Only the Entity Analytic Solution and Global Name Recognition portfolio products may be obtained under this version. These products CANNOT be obtained under the general version of the xSP Attachment because they are on the excluded products list.
 - “Multiple tenancy” use of software licensed under this special version is NOT ALLOWED. If the software is licensed on a per user basis, the maximum number of user licenses applicable to the total number of users across all current end-user client engagements must be obtained; for products licensed under a processor capacity model, the Service Provider must obtain a quantity of licenses applicable to the capacity of the systems on which the IBM software is being used by the hosted applications, MULTIPLIED BY the maximum number of concurrent end-use client engagements.

For example, if a hosted application using IBM EAS is being run on an 8 processor core system with a PVU rating of 100PVUs per core, and the Service Provider has 4 current end-user client engagements for the use of the hosted application service, this being the high water mark of their concurrent end-user client engagements to-date, the Service Provider will need to have obtained $4 \text{ (clients)} \times 8 \text{ (cores)} \times 100 \text{ (PVU per core requirement)} = 3200$ PVUs of EAS licenses, to properly license this environment under this special version of the Attachment. For each additional concurrent end-user client engagement, another 800 PVUs of EAS license must be obtained.

The Service Provider may, however, reassign licenses acquired to support one End User engagement to support another End User engagement, but only upon termination of the former. This means that any EAS/GNR licenses that have been acquired by a Service Provider to provide IT services to third party (Customer A) may not be used for another third party (Customer B) until after the IT services provided to Customer A are terminated.

- **Contact Information**
 - For more information, email xsw@us.ibm.com