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# CONNECTED IOT LOW POWER TRIAL AGREEMENT

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Spark New Zealand Trading Limited ("**Spark** ") and you (the "**Customer**") agree that Spark will provide the Customer with access to the Connected IoT Low Power network as set out in this Trial Agreement (the "**Agreement**") on a trial basis in accordance with the terms set out herein.

## Term of Trial

The term of the trial is 3 months commencing on the date which the Service is provisioned by Spark and is capable of being used by the Customer (the "**Initial Term**").

## 1 – TRIAL OVERVIEW

### 1.1. Purpose of trial

The Customer and Spark acknowledge a mutual benefit in working together to trial the usage of Spark's Connected IoT Low Power network (the "**Service**").

Spark will carry out the following activities:

- i. provide the Customer with access to the Connected IoT Low Power Network for up to 5 devices for the trial period.
- ii. set up a Subscriber account for the Customer in the Actility ThingPark Wireless Platform. You hereby consent to us providing your information to third parties in order to set up the Subscriber account.

### 1.2. Responsibilities

#### 1.2.1. Customer Responsibilities

It is the Customer's responsibility to:

- i. provide all the necessary resources required for it to access and use the Service with the Customer's devices and applications, including compliance with any instructions or documentation communicated or shared by Spark or Actility;
- ii. use commercially reasonable efforts to prevent unauthorised access to, or use of, the Service, and will notify Spark promptly of any such unauthorised use of which the Customer becomes aware;
- iii. comply with all applicable laws in using the Service including securing regulatory approval of the device/application for use in its intended geography of operation and being compliant with all relevant standards;
- iv. comply and ensures that everyone the Customer is responsible for or that uses this Service complies with this Connected IoT Product Specification as set out in Schedule 4 to this Agreement, and any terms and conditions that apply to the use of the Actility ThingPark Wireless Platform;
- v. provide, configure, operate and support related systems;
- vi. provide accurate information on their IoT requirements;



- vii. assist Spark with implementation and fault resolution;
- viii. ensuring that all devices connecting to the Spark Connected IoT network are compliant with Spark's Device Specification Guidelines as set out at Section 4 to this Agreement;
- ix. nominate an administrator(s) who is authorised to request technical support and additional services from Spark;
- x. provide an internal help desk/administrator(s) for first level support for its users and communicating to users notice of scheduled maintenance and other outages, service upgrades and how to access your technical support;
- xi. adhere to the Device Specification Guidelines as attached to this Agreement in Section 4. Spark will notify you if we consider that you are not complying with the Device Specification Guidelines. If you fail to comply with the Device Specification Guidelines within 10 days (or such longer period as Spark notifies to you), we may terminate your access to our network;
- xii. ensure your devices do not poll the network more frequently than once every 60 seconds or maintain a continuous active radio connection to the network. If you fail to comply with this requirement we may automatically suspend your access to our networks.

### **1.2.2. Our Rights and Responsibilities**

It is our responsibility to:

- i. deliver the Service pursuant to this Agreement;
- ii. endeavour to prevent unauthorised access to, or use of, the Service through software tools, systems, processes and procedures;
- iii. action Incident (fault) in relation to the Connected IoT Services.

As a client using this Service, Spark may collect and store data related to your use of the solution. We use this information to improve our solutions for you and our clients generally. Although Spark may publish aggregated information about usage patterns, it does not disclose information about individual persons.

Spark may also collect and store personal information about you (and your users of the Services), such as name, place of work, phone number, email address, or location. This data is used to:

- (i) enable Spark to provide the Services to You.
- (ii) Communicate with You (and your users) in relation to Your use of Spark's products and services, and send you (and your users) information about our products and services. You (and/or users) may unsubscribe from these marketing updates at any time through the unsubscribe link at the bottom of emails, or by contacting us.

### **1.3. Conclusion of Trial**

At the end of the trial period, the Customer will either:

- (i) Transition to a commercial agreement for the purposes of using Spark's Connected IoT Low Power network; or
- (ii) Cancel this Agreement, which will result in the Customer's devices no longer having access to Spark's Connected IoT Low Power network and the Customer's ThingPark Wireless subscriber account being deactivated.
- (iii) If the Customer does not carry out either (i) or (ii), the trial will end which will result in the Customer's devices no longer having access to Spark's Connected IoT Low Power network and the Customer's ThingPark Wireless subscriber account being deactivated.

You may contact us at any time after the end of the trial period in relation to transitioning to a commercial agreement with Spark.



The trial is only for the Initial Term, and cannot be extended. There is a limit of one trial period per person/entity.

## 2 – TRIAL DELIVERABLES

### 2.1. Deliverables

Spark will provide the Customer access to the Connected IoT Low Power Network for up to 5 devices for 3 months. Spark will setup the Customer as a subscriber in the Actility ThingPark platform to enable self-provisioning of devices.

### 2.2. Connected IoT – Low Power: Product Specification

This section contains product information for the Connected IoT – Low Power (**Connected IoT**) service. If you require more detailed technical information, please contact your Account Manager.

#### 2.2.1. Service Overview

Spark's Connected IoT Service provides IoT connections that are characterised by the establishment of outbound connectivity from the LoRaWAN™ capable device to a server IP address reachable via the internet. This facilitates both data transfers at regular time intervals (referred to as polling) and event-driven data transfers without any requirement for human intervention.

This Service also includes a cloud-based client self-service platform supplied by Actility called ThingPark Wireless (ThingPark). Customers will have the ability to provision, activate and manage their own LoRa devices, diagnose faults and track their usage in real-time.

Device polling and data transfer is controlled by the Customer's applications and systems over the Spark Connected IoT network in accordance with prescribed operational requirements, including:

- i. Connections must be made on Spark's Connected IoT network and are activated under the access and data usage plans set out in this Agreement, and
- ii. Connections are provided on the terms and conditions set out in the Product Specifications.

**Note:**

1. LoRaWAN™ is a mark used under license from the LoRa Alliance™.

#### 2.2.2. Standard Service Features

The key features of our Connected IoT service are:

- **Web-based platform (ThingPark Wireless)**

ThingPark Wireless is an online portal that gives the Customer access to the intelligence they need to maximise the efficiency of their connected device business. ThingPark Wireless provides everything from data usage to performance and provisioning status.

- **Multiple Provisioning Options**

Customers are able to self-provision devices using the following options:

- Manually using the ThingPark Wireless online portal.
- Bulk load using a CSV file on the ThingPark Wireless online portal.
- Using the ThingPark DX-API.



- **Diagnostics Tools**

Customers can run detailed diagnostics on any of their devices, online and in near real time. Using the ThingPark Device Manager module the customer can check a device's provisioning and connectivity status. The ThingPark Wireless Logger module enables customers to monitor data frames from their devices. This allows the customer to identify connectivity issues quickly.

- **Device Management**

The platform provides a single dashboard (in the ThingPark Device Manager module) for the Customer to view a real-time snapshot of all their devices on the network. The device list page displays a list of all devices visible to the user and can be filtered by user-specified search criteria.

- **Web based REST API**

The API functionality allows Customers to exercise all of the core system capabilities directly from their own applications and is built upon industry-standard web http(s) REST API's, keeping integration efforts to a minimum. Rapid API testing is also available via the 'Swagger' tools.

### 2.3. Test plan

There is no test plan required as the Customer will be accessing the Spark Connected IoT Low Power Network to enable device connectivity.

### 2.4. Equipment and resources

No equipment or resources will be supplied as part of this trial.

## 3 – TRIAL TERMS

### 3.1. Spark' commitment to the Customer:

- i. Spark will endeavour to deliver an acceptable level of service for the duration of the trial to the Customer, although Spark does not guarantee the Service will be continuous or fault-free;
- ii. Spark will, where practicable, give the Customer reasonable notice of works by Spark which are likely to adversely affect the Customer's operations directly related to the trial;
- iii. Spark will provide support for the trial on a reasonable efforts basis only, all support requests to be submitted via email to [iotsupport@spark.co.nz](mailto:iotsupport@spark.co.nz) and our support team will respond if practicable.

### 3.2. Spark not responsible for certain things: Spark will not at any time be responsible to the Customer in relation to this Agreement for:

- i. obtaining any necessary or prudent third party authorisation;
- ii. any design, configuration or systems integration done by anyone other than Spark;
- iii. any unreasonable usage of the Service by the Customer, or fair wear and tear matters;
- iv. anything said or done by Spark or anyone else at the Customer's direction or contrary to Spark' advice;
- v. any good or service supplied by anyone else; or
- vi. anyone else's action, inaction, breach, or failure to perform, for any reason.



The activities at 3.2) i. to vi. above are the Customer's responsibility. The Customer will protect Spark and its representatives, and make good any damage, loss or cost to Spark and its representatives, due to any claim or proceedings by anyone in relation to these activities.

Nothing in this Agreement will prevent Spark from utilising the services of any other supplier to ensure a successful outcome of the trial for the Customer.

**3.3. The Customer's commitment to Spark:** The Customer will:

- i. help Spark understand their business needs and inform Spark of its expectations and requirements for the trial. This would include related business objectives and strategies, support processes and procedures, as well as risk factors both internal and external;
- ii. nominate and make its contact person available to deal with Spark's appointed contact to the appropriate level of authority;
- iii. inform its personnel of the procedures that will allow the Customer to most effectively benefit from the use of the Spark Service;
- iv. within reason, allow Spark access to premises and information and provide authority for matters relating to the trial to be addressed;
- v. comply with Spark's security, operational and documentation requirements as applicable to the trial;
- vi. follow Spark's reasonable directions about the use of the Service or any equipment provided by Spark as part of the trial; and
- vii. not permit anyone else to use the Service without Spark's written permission.

**3.4. Suspension of Trial:** Spark may suspend the trial at any time for any duration. Spark will use its best endeavours to provide the Customer with advance notice of any suspension or make any alternative features and/or equipment available however this may not always be possible. Spark will not be liable for any part of the Service that is unavailable during any suspended period of the trial.

**3.5. Intellectual Property:** Any intellectual property owned by Spark or the Customer prior to entry into this Agreement will continue to be owned by Spark or the customer, as the case may be.

Spark either owns the intellectual property rights in its products and services, or where Spark uses any intellectual property belonging to anyone else, Spark has a license to do so. These intellectual property rights include, for example, all copyright, trademark and design rights relating to the Service, and any software used in providing the Service. The Customer acknowledges that none of these intellectual property rights will be transferred to the Customer.

All intellectual property rights arising from any improvements or changes made during the trial to any Spark service or product will be owned exclusively by Spark.



- 3.6. **No Warranties or Representations:** Except as otherwise expressly stated in this Agreement, all warranties, representations or conditions relating to the trial (whether express, implied or otherwise) originating in statute, law, trade, custom, or otherwise that would (but for this section 3.6) apply, are expressly excluded to the fullest extent of the law.
- 3.7. **Force Majeure:** Neither party will be liable for any failure or delay in the performance of this Agreement due to any circumstance reasonably beyond the control of the parties. This includes strikes, lock-outs and other industrial action affecting Spark.
- 3.8. **Consumer Guarantees Act:** The Customer confirms that it is acquiring all Spark services for the purposes of a business as defined in the Consumer Guarantees Act 1993. The provisions of that Act do not apply to services Spark provides under this Agreement.
- 3.9. **No Liability:** Spark will not be liable to the Customer or pay the Customer for anything caused by or resulting from anything Spark does or does not do, or delays in doing, whether or not it is contemplated or authorised by the Agreement. This exclusion applies regardless of the nature of the Customer's claim (including loss of profits or business) and how the liability has arisen or might arise.
- 3.10. **Confidential Information:** The Customer and Spark must always keep each other's Confidential Material confidential. The receiving party (the "Recipient") will not:
- i. use any Confidential Material for any purpose other than for the reason it was provided; or
  - ii. copy or reproduce any of the Confidential Material in any way, without the other party's prior written consent.

On receiving a request from the other party, the Recipient must promptly return all Confidential Material (including any copies) in its possession or control. The Recipient may only disclose the other party's Confidential Material to its employees and contractors who need it to enable the Recipient to carry out the purpose for which the Confidential Material was provided, but the Recipient must first inform its staff and permitted contractors of the confidential nature of the Confidential Material.

If the Recipient is legally required to disclose any of the other party's Confidential Material, the Recipient must advise the other party of this before disclosing it and the Recipient must only disclose that part of the Confidential Material which its legal advisers reasonably believe is necessary to disclose by law.

The Customer and Spark acknowledge that:

- i. neither party owns or acquires any intellectual property rights in the other's Confidential Material; and
- ii. the obligations in this section are in addition to the duties of confidentiality which the law imposes.

In this section, Confidential Material means all information and other material relating to the disclosing party's business, employees and customers, which:

- i. the disclosing party makes available to the Recipient; or
- ii. comes or has come to the Recipient's knowledge, or which the Recipient develops or produces, as a direct result of any work it carried out for the other party;
- iii. and also all information relating to this trial, including its existence, and to the terms and conditions of this Agreement and the discussions leading to or surrounding it,

but excludes that which:

- i. is generally available to the public (but not because the Recipient or anyone the Recipient is responsible for has disclosed it or allowed it to be disclosed); or
- ii. the Recipient or a third party have independently developed;



iii. If the Recipient is unsure of the confidentiality of any information or material, it must treat it as confidential until the disclosing party advises the Recipient in writing that it is not.

3.11. **Disputes:** Where any disagreement arises between the Customer and Spark, such as whether or not there is a default, or about the meaning of any of the terms of the Agreement, both the Customer and Spark will attempt to resolve that disagreement by consultation at the lowest possible level of escalation.

If the dispute is unable to be resolved at a low level of escalation, it may be referred to the senior management or executives of the parties. The parties will use their best endeavours to resolve the dispute within 10 business days.

3.12. **Termination by notice:** Either party may terminate this Agreement, after consultation with the other, by giving the other at least one month's written notice.

3.13. **Termination for cause:** A party may suspend its performance, or cancel this agreement, by written notice if the other party:

- i. breaches, or fails to promptly or properly perform, any of its important obligations, and does not remedy the situation to the other party's reasonable satisfaction within 20 business days after receiving written notice of the breach or failure; or
- ii. becomes insolvent or bankrupt, or goes into receivership or liquidation.

3.14. **Consequences of termination:**

- i. All trial sites will be decommissioned;
- ii. The Customer will return all equipment provided by Spark as part of the trial; and
- iii. Any provision in this Agreement excluding or limiting our liability, or governing confidentiality of information, will continue to apply after this agreement ends.

3.15. **No Assignment:** Neither party may assign any part of this Agreement.

3.16. **Entire Agreement:** This document records the entire agreement, and prevails over any earlier agreement, concerning the trial. Each variation to this Agreement must be in writing, signed by the parties and be attached to this document.

3.17. **Existing Contractual Arrangements:** This Agreement does not in any way change or modify any existing agreements or contracts between the Customer and Spark.

3.18. **Governing Law:** This Agreement shall be governed by, and construed in accordance with, the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

## 4 – DEVICE SPECIFICATION GUIDELINES

Customer's devices connecting to Spark's Connected IoT Low Power Network should be compliant with the following specifications:

- LoRaWAN 1.0.2 specification
- AS923 LoRaWAN Channel Plan (i.e. initially joins the NW on the 923.2MHz or 923.4MHz channels)
- Devices should JOIN the network using OTAA (Over-the-Air Activation) mode



- Devices must have the ADR (Adaptive Data Rate) feature turned on  
Devices must be RCM or R-NZ Certified

For more detailed device guidelines, please refer to the Spark Connected IoT Low Power Device Guidelines document at <http://www.sparkdigital.co.nz/solutions/iot/developer-guidelines>

Product resellers, distributors, or Hardware OEM's building new sensors or retrofitting existing sensors should refer back to their LoRaWAN module suppliers for compliance with the above specifications.