

TERMS AND CONDITIONS FOR SUPPLY OF BLUETOOTH AND ASSOCIATED SERVICES.

Wi-Fi-Net LIMITED registered in England, with registered office at
Leabank, Wycombe Road, Stokenchurch, High Wycombe, Bucks, HP14 3RJ
Company number is 4699217

List of Clauses.

1 DEFINITIONS..... 3

2 SCOPE OF WORK..... 4

3 CUSTOMER RESPONSIBILITIES..... 4

4 SOFTWARE..... 4

5 PAYMENT PROVISIONS..... 5

6 VARIATION OF WORKS..... 6

7 WARRANTY 6

8 LIMITATION OF LIABILITY 6

9 CONFIDENTIALITY..... 7

10 IPR INDEMNITY..... 8

11 TERMINATION..... 9

12 FORCE MAJEURE 10

13 NOTICES..... 10

14 WHOLE AGREEMENT 10

15 SEVERABILITY 11

16 WAIVER..... 11

17 DATA PROTECTION..... 11

18 ASSIGNMENT..... 12

19 DISPUTE RESOLUTION.....	12
20 THIRD PARTY RIGHTS.....	13
21 GOVERNING LAW.....	13
Schedule 1.....	13
Schedule 2.....	14

THIS AGREEMENT is made on the date the Customer accepts terms

BETWEEN

Wi-Fi-Net LIMITED (hereinafter referred to as “Wi-Fi-Net”) whose registered office is at
Leabank, Wycombe Road, Stokenchurch, High Wycombe, Bucks, HP14 3RJ
Company number is 4699217

AND

The party identified in the registration system as the customer (hereinafter referred to as the “Customer”)

WHEREBY IT IS AGREED AS FOLLOWS:-

1 DEFINITIONS

In this Agreement the following definitions shall apply:

“Agreement” means these terms and conditions together with the Purchase Order submitted by the Customer online or on paper and accepted by Wi-Fi-Net and the schedules and attachments hereto.

“Charges” means the charges for the Hardware, Software and Services.

“Clause” means a clause of this Agreement.

“Confidential Information” means all information which is marked or notified to the receiving party as being confidential, together with any other information which in the normal course of business would be considered to be of a confidential nature.

“Delivery Address” means the location(s) designated as such in the Purchase Order.

“Disclosing Party” has the meaning given to it in Sub-Clause 9.1

“GPL” means the GNU General Public License as set out at <http://www.opensource.org/licenses/gpl-license.php> from time to time.

“Hardware” means the Devices and other equipment listed in the Purchase

Order.

“Hardware Price” means the total Charges for the Hardware including taxes as set out in the Purchase Order.

“Devices” means the multi-function Bluetooth transceivers and associated hardware and software components?

“Purchase Order” means the online statement of software and network services as provided by the registration system.

“Schedule” means a schedule to this Agreement.

“Service Levels” means the service levels for Services set out in Schedule 1.

“Service Credits” means the credits payable for failures to meet Service Levels set out in Schedule 1

“Services” means the services specified in the Purchase Order or on the online registration system.

“Software” means the software (including operating systems, applications and utilities) and documentation listed in the Purchase Order or on the online registration system.

“Sub-Contractor” means any person, firm or company who is subcontracted to deliver any part of Wi-Fi-Net’s obligations under this Agreement.

“System” means the Hardware and the Software.

2 SCOPE OF WORK

2.1 Wi-Fi-Net undertakes to:-

2.1.1 provide the Software; and

2.1.2 provide the Services.

3 CUSTOMER RESPONSIBILITIES

3.1 The Customer warrants and represents that, in relation to this Agreement, he is acting in the course of his business and not as a consumer.

4 SOFTWARE

4.1 The copyright and all other proprietary rights whatsoever in Software and any other material developed by Wi-Fi-Net shall remain vested in Wi-Fi-Net.

Upon delivery of the System the Customer shall receive a non-transferable (unless there is a subsisting QSP Accreditation Contract between the parties or

otherwise with the prior written consent of Wi-Fi-Net), non-exclusive license to use such Software for the purpose of operating the System. The terms of the license are as set within the product and also available online from Wi-Fi-Net web site. Wi-Fi-Net reserves the right to revoke such license forthwith on notice to the Customer if the Customer fails to comply with any part of this Agreement or the license.

4.2 With regard to any GPL-Software supplied under this Agreement, Wi-Fi-Net will procure for the Customer the non-exclusive right to use such Software in accordance with the terms and conditions of the GPL. The Customer undertakes to Wi-Fi-Net to comply with the terms and conditions of the GPL in respect of such Software.

5 PAYMENT PROVISIONS

5.1 The Contract Price and method of payment shall be in accordance with the details provided on the online registration system linked to this agreement.

5.2 If payment is not made online, then payment is due on the date of invoice and payable within thirty (30) days thereof. If the Customer fails to pay any invoice in accordance with this Sub-Clause 5.2 then, without prejudice to its other rights and remedies, Wi-Fi-Net shall be entitled to:

5.2.1 Suspend performance of the Services;

5.2.2 Charge interest on the sum outstanding on a day to day basis from the date of invoice until the date payment is made at the rate of 4% per annum over the base rate from time to time of Barclays Bank plc.

5.2.3 Withdraw any licenses issued to the customer.

5.3 The Charges are exclusive of Value Added Tax or any similar sales tax, import or custom duties and like imposts and surcharges which will be paid additionally by the Customer at the rate prevailing at the date of the invoice.

5.4 If the cost to Wi-Fi-Net of the performance of this Agreement shall be increased by reason of the making, after the date of this Agreement, of any law or of any order, regulation, or byelaw having the force of law that shall be applicable to the Hardware, Software or Services or any part thereof the amount of such increase shall be added to the Charges and be paid by the Customer accordingly.

5.5 Service Credits shall be recovered by the Customer as a credit against the Charges for the charging period following that in which they were reported. Service Credits shall not be recoverable in any other form or manner.

6 VARIATION OF WORKS

6.1 Until such time as any variation is formally agreed between Wi-Fi-Net and the Customer in writing in a document signed by both parties, Wi-Fi-Net will, unless otherwise agreed, continue to deliver and be paid for the Hardware, Software and Services as if such variation had not been required or agreed.

7 WARRANTY

7.1 Wi-Fi-Net warrants that the Services shall be performed in accordance with the relevant Service description in Schedule 1 and corresponding Service Levels. The exclusive remedy for breach of the warranty in this Clause 7.5 shall be Service Credits.

7.2 Where a defect is found upon investigation not to be Wi-Fi-Net's responsibility (including where the defect arises as a result of the Customer or any third party altering or tampering with the Hardware and/or Software (including configurations thereof)), Wi-Fi-Net reserves the right to charge the Customer on a time and materials basis at Wi-Fi-Net's then current rates for all costs and expenses incurred by Wi-Fi-Net in consequence of such investigation.

7.3 GPL Software is supplied to the Customer on the terms of the GPL. Accordingly, no warranty is given for that part of the Software.

7.4 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to fitness for purpose) are hereby excluded to the extent permitted by law.

8 LIMITATION OF LIABILITY

8.1 Wi-Fi-Net's liability to the Customer in respect of fraud, death or personal injury resulting from negligence and for any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 shall not be limited.

8.2 Except as provided in Clause 8.1 above, Wi-Fi-Net's total liability to the Customer for claims arising in each year following the date of signing of this Agreement (as determined by the date a breach occurred or the date a claim was brought by a third party to which an indemnity would apply) shall not exceed the greater of the Charges paid by the Customer in that calendar year or one hundred thousand pounds (£100,000) (including liability under any indemnities).

8.3 Wi-Fi-Net shall have no liability to the Customer for:

8.3.1 Loss of profits, goodwill, revenue, production, anticipated savings, use or contracts, losses consequent upon loss or corruption of data nor the

cost of reconstituting data; or

8.3.2 any type of indirect or consequential loss, damage, injury or expense; or

8.3.3 save to the extent of any Service obligation set out in the Purchase Order, defects in the System not reported in writing within three months after delivery of the relevant part of the System; or

8.3.4 alleged or actual infringement of any third party patent, trade mark, copyright, design right or other intellectual property right except as provided in Clause 11.

8.4 The exclusions and limitations of liability set out in this Agreement shall apply to all of Wi-Fi-Net's liabilities to the Customer in respect of all matters arising out of or connected with this Agreement, the Hardware, Software and Services, whether in contract, tort (including but not limited to negligence), for breach of statutory duty or otherwise.

8.5 The Customer will indemnify Wi-Fi-Net in respect of any claims for loss, damage, injury or expense by any third party in tort (including but not limited to negligence) or breach of statutory duty arising directly or indirectly from the Customer's possession, operation, use, modification or supply to a third party of anything provided by Wi-Fi-Net in connection with this Agreement except in respect of death or personal injury to the extent that it results from the negligence of Wi-Fi-Net.

9 CONFIDENTIALITY

9.1 Each party (hereinafter called the "Receiving Party") undertakes to keep and maintain all Confidential Information received from the other party (hereinafter called the "Disclosing Party") in the strictest confidence and not to disclose such information to any third party without the prior written consent of the Disclosing Party provided always that either party shall be at liberty to disclose such information to its auditors and other professional advisers and may disclose such information if required by a court or tribunal or other judicial authority of competent jurisdiction.

9.2 The Receiving Party shall ensure that its employees, sub-contractors and anybody to whom it discloses Confidential Information pursuant to Clause 9.1:

9.2.1 Shall only be given access to any Confidential Information received from the other party on a "need to know" basis;

9.2.2 Shall have been made aware of the requirements of confidentiality set out in this Agreement;

9.2.3 Shall not cause or permit the Confidential Information to be disclosed to

any other third party. Either party may require the other party to verify its compliance with this provision.

9.3 Without prejudice to the other rights of the Disclosing Party, in the event of an unauthorised disclosure or use of Confidential Information, the Receiving Party shall use all reasonable endeavours to assist the Disclosing Party in recovering and preventing the use, dissemination, sale or other disposal of such Confidential Information.

9.4 The provisions of this Clause shall not prevent either party from disclosing any information where it can demonstrate and document that such information:

9.4.1 Was in its possession (with full right to disclose) prior to receiving it from the other party; or

9.4.2 Is or subsequently comes into the public domain other than by breach of its obligations hereunder; or

9.4.3 Is independently developed or received by it from a third party.

9.5 Notwithstanding the foregoing provisions of Clause 9, either party shall be entitled to publicise the existence of this Agreement, and may describe in general terms its nature and approximate value. Neither party shall publicise any further details without first seeking express authority to do so from the other.

10 IPR INDEMNITY

10.1 Wi-Fi-Net shall indemnify the Customer against final judgement or settlement for infringement of third party United Kingdom patent, trade mark, copyright or design right (where in force as at the date of this Agreement) which arises out of the Customer's use of the non-GPL Software which Wi-Fi-Net supplies pursuant to this Agreement, provided that the Customer:-

10.1.1 Notifies Wi-Fi-Net promptly if any infringement is alleged;

10.1.2 Makes no admissions nor attempts to settle or compromise any claim or action without Wi-Fi-Net's written consent;

10.1.3 Gives Wi-Fi-Net the sole conduct of the defence to or settlement of any claim or action; and

10.1.4 Acts in accordance with the reasonable instructions of Wi-Fi-Net and gives Wi-Fi-Net such assistance as Wi-Fi-Net shall reasonably require in relation to any claim or action.

10.2 Wi-Fi-Net shall re-imburse the Customer's reasonable costs in complying with Sub-Clause 10.1.4.

10.3 If at any time any allegation of infringement of third party intellectual property rights is made in respect of anything Wi-Fi-Net supplies pursuant to this Agreement or, in Wi-Fi-Net's reasonable opinion is likely to be made, Wi-Fi-Net may at its own expense modify or replace the same so as to avoid the infringement and the Customer will ensure that Wi-Fi-Net is provided with all reasonable assistance required to exercise such rights.

10.4 The Customer reciprocally indemnifies Wi-Fi-Net in relation to anything which the Customer does or supplies and in relation to anything which Wi-Fi-Net uses at the request or with the consent of the Customer.

10.5 The indemnity under Sub-Clause 10.1 above shall not apply to infringement by the use of anything which Wi-Fi-Net supplies pursuant to this Agreement in conjunction with equipment, programs or other materials not supplied by Wi-Fi-Net where there would be no infringement without such combination nor shall it apply to infringement by use of anything supplied by Wi-Fi-Net in a manner which could not have been reasonably foreseen by Wi-Fi-Net at the date of this Agreement.

11 TERMINATION

11.1 Either party may terminate this Agreement forthwith by written notice to the other party if:

11.1.1 The other party commits an irremediable breach of any material obligation of this Agreement or commits a remediable breach of any material obligation and fails to remedy it within thirty (30) calendar days of receiving a written notice requiring it be remedied; or

11.1.2 A creditor takes possession or a receiver is appointed over any of the property or assets of that other party; or

11.1.3 The other party shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement or for any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors, or another arrangement of similar import; or

11.1.4 The other party shall become subject to an administration order; or

11.1.5 The other party goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by and assume the obligations imposed on that other party under this Agreement); or

11.1.6 The other party, being an individual or where the other party is a firm,

any partner in that firm, shall at anytime become bankrupt or if a petition is presented for such bankruptcy or if the other party or such individual shall have a receiving order or administration order made against him; or

11.1.7 Anything analogous to the foregoing occurs under the law of any jurisdiction in relation to the other party; or

11.1.8 the other party ceases or threatens to cease to carry on its business; all without liability to the other party for invoking that termination and without prejudice to the terminating party's other rights and remedies.

11.2 Either party may terminate this Agreement for any reason, without incurring liability for such termination, on six (6) month's written notice to the other.

11.3 Upon termination of this Agreement for whatever reason Wi-Fi-Net shall, without prejudice to its other rights and remedies, be paid the value of the Services done and Hardware delivered prior to the date of termination (less amounts already received by Wi-Fi-Net in respect of those Services).

11.4 The following Clauses shall survive expiry or termination of this Agreement for any reason: 1, 8, 9, 11.3, 11.4, 14, 16, 17, 19 and 21.

12 FORCE MAJEURE

Neither party shall be liable for any delay or failure to meet its obligations under this Agreement due to any cause outside its reasonable control. If performance of the Services is substantially prevented for a continuous period of six months by virtue of any of the aforesaid events then either party may terminate this Agreement by written notice to the other without incurring liability for terminating.

13 NOTICES

Any communication whatsoever which falls to be given under the terms of this Agreement shall be sufficiently served if it is sent by ordinary first class pre-paid post or by facsimile to the other party at the address appearing at the head of this Agreement (for Wi-Fi-Net) or in the online registration (for the Customer) or such other address as may have been notified. Every notice shall be deemed to have been received and given on the second day after posting if sent by post, or in the case of facsimile, such notice shall be deemed to have been received and given at the time of transmission.

14 WHOLE AGREEMENT

The Customer and Wi-Fi-Net agree that this Agreement is the complete and exclusive statement of the agreement between the parties which supersedes all proposals or prior agreements, oral and written, and all other communications

between the parties relating to its subject matter. The Customer acknowledges that no reliance is placed on any representation, warranty, undertaking or expression of opinion which is not expressly set out in this Agreement and that it will not have any right of action against Wi-Fi-Net arising out of or in connection with any such representation, warranty, undertaking or expression of opinion unless fraudulent. All warranties, conditions and other terms implied by statute or common law are excluded to the fullest extent permitted by law.

15 SEVERABILITY

If any part, term or provision of this Agreement not being of a fundamental nature should be held illegal or unenforceable the validity or enforceability of the remainder of this Agreement shall not be affected.

16 WAIVER

16.1 Subject to Clause 16.2, no failure to exercise and no delay in exercising on the part of either party of any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude the enforcement of any other right, power or privilege nor shall the waiver of any breach of any provision herein be taken or held to be a waiver of any subsequent breach of any such provision or be a waiver of the provision itself. Any waiver to be effective must be express and in writing.

16.2 The Customer shall be deemed to have waived any right, power or privilege if it has failed to exercise that right, power or privilege within one (1) calendar year of becoming entitled to do so.

17 DATA PROTECTION

17.1 The parties' attention is drawn to the Data Protection Act 1998, Directive 95/46/EC of the European Parliament and any legislation and/or regulations implementing them or made in pursuance of them (all referred to together as the "Data Protection Requirements").

17.2 Each party warrants to the other that it will duly observe all its obligations under the Data Protection Requirements which arise in connection with the performance of this Agreement.

17.3 The parties acknowledge that the Customer is the data controller and Wi-Fi-Net is the data processor in respect of any personal data that Wi-Fi-Net processes in the course of providing the Services.

17.4 Wi-Fi-Net agrees that it shall:

17.4.1 only carry out processing on the Customer's instructions from time to time;

17.4.2 devise appropriate systems and procedures to ensure that any personal data which it processes in the course of the Services are adequate, relevant, not excessive, accurate and, where necessary, kept up to date, and not retained for longer than is necessary;

17.4.3 include in any contract with sub-contractors who will process personal data directly or indirectly on the Customer's behalf, provisions in favour of the Customer which are equivalent to those in this Clause;

17.4.4 implement appropriate technical and organizational measures to protect personal data against unauthorised or unlawful processing and accidental destruction or loss;

17.4.5 promptly refer to the Customer any queries from data subjects, the Information Commissioner or any other law enforcement authority, for the Customer to resolve; and

17.4.6 at no additional cost, promptly provide such information to the Customer as the Customer may reasonably require to allow it to comply with the rights of data subjects, including subject access rights, or with information notices served by the Information Commissioner.

17.5 For the purposes of this clause "data controller", "data processor", "data subject", "personal data" and "processing" shall have the meanings ascribed to them in the Data Protection Act 1998.

18 ASSIGNMENT

The rights and obligations of Wi-Fi-Net under this Agreement may on notice to the Customer be transferred (whether by assignment or novation) to any company which is at any time Wi-Fi-Net's holding company or subsidiary or the subsidiary of any such holding company and the Customer hereby agrees to execute such documents as may be necessary to effect such a transfer. The terms "holding company" and "subsidiary" shall have the meaning ascribed to them in Section 736 of the Companies Act 1985. This Agreement may not otherwise be assigned or novated by either party without the written consent of the other party, such consent not to be unreasonably withheld or delayed.

19 DISPUTE RESOLUTION

19.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement through negotiations between the respective senior executives of the parties with authority to resolve the same.

19.2 If the matter is not resolved through negotiation, the parties may agree to attempt to resolve the dispute through mediation or another alternative dispute resolution ("ADR") procedure.

19.3 If the matter has not been resolved by an ADR procedure within 21 days of the initiation of such procedure (or such other period as may be agreed) or if either party will not or ceases to participate in an ADR procedure, the dispute may be referred to the English courts by either party.

20 THIRD PARTY RIGHTS

This Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person who is not named as a party to it and neither party can declare itself a trustee of the rights under it for the benefit of any third party.

21 GOVERNING LAW

This Agreement is made under English law and shall be construed in accordance with and governed by English law and, subject only to the provisions of Clause 20, each party agrees to submit to the exclusive jurisdiction of the English courts.

Schedule 1

Service Description, Service Levels and Service Credits

1. Software support

Wi-Fi-Net will provide a software support service and use reasonable endeavours to achieve an eight (8) hour call to response interval. Responses from Wi-Fi-Net may be by email, telephone or instant messaging. The Customer shall appoint a single technical liaison who shall be authorised to place all requests for support. Wi-Fi-Net reserves the right to limit the Customer to a reasonable number of support requests (i.e. no more than 10 in any one calendar month).

2. Software Maintenance

Wi-Fi-Net will provide to licensed users updates and enhancements to the Wi-Fi-Net software from time to time. The Customer will be permitted to apply these updates to the network.

3. Wi-Fi-Net managed CMS/AS

Wi-Fi-Net will host the CMS/AS application on multiple remote mirrored servers and manage, configure and administer the System for the Customer. Wi-Fi-Net will deal promptly with any issues raised by the Customer relating to the operation of the System.

Service Credit

If the Wi-Fi-Net managed CMS/AS application is unavailable (except as a result of general internet connectivity issues) for more than 24 hours in any one calendar month then Wi-Fi-Net will extend the supported period by one month at no additional charge.

Schedule 2

Delivery and Payment

Wi-Fi-Net will provide the network services defined here within 24 hours of receiving payment and the funds clearing.

All prices are in UK Pounds Sterling. Payment may be made online or directly to our bank:

Wi-Fi-Net Ltd

Barclays Bank

Sort Code: 20-05-00

Account Number: 10735620