

EMBEDDED SOFTWARE LICENSE AGREEMENT

THIS AGREEMENT (“AGREEMENT”) IS A LEGAL CONTRACT BETWEEN TARANA WIRELESS, INC. (“TARANA”) AND THE AUTHORIZED USER OF PRODUCTS MANUFACTURED AND SOLD BY OR ON BEHALF OF TARANA (THE “PRODUCTS”). THIS AGREEMENT GOVERNS THE USE OF THE FIRMWARE AND SOFTWARE EMBEDDED OR INSTALLED (“EMBEDDED SOFTWARE”) IN THE PRODUCTS, AS MAY BE UPDATED OR MODIFIED BY TARANA FROM TIME TO TIME.

PLEASE READ THIS AGREEMENT CAREFULLY. AS USED IN THIS AGREEMENT, THE TERM “CUSTOMER” MEANS THE ORIGINAL PURCHASER OF THE PRODUCTS FROM TARANA. BY ACTIVATING OR OTHERWISE USING THE PRODUCTS, CUSTOMER ACCEPTS AND AGREES TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, OR IF YOU ARE NOT AUTHORIZED TO ACCEPT THIS AGREEMENT ON BEHALF OF CUSTOMER, YOU ARE NOT AUTHORIZED TO USE THE PRODUCTS.

1. License Grant. Subject to the terms and conditions of this Agreement, Tarana grants to Customer a perpetual, non-exclusive, limited license to execute and use the Embedded Software solely on the Tarana Product in which it was originally installed, for Customer’s own internal business operations and solely in accordance with the documentation and user manuals provided by Tarana related to the Product (“Documentation”). The Embedded Software may only be used to operate the Tarana Product in which it was initially installed. Customer agrees not to assign, sublicense, transfer, pledge, lease, rent, or share its rights under this Agreement without Tarana’s prior written consent except as specifically otherwise provided in Section 8..

2. Restrictions. Customer agrees not to do any of the following, or direct or allow anyone else to do any of the following:

(a) disassemble, reverse compile or reverse engineer any part of the Embedded Software, attempt to create the source code from the object code for the Embedded Software, or otherwise attempt to discover any underlying ideas or algorithms used by the Embedded Software;

(b) reproduce, modify, or make derivative works based on the Embedded Software;

(c) rent, lease, distribute, host, publish, disclose, or otherwise commercially exploit the Embedded Software or make the Embedded Software available to any third party other than as expressly permitted by this Agreement;

(d) remove, alter, or obscure any product identification, copyright, trademark, or other intellectual property notices included in the Embedded Software or related Documentation.

3. Ownership. Customer acknowledges and agrees that the Embedded Software and Documentation are licensed, and not sold, to Customer. Tarana and its licensors retain the entire

right, title and interest in and to the Embedded Software and Documentation and all intellectual property or proprietary rights thereto, including but not limited to all worldwide rights under patent, copyright, trademark and trade secret laws. Customer does not acquire any ownership interest in the Embedded Software or Documentation, or any other rights thereto other than the license rights expressly granted in this Agreement. Any rights not expressly granted by Tarana in this Agreement are reserved by Tarana.

4. Support and Maintenance. Support and maintenance services relating to the Products and Embedded Software, and updates thereto, will be provided by Tarana only pursuant to a separate written agreement between Tarana and Customer, for such compensation as may be established by Tarana. Tarana is not obligated to provide any services pursuant to this Agreement, including but not limited to support and maintenance services, or to provide Customer with updates to the Embedded Software.

5. Third-Party Software. The Embedded Software includes certain third-party software, which Tarana has the right to distribute and license to Customer. The third-party software may include software that is subject to certain open source licenses (“Open Source Software”). The Open Source Software components are licensed to Customer pursuant to license agreements separate from this Agreement. A list of the Open Source Software incorporated in the Embedded Software, and the licenses that apply to the Open Source Software, is available to users of the Products, by contacting Tarana at support@taranawireless.com. The license agreements relating to the Open Source Software are incorporated by reference in this Agreement and, by using the Embedded Software, Customer is accepting such license agreements.

6. Disclaimer of Warranties. Except as may be otherwise provided in a separate written agreement between Tarana and Customer, the Embedded Software and Documentation are provided to Licensee “as is” and with all faults and defects. EXCEPT AS MAY BE OTHERWISE PROVIDED IN A SEPARATE WRITTEN AGREEMENT BETWEEN TARANA AND CUSTOMER, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, TARANA, FOR ITSELF AND ITS LICENSORS, DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE EMBEDDED SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. TARANA DOES NOT WARRANT THAT USE OF THE EMBEDDED SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE.

7. Limitation of Liability. IN NO EVENT WILL TARANA OR ITS LICENSORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE RELATING TO OR ARISING OUT OF THIS AGREEMENT, THE EMBEDDED SOFTWARE, OR THE DOCUMENTATION, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF USE, LOSS OF GOODWILL, OR LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT WILL TARANA’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE EMBEDDED SOFTWARE, OR THE

DOCUMENTATION, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, EXCEED THE AMOUNT PAID TO TARANA FOR THE SPECIFIC TARANA PRODUCT UNIT THAT GAVE RISE TO THE LIABILITY. THE LIMITATIONS OF LIABILITY AND WARRANTY DISCLAIMERS SET FORTH IN THIS AGREEMENT ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE AGREEMENT BETWEEN CUSTOMER AND TARANA AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

8. Transfers in Connection with Sale of Products. Customer may transfer the license to use the Embedded Software in a Product unit to a person who buys that Product unit from Customer to enable Customer's provision of wireless broadband service to the transferee, provided the transferee agrees in writing (a) to the restrictions and limitations in this Agreement, and (b) that the transferee's license rights terminate if Customer is no longer providing wireless broadband service to the transferee.

9. Termination. Tarana may terminate the license granted under this Agreement upon notice to Customer (or to a transferee pursuant to Section 8) if Customer or such transferee violates this Agreement.

10. Export. The Tarana Products, Embedded Software and related technology are subject to U.S. export control laws and may be subject to export or import regulations in other countries. Customer agrees to comply fully with all such laws and regulations of the U.S. and other countries ("Export Laws") and to ensure that the Products and Embedded Software are not exported, directly or indirectly, in violation of Export Laws, either to any countries that are subject to U.S. export restrictions or to any end user who has been prohibited from participating in the U.S. export transactions by any federal agency of the U.S. government. Customer agrees to indemnify and hold Tarana harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including attorney's fees) arising from or relating to any breach by Customer of this paragraph.

11. Governing Law. This Agreement will be governed by the laws of the State of California, United States of America, without giving effect to any conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Customer and Tarana agree that any suit or proceeding arising out of or relating to this Agreement may be brought only in the state court of Santa Clara County, California, U.S.A., or the federal court of the Northern District of California, U.S.A., and they consent to the exclusive personal and subject matter jurisdiction and venue of those courts; provided, however, that nothing shall restrict Tarana from seeking relief to protect its intellectual property rights in any court of competent jurisdiction.

12. General Provisions. This Agreement may not be amended except by a written instrument signed by both parties. No waiver of a breach or default shall be effective unless evidenced by a writing signed by Tarana. No waiver of a breach or default shall be deemed a waiver of any subsequent breach or default. This Agreement constitutes the entire understanding, agreement, and contract of the parties with respect to its subject matter and supersedes all prior agreements or understandings, written or oral, between the parties with respect thereto. If the application of

any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, then (i) to the extent feasible, that provision will be reformed in a manner that makes it enforceable and which accomplishes the objectives of that provision as nearly as possible, and (ii) the validity and enforceability of other provisions of this Agreement will not be affected or impaired thereby. Customer agrees that this License Agreement will not be construed against Tarana by virtue of having drafted it.