



CUSTOMER AGREEMENT

Further Reach Group Inc., a California corporation, ("**Further Reach**", "**We**", "**Us**") owns or controls portions of a wireless network consisting of certain equipment, hardware and software owned or licensed by Further Reach and, if applicable, certain leased equipment ("**Equipment**"; collectively, the "**Wireless Network**"). Equipment might include but is not limited to: routers/switches, wifi access points, other networking devices, radio antennas/dishes, batteries, battery chargers, solar panels, enclosures, tree/tower climbing devices, conduits and brackets, and mounts.

In the event you ("**Customer**", "**You**", "**Your**") desire to use the Wireless Network, Customer must enter into this agreement and the associated order form ("**Order Form**") with Further Reach (collectively, the "**Agreement**") as a condition to using the Wireless Network. BY CHECKING THE BOX ON THE SIGN-UP FORM, CUSTOMER ACKNOWLEDGES HAVING REVIEWED AND ACCEPTED THIS AGREEMENT WITH FURTHER REACH AS OF THE DATE OF THE SUBMISSION OF SIGN-UP FORM ("**Effective Date**"). IF CUSTOMER DOES NOT AGREE TO THIS AGREEMENT, CUSTOMER SHALL NOT USE OR ACCESS THE WIRELESS NETWORK. ANY USE OF THE WIRELESS NETWORK OR RELATIONSHIP WITH FURTHER REACH RELATED TO ANY OF THE FOREGOING IS SUBJECT TO THIS AGREEMENT.

I. LICENSE

A. **Grant of License.** Subject to the terms and conditions of this Agreement, and in consideration for the payment of Fees as provided for in this Agreement, Further Reach grants to Customer a nonexclusive, nontransferable license to use the Wireless Network solely for Customer's internal use. Further Reach may collect anonymous network logs or data passing through the Wireless Network for internal business purposes, such as research and improvement. Further Reach will use commercially reasonable efforts to secure and monitor the Wireless Network. Further Reach may remove, block, filter or restrict by any materials that, in Further Reach's sole discretion, may be illegal, subject Further Reach to liability or violate the Agreement. Further Reach may cooperate with legal authorities and/or third parties in the investigation of any actual, suspected or alleged violation of law or this Agreement. If Customer experiences a problem accessing or using the Wireless Network, report the problem to Further Reach.

B. **License Restrictions.** Customer has no right to assign, transfer, sublicense or otherwise provide access the Wireless Network to any third party; provided, however Customer can provide internet access to the Wireless Network, to its permitted guests for free so long as Customer remains responsible and liable for such guests' compliance with the terms of this Agreement and use of the Wireless Network ("Permitted Guest Use"). Customer may not modify or interfere with the Wireless Network and, except for Permitted Guest Use, will not allow anyone to access to the Equipment or Wireless Network including but not limited to radios, antennas, conduit/cables; or boxes, towers or trees in which Equipment is located. Further Reach reserves all rights not expressly granted to Customer under this Agreement.

C. **Ownership.** Further Reach and its lessors and licensors own all worldwide right, title, and interest in and to the Wireless Network or otherwise have obtained the right to license the foregoing to Customer. Customer will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices of Further Reach and its licensors appearing on the Wireless Network.

D. **Support.** Customer shall have access to technical support provided by Further Reach in accordance with Further Reach's standard policies in effect during the term hereof.

E. **Customer Responsibilities.** Customer is responsible for any equipment or software necessary for Customer to access the Wireless Network. Customer shall comply with all applicable laws when using the Wireless Network. Customer is responsible for any content sent or received through the Wireless Network on its account. Customer shall not use the Wireless Network to do any of the following or similar or related acts:

(a) transmit any material (by uploading, posting, email or otherwise) that is spam, unlawful, threatening, abusive, harassing, tortuous, defamatory, obscene, libelous, invasive of another's privacy or that Customer does not have rights to transmit;

(b) falsely impersonate others, misrepresent who Customer is or forge headers or otherwise manipulate identifiers;

(c) transmit any material that infringes any proprietary rights of any party;

(d) transmit any computer code, files or programs designed to interrupt, destroy or limit the functionality of any software, hardware or equipment;

(e) disrupt the normal operation of the Wireless Network;

(f) violate any applicable local, state, or federal law

II. EQUIPMENT

A. *Use and Access.* If Equipment is required by Customer or other users of the Wireless Network to use or access the Wireless Network, or Equipment is otherwise located at the Customer's property, upon and subject to the terms and conditions contained in this Agreement, Further Reach hereby leases to Customer, and Customer hereby leases from Further Reach, the Equipment during the Term of this Agreement.

You hereby grant Us the right of reasonable access to Your premises to survey, install, maintain operate, and repair the Equipment at reasonable times and upon reasonable prior notice from Further Reach.

Customer shall maintain the Equipment in good order and repair. Customer may not modify or interfere with the Wireless Network and, except for Permitted Guest Use, will not allow anyone to access to the Equipment or Wireless Network including but not limited to radios, antennas, conduit/cables; or enclosures, towers or trees in which Equipment is located.

At the end of the term, Customer shall return Equipment located indoors to Further Reach in the same condition as it was in at the beginning of the term hereof, reasonable wear and tear excepted to the applicable address identified on Further Reach's website no later than thirty days following the last day of the term hereof. Further Reach shall be responsible for collecting any Equipment located outdoors no later than six (6) months after termination and may continue to operate that Equipment until such time as it collects the Equipment.

Except for circumstances outside Your reasonable control (a lightning strike for instance), all risk of loss to the Equipment shall be borne by Customer and any costs associated with loss of or damage to the Equipment shall cause a Further Reach to charge a fine in an amount determined by Further Reach in its sole discretion. To the extent Customer fails to comply with the terms of this section II. Equipment, Customer shall be responsible for all costs incurred by Further Reach in reclaiming and obtaining the Equipment.

B. *Title to Equipment.* Title to the Equipment shall at all times on and after the date hereof be and remain in Further Reach, and Customer shall have no right, title or interest therein except as lessee hereunder. Customer will not allow the name of any person, firm or association other than that of Further Reach to be placed on any item of the Equipment as a designation that might be interpreted as a claim of ownership.

III. PAYMENT

A. *Fees.* As consideration for the license, installation and support services for the Wireless Network, Customer will pay Further Reach the fees specified on the online Order Form ("*Fees*") using the credit card or account information provided by Customer no later than the date identified on Further Reach's invoice.

B. *Payment Terms and Taxes.* Further Reach may use third party merchant processors to process Customer's credit card payment. No payments hereunder shall be subject to any setoff. All undisputed past due amounts will incur interest at a rate equal to the lower of 1.5% per month or the highest rate permitted by law. Customer will be responsible for, and will promptly pay all taxes of any kind (including but not limited to sales and use taxes) associated with this Agreement or Customer's receipt or use of the Wireless Network and services, except for taxes based on Further Reach's net income. Customer shall be obligated to pay for any costs of collection incurred or to be incurred by Further Reach hereunder.

IV. PRODUCT WARRANTY

A. *Limited Warranty.* Further Reach is not responsible for content on or harm caused by the Wireless Network. The Wireless Network, related Service and Support Services and Further Reach's performance hereunder are provided "as is" without any express or implied warranty of any kind, including the warranties of merchantability, title and fitness for a particular purpose. Further Reach has no liability for direct, consequential, exemplary, special, punitive or incidental damages, even if we have been advised of the possibility of such damages, whether arising in contract or in tort (including negligence, strict liability or otherwise). Customer agrees that the foregoing is fundamental to the bargain between the parties and binding on all users of the Wireless Network and for any claims, actions or proceedings arising from or related to this Agreement. This limitation shall survive any termination or expiration of this Agreement.

B. *Exclusive Remedies.* For any breach of this Agreement by Further Reach or dissatisfaction with the Wireless Network, Customer's sole remedy shall be to terminate this Agreement and receive a refund of any Fees paid by Customer to Further Reach but not yet earned by Further Reach.

V. INDEMNIFICATION

A. *Infringement Injunctions.* If Customer's use of any of the Wireless Network hereunder is, or in Further Reach's opinion is likely to be, enjoined as an infringement or misappropriation of any third party intellectual property rights, Customer's sole and exclusive remedy, and Further Reach's entire liability shall be, at Further Reach's discretion and expense, either: (a) procure for Customer the right to continue to use the Wireless Network under the terms of this Agreement; (b) replace or modify the Wireless Network so that it is non-infringing; or (c) terminate this Agreement and refund to Customer any Fees paid but not yet earned by Further Reach.

B. *Exclusions.* Notwithstanding the terms of Section V.A., Further Reach will have no liability for any claim of any kind to the extent it results from: (a) modification of the Wireless Network made other than by Further Reach; (b) the combination, operation or use of the Wireless Network with equipment, devices or software not supplied by Further Reach; or (c) failure of Customer to use updated or modified elements of the Wireless Network provided by Further Reach to avoid infringement.

VI. LIMITATION OF LIABILITY

A. *Total Liability.* FURTHER REACH'S AND ITS LICENSORS' CUMULATIVE LIABILITY TO CUSTOMER, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, WILL BE LIMITED TO AND WILL NOT EXCEED THE AMOUNTS PAID TO FURTHER REACH BY CUSTOMER PURSUANT TO THIS AGREEMENT FOR THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE CAUSE OF ACTION OR CLAIM WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT FURTHER REACH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

B. *Exclusion of Damages.* IN NO EVENT WILL FURTHER REACH OR ITS LICENSORS BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE WIRELESS NETWORK OR SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT FURTHER REACH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

C. *Basis of Bargain*. The parties expressly acknowledge and agree that Further Reach has set its prices and entered into this Agreement in reliance upon the limitations of liability specified herein, which allocate the risk between Further Reach and Customer.

VII. TERM AND TERMINATION

A. *Term*. This Agreement will begin on the Effective Date and will remain in effect until termination of service in accordance with the terms of this Agreement.

B. *Termination for Special Impacts on the Wireless Network*. Each party will have the right to terminate this Agreement in the event that Further Reach is unable to maintain the Wireless Network due to causes beyond its reasonable control (e.g., loss of any required relays on the Wireless Network, technical flaws or interruptions not subject to commercially reasonable cure).

C. *Termination for Breach*. Each party will have the right to terminate this Agreement if the other party breaches any material term of this Agreement and fails to cure such breach within sixty (60) days after written notice thereof and Further Reach shall have the right to terminate this Agreement in the event that Customer is more than thirty (30) days overdue in its payments due hereunder.

D. *Effect of Termination*. Upon any termination of this Agreement: (i) all licenses and rights granted hereunder shall terminate and Further Reach shall no longer provide any services or access to the Wireless Network to Customer; (ii) Customer shall cease using the Wireless Network and return all Equipment to Further Reach consistent with this Agreement or as otherwise requested by Further Reach.

E. *Nonexclusive Remedy*. Termination of this Agreement by either party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such party.

F. *Survival*. The rights and obligations of the parties that by their nature should so survive will survive the termination or expiration of this Agreement.

VIII. GENERAL

A. *Assignment*. Customer will have no right to assign this Agreement, in whole or in part, without Further Reach's prior written consent. Any attempt to assign this Agreement, without such consent, will be null and void. Further Reach may transfer or assign this Agreement without the consent of Customer.

B. *Governing Law, Jurisdiction and Arbitration*. This Agreement shall be deemed to be entered into in the State of California and will be governed by and construed in accordance with the laws of the State of California. Any disputes between the parties arising under this Agreement shall be settled by binding arbitration before a single arbitrator in San Francisco, California, in accordance with the rules of the American Arbitration Association; provided, however, that either party may implead the other in any lawsuit filed by a third party in connection with this agreement. The arbitrator shall be a professional familiar with wireless networks. In any such arbitration, each party shall bear its own costs and attorney's fees. In any arbitration, neither party will have the right to participate in a representative capacity or as a member of any class pertaining to any claim subject to arbitration. The arbitrator may award to the prevailing party, if any, as determined by the arbitrator, its costs and expenses, including reasonable attorneys' fees. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of both parties. To the fullest extent permitted by applicable law, no such arbitration shall be joined to an arbitration involving any other party subject to this Agreement, whether through class arbitration proceedings or otherwise. Each party hereby waives its right to a trial by jury for any disputes between the parties.

C. *Severability*. If for any reason any provision of this Agreement is deemed invalid or unenforceable by a party having the right to adjudicate this Agreement, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

D. **Waiver.** The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

E. **Notices.** Further Reach reserves the right to modify the Agreement at any time upon posting and providing notice, whether directly to Customer or posting a notice of a change. By continuing to use the Wireless Network after any changes are posted and notice is issued, Customer signifies its acceptance of the revised terms and conditions. Please visit the Agreement page at the <http://www.furtherreach.net/customeragreement> regularly to review the then-current Agreement to which Customer is bound. Further Reach reserves the right to modify the Wireless Network at any time. Notwithstanding the foregoing, as stated above, Customer also may be subject to additional or separate terms of use, rules and/or policies that may apply when Customer uses certain features made available through the Wireless Network. Customer consents to receive communications from Further Reach electronically, including without limitation by e-mail or by posting notices. Customer agrees that all agreements, notices, disclosures and other communications that Further Reach provides to Customer electronically satisfy any legal requirement that such communications be in writing. In order for Customer to withdraw its consent to receive notices electronically, Customer must notify Further Reach in writing of its withdrawal of such consent and discontinue Customer's use of the Wireless Network.

F. **Force Majeure.** Neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, riot, act of God or governmental action.

G. **Relationship of Parties.** The parties to this Agreement are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

H. **Announcements.** Customer agrees that Further Reach may publicly announce and list Customer as a client of Further Reach.

I. **Entire Agreement.** This Agreement, including the applicable Order Form, contains the complete understanding and agreement of the parties and supersedes all prior or contemporaneous agreements or understandings, oral or written, relating to the subject matter herein. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of the parties.

IX. PRIVACY

A. **General.** Further Reach is committed to preserving your privacy and protecting your personal data. We do not actively monitor your Internet use as part of our regular operations. We oppose the use of third-party information-harvesting technology and unlawful wiretapping.

B. **Information We Retain About You.** We keep information about you such as names, addresses, telephone numbers, email addresses and details about which plan you purchase. All such information is considered private. We also keep logs of limited technical information used to monitor and improve the quality of your Internet connection. The only circumstances where we will disclose any of the above information to a third party in the event that we receive a legitimate, legally-mandated request for customer information and then only within the narrow scope of that request. We will not otherwise disclose any private information about you to any other third party.