**WI-FI CONCESSION AGREEMENT**

THIS WI-FI CONCESSION AGREEMENT ("**Agreement**"), made this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 2010, (the **"Effective Date"**) by and between **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (**"Store Owner"**), and **Concourse Communications Group, LLC**, a Delaware limited liability company doing business as **Boingo Wireless, Inc.** with its principal office at 200 W. Madison Street Suite 2830, Chicago, Illinois 60606 (**"Company"**). For the purposes of this Agreement: (i) “**Assigned Areas**” is defined to mean those portions of the Location(s) that are designated by Store Owner as being available for Company’s use hereunder, and (ii) “**Wi-Fi**” is defined to mean wireless fidelity.

WHEREAS, Store Owner operates and manages one or more Subway franchises (the “**Location(s)**”); and

WHEREAS, Company agrees to install, operate and maintain Wi-Fi equipment necessary to enable the delivery of high-speed wireless Internet services to public and private customers for the use in the Location(s) (the “**System**”);

NOW THEREFORE, in consideration of the premises, covenants and agreements contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Method of Operation. Store Owner represents and warrants that: (i) Store Owner has the necessary rights and authority to grant the License (as defined below), and to make the promises and perform the obligations herein, (ii) throughout the Term, all of the Location(s) that Store Owner owns are included in this Agreement; and (iii) the execution delivery, and performance of and compliance with this Agreement and the consummation of the transactions contemplated hereby do not and will not conflict with or result in a breach of, or constitute a default under, any material agreement or instrument to which Store Owner is a party. Company represents and warrants that: the execution, delivery, and performance of and compliance with this Agreement and the consummation of the transactions contemplated hereby do not and will not conflict with or result in a breach of, or constitute a default under, any material agreement or instrument to which Company is a party.
2. Term and License. The initial term of this Agreement will end on the 2 year anniversary of the Effective Date; and will automatically renew for additional one (1) year terms unless either Company or Store Owner gives written notice to the other of non-renewal not less than 30, and no more than 90, days prior to the expiration of the then current term. The period from the Effective Date until termination of this Agreement is the “**Term**”. Store Owner hereby grants, to the extent allowed by law, Company the exclusive license (the “**License**”) to erect, install, operate and maintain the System on the Assigned Areas and to provide such Services (as defined below) as may be required for the performance by Company of its obligations hereunder. Nothing contained herein shall be construed as: (i) granting to Company any property or ownership rights in the real or personal property of Store Owner, (ii) granting any title, right or interest to Store Owner in or to the System, or (iii) creating a partnership, or joint venture relationship between Store Owner and Company. The License granted hereby shall also permit Company to: (i) provide high-speed Wi-Fi Internet access to customers for the use in the Location(s), (ii) broadcast an SSID (Service Set Identifier) at the Location(s), which Company expects to be “Boingo Hotspot”, and (iii) host and display the Walled Gardens (as defined below) at the Location(s) through such SSID (collectively, the “**Services**”). As part of the Services, Company shall provide fifteen (15) minutes of free Wi-Fi Internet service per customer per day. Company may limit the bandwidth of such free Wi-Fi Internet service to 128 kbps (uploading and downloading data), and may require customers to authenticate through the Walled Gardens by registering their email addresses before granting such access.
3. License of Exclusivity. Store Owner agrees that the license granted herein is, to the extent permitted by law, exclusive to Company and that the Store Owner shall not, unless required by law, grant a license to any other service provider to provide public internet access services in the Location(s) or broadcast any SSID at any time during the term of this Agreement.
4. Use of Facilities. Company shall install and operate the System in full compliance with all laws for a wireless network in order to provide the Services at the Location(s). Save and except as otherwise contemplated by this Agreement, at no time during the term hereof will Store Owner or any third party have the right to use, alter or move the System without the express written consent of Company. Store Owner shall provide and pay the expense of all: (i) utility charges for the System, and (ii) Internet bandwidth supplied to the Location(s) for the provision of the Services, with a minimum download speed of 1.5 Mps and a minimum upload speed of 768kbps.
5. Installation/Maintenance/Repair. Company agrees to perform all work and Services in a safe manner consistent with the highest standards (including construction standards) and in full compliance with all statutory requirements and all requirements imposed by federal, state, local and/or other proper authorities. Throughout the term of this Agreement, Company shall endeavor to make the Services available twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, subject to closure for reasonable remedial and preventive maintenance. In addition, Company shall maintain 24x7 monitoring of all in-venue devices, and ticket/escalate issues to field engineering for on-site repair actives.
6. Walled Garden Pages. “**Walled Garden**” shall mean the co-branded walled garden sign-in pages that customers are directed to when attempting to connect to a wireless gateway device in the System. Company shall, at its sole cost and expense, create, maintain and operate the Walled Gardens. Company shall cause access to the System to require authentication solely through the Company SSID.
7. Customer Care. Company shall provide 24/7 direct, end user support as is known as “Tier 1” customer support as further described herein for use by end users of the System.“**Tier 1 Customer Support**” means direct communications with end users, receiving inbound queries respecting access to the System through the Walled Gardens, both telephone and electronic, with respect to sales, order processing, billing changes, and basic troubleshooting.
8. Joint Marketing Activities. So long as such activities do not cause Store Owner to be in violation of any existing advertising agreements at the Location(s), Company and Store Owner will engage in the joint promotional activities, including but not limited to: standees, posters, window clings, register stickers, take ones, table tops, and napkin printing. Company shall provide all marketing materials in connection with such promotions at its own cost.
9. Revenue Share. In exchange for the exclusive license granted by Store Owner to Company herein, Company will pay Store Owner throughout the Term a percentage fee of 10% of the Gross Revenue. “Gross Revenue” shall mean all cash fees received by Company for Services provided at the Location(s). Refunds or rebates extended to users of the Services shall be excluded from Gross Revenue. Payments shall be made quarterly in arrears beginning with end of the first calendar quarter after commencement of the Term. Company shall make payment within 45 days of the end of each calendar quarter and shall send with each payment a remittance advice which shows the Gross Revenue upon which such payment was based.
10. Assignment. This Agreement may not be transferred or assigned by either party without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed.
11. Notices. Any notice, request, demand, approval or consent given or required to be given under this Agreement shall be in writing and shall be deemed to have been given on the day when the same shall have been mailed by registered or certified mail, return receipt request, with all postal charges prepaid, addressed to the applicable party.
12. Indemnification and Waiver. Company shall indemnify, exonerate, and hold Store Owner harmless from and against any and all loss, cost, damage and expense of whatever kind, arising directly and indirectly from Company’s breach of the Agreement, including, but not limited to, reasonable attorney’s fees and court costs. Store Owner shall indemnify, exonerate and hold Company harmless from and against any and all loss, cost, damage and expense of whatever kind, arising directly or indirectly from Store Owner’s breach of this Agreement, including, but not limited to, reasonable attorney’s fees and court costs. Notwithstanding the foregoing, such indemnifications shall be limited to actual damages incurred.
13. Warranties. Company, its licensors or contractors make no warranties or representations as to the accuracy, truthfulness, usefulness, effectiveness, reliability, or security of the Service and assumes no liability or responsibility therefor. Company will fully cooperate with law enforcement authorities and legal proceedings requiring Company to disclose the identity of users. THE SERVICE IS AVAILABLE STRICTLY ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.
14. Limitation of Liability. NEITHER COMPANY NOR ANY OF ITS LICENSORS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, SEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE SERVICE; ANY ERRORS, OMISSIONS OR DEFECTS IN THE SERVICE; OR LOSSES FROM INTERRUPTION, TERMINATION OR FAILED OPERATOIN OF THE SERVICE. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, THE AGGREGATE LIABILITY UNDER THIS AGREEMENT OF COMPANY, TOGETHER WITH ITS SUPPLIERS AND LICENSORS, WILL BE LIMITED TO THE TOTAL AMOUNT PAID BY COMPANY TO STORE OWNER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE INITIAL NOTICE OF THE PARTIES’ DISPUTE.

# Entire Contract. This Agreement constitutes the entire agreement between the parties hereto and there are no other understandings, promises, representations or warranties, oral or written, relating to the subject matter of this Agreement, which exist or bind any of the parties hereto, their respective heirs, executors, administrators, successors or assigns, except as set forth herein. No amendment, modification or addition to this Agreement shall be binding upon Store Owner or Company unless reduced to writing and signed by both parties.

# Severability Clause. If any particular term, covenant or provision of this Agreement shall be determined to be invalid and unenforceable, the same shall not affect the remaining provisions of this Agreement which shall nevertheless remain in full force and effect.

# Binding All Parties. This Agreement shall be binding upon the parties hereto and upon their respective heirs, executors, administrators, successors and assigns.

# Surrender. Company shall immediately remove the System and surrender possession of the Assigned Areas at the end of the term of this Agreement or upon earlier termination of this Agreement.

# Governing Law. This Agreement shall be governed by the laws of the state of California without regard to the conflicts of law principles thereof.

I**N WITNESS WHEREOF**, intending to be legally bound, the parties have executed this Agreement as of the date first set forth above.

**STORE OWNER** **CONCOURSE COMMUNICATIONS GROUP, LLC**

 **D/B/A BOINGO WIRELESS, INC.**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:

Name: Name:

Title: Title: