

## Fieldwire Terms of Service

Welcome, and thank you for your interest in FieldWireLabs, Inc. ("**Fieldwire**," "**we**," or "**us**") and our online service for mobile task management in the field available through our mobile applications (including tablet applications) (each a "**Mobile App**"), together with our web site [www.fieldwire.net](http://www.fieldwire.net) (and related web sites) and other related embeddable widgets, downloadable software, and other services provided by us and on which a link to these Terms of service is displayed (collectively, together with the Mobile Apps, the "**Service**"). These Terms of Service are a legally binding contract between you and Fieldwire regarding your use of the Service.

PLEASE READ THE FOLLOWING TERMS OF SERVICE CAREFULLY. BY CLICKING "I ACCEPT," REGISTERING FOR AN ACCOUNT, DOWNLOADING AND INSTALLING A MOBILE APP, OR BY OTHERWISE ACCESSING OR USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, INCLUDING THE FIELDWIRE [PRIVACY POLICY](#) (COLLECTIVELY, THESE "**TERMS**"). If you are not eligible, or do not agree to these Terms, then please do not use the Service.

These Terms of Service provide that all disputes between you and Fieldwire will be resolved by BINDING ARBITRATION. **WE EACH AGREE TO GIVE UP THE RIGHT TO GO TO COURT TO ASSERT OR DEFEND CERTAIN RIGHTS UNDER THIS CONTRACT.** Your rights will be determined by a NEUTRAL ARBITRATOR and NOT A JUDGE OR JURY and your claims cannot be brought as a class action. Please review Section 16 below for the details regarding your agreement to arbitrate any disputes with Fieldwire.

1. **Eligibility.** You must be at least eighteen (18) years of age to use the Service. By agreeing to these Terms, you represent and warrant to us: (i) that you are at least eighteen (18) years of age; (ii) that you have not previously been suspended or removed from the Service; and (iii) that your registration and your use of the Service is in compliance with any and all applicable laws and regulations. If you are using the Service on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind such organization to these Terms and you agree to be bound by these Terms on behalf of such organization.
2. **Privacy Policy; Additional Terms**
  - 2.1 **Privacy Policy.** Please read the Fieldwire [Privacy Policy](#) carefully for information relating to our collection, use, storage and disclosure of your personal information. The Fieldwire [Privacy Policy](#) is hereby incorporated by reference into, and made a part of, these Terms.
  - 2.2 **Additional Terms.** Your use of the Service is subject to any and all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to on the Service (the "**Additional Terms**"), such as end-user license agreements for any downloadable applications that we may offer, terms of any support services offered, or rules applicable to particular features or content on the Service, subject to Section 10 below. All such Additional Terms are hereby incorporated by reference into, and made a part of, these Terms.
3. **Accounts and Registration.** To access some features of the Service, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself (such as your e-mail address or other contact information). You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password. You agree to accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure, then you must immediately notify us at [support@fieldwire.net](mailto:support@fieldwire.net).

#### 4. Payment.

4.1 Generally. Access to the Service, or to certain features of the Service, may require you to pay fees. Before you are required to pay any fees, you will have an opportunity to review and accept the applicable fees that you will be charged. All fees are in U.S. Dollars and are non-refundable (except as may otherwise be expressly provided herein). Fieldwire may change the fees for the Service or any feature of the Service, including by adding additional fees or charges, on a going-forward basis at any time. Fieldwire will charge the payment method you specify at the time of purchase. You authorize Fieldwire to charge all sums described herein to such payment method. If you pay any applicable fees with a credit card, Fieldwire may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase.

#### 4.2 Additional Subscription Terms.

a. *Subscription Fees.* Fieldwire may, now or in the future, charge subscription fees for the use or access to the Service or certain features of the Service. You agree to pay to Fieldwire all fees for subscriptions purchased by you or on your behalf, whether purchased on or through the Service or through a written agreement between you and Fieldwire, including in each case any applicable taxes (the “**Subscription Fees**”).

b. *Subscription Billing.* Notwithstanding Section 4.1, unless set forth otherwise in a separate written subscription agreement, Subscription Fees will be billed upon the initiation (or modification) of your subscription, and thereafter at the beginning of each month during the term of your subscription. Subscription Fees are nonrefundable (except as may otherwise be expressly provided herein). For any change in the Subscription Fee for renewal of a subscription purchased under your account, Fieldwire will send you a notice of such change in advance of renewal (via a message on or through the Service or email). Each of your subscriptions, if any, will automatically renew for successive terms equal in length to the initial term of your subscription, unless Fieldwire terminates your subscription or you cancel your subscription. You must cancel a subscription prior to renewal to avoid incurring Subscription Fees for the renewal term.

#### 5. User Content

5.1 User Content Generally. Certain features of the Service may permit users to submit and publish on or through the Service a variety of content, including floorplans, blueprints, maps, messages, photos, images, video, data, text, documents, correspondence, and other types of works (collectively, “**User Content**”). As between you and Fieldwire, you retain ownership of all copyright and any other proprietary rights in the User Content that you post to the Service, and you do not transfer ownership of any intellectual property rights in your User Content to Fieldwire.

5.2 Limited License Grant to Fieldwire. By submitting User Content, you grant Fieldwire a worldwide, non-exclusive, royalty-free, transferable right and license (with the right to sublicense) to host, store, transfer, display, perform, reproduce, modify, and distribute your User Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed). Any such use of your User Content may be without any compensation paid to you. Fieldwire may now or in the future provide certain features in the Service that may allow you to configure certain controls or limitations with respect to if and how other users may access particular User Content. Notwithstanding, such features are not foolproof or immune from being compromised, hacked, misused, or otherwise bypassed, and Fieldwire does not and cannot guarantee that your User Content will not be accessed in ways other than you intended.

- 5.3 **Limited License Grant to Other Users.** By publishing or sharing User Content with other users through the Service, you hereby grant the recipient of such User Content a non-exclusive license to access and use such User Content as permitted by these Terms and the functionality of the Service (including functionality that allows further sharing of such User Content).
- 5.4 **User Content Representations and Warranties.** You are solely responsible for your User Content and the consequences of posting or publishing User Content. By submitting, posting, publishing, or sharing User Content, you affirm, represent, warrant, and covenant that:
- you are the creator and owner of, or have the necessary licenses, rights, consents, and permissions to submit, post, publish, and share such User Content with Fieldwire and others, and to authorize Fieldwire and users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this Section 5 and in the manner contemplated by these Terms; and
  - your User Content, and the use thereof as contemplated herein, does not and will not: (i) infringe, violate, or misappropriate any third party's rights, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; or (ii) slander, defame, or libel any third party.
- 5.5 **User Content Disclaimer.** We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. Fieldwire may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Service you will be exposed to User Content and a variety of other data and information from a variety of third party sources and acknowledge that such User Content, data, and information may be inaccurate, offensive, indecent, inappropriate, or objectionable. You agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Fieldwire with respect to such User Content, data, or information, and we expressly disclaim any and all liability in connection with such User Content, data, or information. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion what course of action to take, which we reserve the right to do at any time and without notice. For clarity, Fieldwire does not permit copyright-infringing or other unlawful activities on the Service.
- 5.6 **Backups.** You are solely responsible for maintaining backups of your User Content outside the Service, and Fieldwire will have no liability whatsoever to you arising out of or in connection with any loss, compromise, or corruption of any data you may submit, receive, transmit, or store through the Service. Once you terminate your account, you will no longer have access to retrieve or obtain any of your User Content.
- 5.7 **Customer Reference.** Users agrees that Fieldwire may reference the user's company as a customer of Fieldwire, subject to Customer's trademark and logo usage guidelines as provided in writing by Customer to Fieldwire.

## 6. Digital Millennium Copyright Act

- 6.1 **DMCA Notification.** We comply with the provisions of the Digital Millennium Copyright Act applicable to internet service providers (17 U.S.C. §512, as amended). If you have any complaints with respect to material posted on the Service, you may contact our Designated Agent at the following address:

Attn: Copyright Agent  
FieldWire Labs, Inc.  
645 Harrison Street, Suite 200, San Francisco, CA 94107  
Phone: (415) 800-3573  
E-mail: [copyright@fieldwire.net](mailto:copyright@fieldwire.net)

Any notice alleging that materials hosted by or distributed through the Service infringe intellectual property rights must include the following information:

- a. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- b. a description of the copyrighted work or other intellectual property that you claim has been infringed;
- c. a description of the material that you claim is infringing and where it is located on the Service;
- d. your address, telephone number, and email address;
- e. a statement by you that you have a good faith belief that the use of the materials on the Service of which you are complaining is not authorized by the copyright owner, its agent, or the law; and
- f. a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

- 6.2 Repeat Infringers. Fieldwire will promptly terminate without notice the accounts of users that are determined by Fieldwire to be "repeat infringers." A repeat infringer is a user who has been notified of infringing activity more than twice and/or has had User Content removed from the Service more than twice.

**7. Prohibited Conduct.** BY USING THE SERVICE YOU AGREE NOT TO:

- 7.1 use the Service (including the submission, transmission, modification, addition, or deletion of any User Content or other content available through the Service) for any illegal or improper purpose, or in violation of any local, state, national, or international law, including without limitation engaging in any line of business without the necessary licenses, permits, certifications, or other required approvals;
- 7.2 violate, or encourage others to violate, the rights of third parties, including by infringing or misappropriating third party intellectual property rights;
- 7.3 post, upload, or distribute any User Content or other content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate or off topic;
- 7.4 interfere with security-related features of the Service, including without limitation by (i) disabling or circumventing features that prevent or limit use or copying of any content, or (ii) reverse engineering or otherwise attempting to discover the source code of the Service or any part thereof except to the extent that such activity is expressly permitted by applicable law;
- 7.5 interfere with the operation of the Service or any user's enjoyment of the Service, including without limitation by (i) uploading or otherwise disseminating viruses, adware, spyware, worms, or other malicious code, (ii) making unsolicited offers or advertisements to other users of the Service, (iii) attempting to collect, personal information about users or third parties without their consent; or (iv) interfering with or disrupting any networks, equipment, or

servers connected to or used to provide the Service, or violating the regulations, policies, or procedures of such networks, equipment, or servers;

- 7.6 perform any fraudulent activity including impersonating any person or entity, claiming false affiliations, accessing the Service accounts of others without permission, or falsifying your age or date of birth;
  - 7.7 sell or otherwise transfer the access granted herein or any Materials (as defined in 11 below) or any right or ability to view, access, or use any Materials; or
  - 7.8 attempt to do any of the foregoing in this Section 7, or assist or permit any persons in engaging or attempting to engage in any of the activities described in this Section 7.
8. **Third-Party Services and Linked Websites.** Fieldwire may provide tools through the Service that enable you to export information, including User Content, to third party services, including through features that allow you to link your Fieldwire account with an account on the third party service, such as Twitter or Facebook, or through our implementation of third party buttons (such as “like” or “share” buttons). We may additionally allow you to link your account with other third party services, such storage services provided by Dropbox or Box.net. By using these tools, you agree that we may transfer such information to the applicable third-party service. Such third party services are not under our control, and we are not responsible for their use of your exported information. The Service may also contain links to third-party websites. Such linked websites are not under our control, and we are not responsible for their content.
9. **Termination of Use; Discontinuation and Modification of the Service.** If you violate any provision of these Terms, your permission to use the Service will terminate automatically. Additionally, Fieldwire, in its sole discretion may terminate your user account on the Service or suspend or terminate your access to the Service at any time, with or without notice. We also reserve the right to modify or discontinue the Service at any time (including, without limitation, by limiting or discontinuing certain features of the Service) without notice to you. We will have no liability whatsoever on account of any change to the Service or any suspension or termination of your access to or use of the Service. You may terminate your account at any time by contacting customer service at support@fieldwire.net. If you terminate your account, you will remain obligated to pay all outstanding fees, if any, relating to your use of the Service incurred prior to termination.
10. **Changes to the Terms.** We reserve the right, at our discretion, to change these Terms on a going-forward basis at any time. Please check these Terms periodically for changes. In the event that a change to these Terms materially modifies your rights or obligations, we will make reasonable efforts to notify you of such change. We may provide notice through a pop-up or banner within the Service, by sending an email to any address you may have used to register for an account, or through other mechanisms. Generally, modifications to the Terms are effective upon publication, provided that if the changed Terms materially modify your rights or obligations, the changes are effective upon the earlier of (a) your using the Service with actual knowledge of the change, or (b) thirty days following publication of the modified Terms, and further provided that disputes arising under these Terms will be resolved in accordance with the Terms in effect that the time the dispute arose. If you do not accept the changed Terms, you may not continue to access and use the Service. If you provide written notice to Fieldwire of your decision not to accept such modified Terms and terminate your use of the Service, Fieldwire will refund a prorated portion of any Subscription Fees you have paid in advance for the remaining portion of your subscription term.
11. **Ownership; Proprietary Rights.** The Service is owned and operated by Fieldwire. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service (the “**Materials**”) provided by Fieldwire are protected by all relevant intellectual property and proprietary rights and applicable laws. All

Materials contained in the Service, and all intellectual property rights therein and thereto, are the property of Fieldwire or our third-party licensors. Except as expressly authorized by Fieldwire, you may not make use of the Materials. Fieldwire reserves all rights to the Materials not granted expressly in these Terms.

12. **Indemnity.** You agree that you will be responsible for your use of the Service, and you agree to defend, indemnify, and hold harmless Fieldwire and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (collectively, the “**Fieldwire Entities**”) from and against any and all claims, liabilities, damages, losses, and expenses, including reasonable attorneys' fees and costs, arising out of or in any way connected with (i) your access to, use or misuse of, or alleged use or misuse of the Service; (ii) your violation of these Terms or any representation, warranty, or agreements referenced herein, or any applicable law or regulation; (iii) your violation of any third-party right, including without limitation any intellectual property right, publicity, confidentiality, property or privacy right; (iv) your User Content, or (v) any disputes or issues between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (and without limiting your indemnification obligations with respect to such matter), and in such case, you agree to cooperate with our defense of such claim.

13. **Disclaimers; No Warranties**

THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. THE FIELDWIRE ENTITIES SPECIFICALLY (BUT WITHOUT LIMITATION) DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING BUT NOT LIMITED TO (i) ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (ii) ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. THE FIELDWIRE ENTITIES DO NOT WARRANT THAT THE SERVICE OR ANY PART THEREOF, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE WILL BE ACCURATE, UP TO DATE, UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THE FOREGOING WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR ANY MATERIALS OR CONTENT AVAILABLE ON OR THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE FIELDWIRE ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. YOU ASSUME ALL RISK FOR ALL DAMAGES THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICE, YOUR DEALINGS WITH OTHER SERVICE USERS OR OTHER THIRD PARTIES, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE. YOU UNDERSTAND AND AGREE THAT YOU USE THE SERVICE AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE SERVICE AND ANY ASSOCIATED SITES OR SERVICES AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM USED IN CONNECTION WITH THE SERVICE) OR LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICE OR THE DOWNLOAD OR USE OF SUCH MATERIALS OR CONTENT.

SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

14. **Limitation of Liability**

IN NO EVENT WILL THE FIELDWIRE ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT

LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR ANY OTHER LEGAL THEORY, WHETHER OR NOT THE FIELDWIRE ENTITIES HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE.

YOU AGREE THAT THE AGGREGATE TOTAL OF ALL LIABILITY OF THE FIELDWIRE ENTITIES TO YOU FOR ANY AND ALL CLAIMS ARISING OUT OF RELATING TO THE USE OF OR ANY INABILITY TO USE THE SERVICE (INCLUDING ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE) OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF (i) THE AMOUNTS YOU HAVE PAID TO FIELDWIRE FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE CLAIM OR (ii) \$500.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. ACCORDINGLY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THESE TERMS BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 14 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

15. **Governing Law.** THESE TERMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES. To the extent that any lawsuit or court proceeding is permitted hereunder, you and Fieldwire agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within the City and County of San Francisco, California for the purpose of litigating all such disputes.

16. **Dispute Resolution and Arbitration**

- 16.1 **Generally.** In the interest of resolving disputes between you and Fieldwire in the most expedient and cost effective manner, you and Fieldwire agree that any and all disputes arising in connection with these Terms shall be resolved by binding arbitration. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Our agreement to arbitrate disputes includes, but is not limited to all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, and regardless of whether the claims arise during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND FIELDWIRE ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.
- 16.2 **Exceptions.** Notwithstanding subsection 16.1, we both agree that nothing herein will be deemed to waive, preclude, or otherwise limit either of our right to (i) bring an individual action in small claims court, (ii) pursue enforcement actions through applicable federal, state, or local agencies where such actions are available, (iii) seek injunctive relief in a court of law, or (iv) to file suit in a court of law to address intellectual property infringement claims.

- 16.3 **Arbitrator.** Any arbitration between you and Fieldwire will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, “**AAA Rules**”) of the American Arbitration Association (“**AAA**”), as modified by these Terms, and will be administered by the AAA. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting Fieldwire.
- 16.4 **Notice; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other, by certified mail or Federal Express (signature required), or in the event that we do not have a physical address on file for you, by electronic mail (“**Notice**”). Fieldwire's address for Notice is as set forth at the end of these Terms. The Notice must (i) describe the nature and basis of the claim or dispute; and (ii) set forth the specific relief sought (“**Demand**”). We agree to use good faith efforts to resolve the claim directly, but if we do not reach an agreement to do so within 30 days after the Notice is received, you or Fieldwire may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Fieldwire shall not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. In the event our dispute is finally resolved through arbitration in your favor, Fieldwire shall pay you (i) the amount awarded by the arbitrator, if any, (ii) the last written settlement amount offered by Fieldwire in settlement of the dispute prior to the arbitrator's award; or (iii) \$1,000.00, whichever is greater.
- 16.5 **Fees.** In the event that you commence arbitration in accordance with these Terms, Fieldwire will reimburse you for your payment of the filing fee, unless your claim is for greater than \$10,000, in which case the payment of any fees shall be decided by the AAA Rules. Any arbitration hearings will take place at a location to be agreed upon in San Francisco, California, provided that if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted (i) solely on the basis of documents submitted to the arbitrator; (ii) through a non-appearance based telephonic hearing; or (iii) by an in-person hearing as established by the AAA Rules in the county (or parish) of your billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In such case, you agree to reimburse Fieldwire for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.
- 16.6 **No Class Actions. YOU AND FIELDWIRE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Further, unless both you and Fieldwire agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.
- 16.7 **Modifications.** In the event that Fieldwire makes any future change to this arbitration provision (other than a change to Fieldwire's address for Notice), you may reject any such change by sending us written notice within 30 days of the change to Fieldwire's address for Notice, in which case your account with Fieldwire shall be immediately terminated and this arbitration provision, as in effect immediately prior to the amendments you reject shall survive.



- 16.8 **Enforceability.** If Subsection 16.6 is found to be unenforceable or if the entirety of this Section 16 is found to be unenforceable, then the entirety of this Section 16 shall be null and void and, in such case, the parties agree that the exclusive jurisdiction and venue described in Section 15 shall govern any action arising out of or related to these Terms.
17. **Consent to Electronic Communications.** By using the Service, you consent to receiving certain electronic communications from us and other users as further described in our Privacy Policy. Please read our Privacy Policy to learn more about your choices regarding our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.
18. **General.** These Terms, together with the [Privacy Policy](#) and any other agreements expressly incorporated by reference herein, constitute the entire and exclusive understanding and agreement between you and Fieldwire regarding your use of and access to the Service, and except as expressly permitted above may be amended only by a written agreement signed by authorized representatives of all parties to these Terms. You may not assign or transfer these Terms or your rights hereunder, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice. The failure to require performance of any provision will not affect our right to require performance at any time thereafter, nor shall a waiver of any breach or default of these Terms or any provision of these Terms constitute a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and shall not have any impact on the interpretation of particular provisions. In the event that any part of these Terms is held to be invalid or unenforceable, the unenforceable part shall be given effect to the greatest extent possible and the remaining parts will remain in full force and effect. Upon termination of these Terms, any provision that by its nature or express terms should survive will survive such termination or expiration, including, but not limited to, Sections 1, 4, 5, 8, and 11 through 19.
19. **Contact Information.** The services hereunder are offered by FieldWireLabs, Inc., located at 645 Harrison Street, Suite 200, San Francisco, CA 94107. You may contact us by sending correspondence to the foregoing address or by emailing us at [support@fieldwire.net](mailto:support@fieldwire.net). If you are a California resident, you may have these Terms mailed to you electronically by sending a letter to the foregoing address with your electronic mail address and a request for these Terms.