

SPOT LICENCE AGREEMENT AND TERMS OF USE (“AGREEMENT”)

READ THIS LICENCE CAREFULLY. BY REGISTERING FOR THE APP YOU AGREE TO THE TERMS OF THIS LICENCE AND TERMS OF USE WHICH WILL ACTIVATE THE SOFTWARE.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT PROCEED WITH REGISTRATION.

IF YOU ARE NOT 18 YEARS OF AGE OR OLDER DO NOT PROCEED WITH REGISTRATION. ONLY YOUR GUARDIAN MAY PROCEED WITH REGISTRATION ON YOUR BEHALF.

1. DEFINITIONS

Unless a contrary intention clearly appears, the following terms shall have the following meanings assigned to them and cognate expressions shall have corresponding meanings, namely –

1. “App” means the Spot mobile application through which monies will be transferred from your personal transacting account to another party on your instruction;
2. “App Store” means your device’s application store from which you download the App;
3. “Confidential Information” means all information and data of whatsoever nature (including the Intellectual Property), whether tangible, intangible, oral or in writing and in any format or medium that is obtained or learned by, disclosed to, or comes to the knowledge of You from WiGroup during the course of or arising out of this agreement, by whatsoever means, which by its nature or content is or ought reasonably to be identifiable as confidential or proprietary to WiGroup, or which is provided or disclosed in confidence;
4. “Documentation” means integrated electronic help published by WiGroup, describing Software’s functionality and intended operation;
5. “Intellectual Property” means, collectively, patents, copyright, trademarks, designs, models, Know-How, inventions, trade and business secrets, sales and customer data, databases and rights in databases and any other type of intellectual property (whether registered or unregistered including applications for and rights to obtain, use or for the protection of same) which are used or held (currently or not) in connection with either WiGroup’s business as applicable and/or by way of a licensing agreement and or right, title and interest;
6. “Know-How” means: all ideas, designs, documents, diagrams, information, devices, technical and scientific data, secret and other processes and methods used in connection with WiGroup’s business; all available information regarding marketing and promotion of WiGroup’s products and services; and, all and any modifications or improvements to any of them which do not constitute entirely new products or services;
7. “Mobile Phone” means a single mobile phone with a central processing unit capable of executing instructions from a software program, and which is owned or leased by You and on which the Software is installed;
8. “Personal Information” means identifiable information as defined in the Protection of Personal Information Act 4 of 2013;
9. “Software” means the object code of and Documentation for the ‘Spot mobile application’, a software application program;
10. “We” or “Us” or “Our” shall mean WiGroup;

11. "WiGroup" means WiGroup (Pty) Ltd (reg. no. 2007/027199/07), a company duly registered and incorporated in South Africa with limited liability, and whose principal place of business is Unit 202, 2nd Floor, Block 2, Northgate Park, Cnr Section Street and Marine Drive, 7450, Cape Town;
12. "You" means the person who registers and creates a profile on the App.

2. SOFTWARE LICENCE

1. WiGroup hereby grants You a personal, non-exclusive, non-transferable, fully paid up and perpetual license to install a single instance of the Software onto either the hard drive or primary memory of a single Mobile Phone, and to use the Software in conjunction with that Mobile Phone, in the Republic of South Africa, for Your own internal data processing purposes, strictly upon the terms and subject to the conditions of this agreement.
2. The Software is not automatically supported and the license does not entitle You to any updates, upgrades, new releases or support services for the Software. You agree that the terms of this agreement shall apply to any updates, upgrades or new releases provided to You.
3. You undertake to always use the latest version of the Spot mobile application. The App Store will notify you of any upgrades/updates that are available to you. We shall not be liable for any security / data bugs that You may experience if you do not install the latest version of the Spot mobile application.
4. You can only transact through Spot in line with the banking facilities available to you through your personal card account;
5. All ownership rights (including Intellectual Property rights) in and to the Software (including updates, upgrades and new releases) and all Intellectual Property, are and shall remain vested in WiGroup or a party nominated by WiGroup and shall never pass to You. You shall not during or at any time after expiry or termination of this agreement, question or dispute WiGroup's ownership of the Software or Intellectual Property. Except as and to the extent authorised in this agreement, You shall have no right to use WiGroup's Intellectual Property in any manner whatsoever.
6. You may not make a copy of the Software for back-up purposes. Other than as expressly provided for herein, You may not in any manner copy or otherwise reproduce the Software (wholly or partially).
7. You irrevocably undertake and agree that upon termination for whatever reason of this agreement and/or the license granted in respect of the Software, You shall –
 1. immediately cease all use of the Software;
 2. immediately de-install every copy (including partial copy) of the Software acquired or made by You from wherever it is installed;
 3. destroy every copy (including partial copy) of the Software acquired or made by You, by no later than 3 days thereafter.
8. Third party software provided with the Software is licensed to You on its accompanying license terms, including warranties and remedies. You agree to look solely to the warranties and remedies, if any, provided by the original licensor or supplier of such third party software, to the exclusion of all warranties and remedies afforded to You in terms of this agreement.
9. You may terminate this agreement at any time by destroying all copies of the Software and Confidential Information acquired or made by You in terms of this agreement.
10. You agree that any breach by You of any provision of this clause 2 shall be a material breach of this agreement.

3. **WARRANTIES AND DISCLAIMERS**

1. WiGroup warrants that the Software shall operate substantially in accordance with its published functional specifications for 90 days from date of its installation, provided that it is used in accordance with all minimum configuration and environmental conditions specified in the Documentation. Software under warranty may require ongoing support and the warranty provided is not a substitute for support.
2. WiGroup warrants that it is the owner of or has valid title to the Software and is entitled to grant the rights to You as envisaged in this agreement.
3. Should any fault arise in the Software during the aforesaid warranty period, You shall immediately notify WiGroup in writing describing the defect. WiGroup shall at its sole option and within a reasonable period of time, repair or replace the defective Software. This clause states WiGroup's entire liability and Your exclusive remedy for non-conformance with any warranty.
4. WiGroup does not warrant that the Software will be completely free from errors or that errors will be corrected completely, nor that it will meet Your requirements, nor that it will operate in all combinations selected for use by You.
5. You acknowledge that whilst WiGroup takes reasonable care to exclude then-known viruses, malware, worms and Trojan horses from the Software, no warranty is given that the Software is free of viruses, worms or Trojan horses.
6. You agree that WiGroup shall not be responsible for any malfunction, non-performance or degradation of performance of the Software which is caused by or results from, directly or indirectly, any alteration to, adjustment of, attachment to, or modification of the Software by anyone other than WiGroup.
7. Except as expressly provided in this clause 3, the Software is provided voetstoots (as-is). Warranties given by WiGroup in terms of this agreement extend solely to You and are not transferable.
8. You must ensure that the correct recipient is selected. We will not be responsible for any losses if you fail to correctly select the recipient.
9. We will also not be responsible if you insert the incorrect amount for payment.
10. The Spot mobile application is a peer to peer money payments application and is not intended to be used for payment for any good and/or services and WiGroup accepts no liability in this regard.
11. You warrant that You are the lawful owner of the bank account used in the Spot mobile application.

4. **CONFIDENTIALITY**

You shall treat all Confidential Information as strictly confidential and not use it for any purpose other than performing Your obligations or exercising your rights upon the terms of this agreement. You shall not disclose Confidential Information to any person except, where You are a legal entity, to Your own employees and then only on a need-to-know basis and subject to You procuring similar confidentiality obligations from those employees in favour of Us and making them aware of the confidential nature of the Confidential Information being made available to them.

5. **PRIVACY & USE OF PERSONAL INFORMATION AND DATA**

This section sets out how WiGroup use and protect any information provided by You when registering for and making use of the Spot mobile application.

1. We are committed to ensuring that Your privacy is protected. All information requested will be used within the terms of this Agreement
2. WiGroup may collect the following information:
 1. Name, surname and ID Number
 2. Contact information including cellular number and email address
 3. Geographic information using GPS functionality
 4. Transactional history and any other related information
 5. We may use the information gathered to: understand Your needs and to provide a better service, and in particular for internal record keeping; transaction verification and authentication; fraud detection and risk management; improving our internal operations and efficiencies; improve our products and services; send You promotional communications about new products, special offers or other information which we think You may find interesting using the email address which you have provided. You hereby agree that We may send You this information for the marketing of goods and services to: You, for the marketing of goods and services; to You on behalf of third-party companies, when we believe that these offers may be of interest to You; to third-party companies for the provision of analytical ratings about your transactional patterns behaviors and customer care data and information, including call center reports and sales assistance information;
 6. From time to time, we may also use your information to contact you for market research purposes. We may contact You by email or on your cellular phone number.
 7. We may use the information to customise the Spot mobile application according to Your interests.
3. We may elect to share Your personal information with:
 1. Service providers under contract who help with parts of our business operations;
 2. Parties where we are required to do so by law;
 3. Other third parties, provided we have received your explicit consent.
4. You expressly consent that We may process and further process your Personal Information to any of Our group companies, which may be located outside of South Africa for the above purposes and that We may disclose your Personal Information to any person who provides services to Us or acts as Our agent to whom we have transferred or propose to transfer any of Our rights and/or duties in respect of Your account who we ask to also agree to Our privacy policies.

6. SECURITY

We are committed to ensuring that Your information is secure. In order to prevent unauthorised access or disclosure, WiGroup have put in place suitable physical, electronic and managerial procedures to safeguard and secure the information we collect.

7. NON-PERSONAL INFORMATION

Notwithstanding anything contained in this Agreement regarding your information, the following information is not regarded as personal information for purposes of this Agreement:

1. Information which cannot be linked back to You;
2. Non-personal statistical information i.e. information which has been aggregated and cannot be linked back to You;
3. Information which you have provided voluntarily in a public environment.

8. **YOUR CONSENT**

You acknowledge that You accept this section, and specifically allow for the collection, storage, processing and disclosure of personal information as described in this section. Should You terminate use of the Spot mobile application, consent is still given to Our retention of the information we have already collected and for the uses as specified in these terms and conditions.

9. **OTHER IMPORTANT INFORMATION**

1. Your Spot mobile application PIN is strictly confidential. This information may not be shared and WiGroup should immediately be contacted if the PIN is compromised.
2. In cases of theft or fraud, You should contact Your bank and lodge a case with the South African Police Services.
3. We shall not be liable for any fraudulent activity initiated through the downloaded copy of the Spot mobile application.
4. Neither WiGroup, nor any third parties provide any warranty or guarantee as to the accuracy, timeliness, performance, completeness or suitability of the information and materials found or offered on this page. You acknowledge that such information and materials may contain inaccuracies or errors and we expressly exclude liability for any such inaccuracies or errors to the fullest extent permitted by law.
5. Please ensure that you log out of the App when you are finished using it to prevent anyone else from utilising it without your permission.

10. **RECORDS**

WiGroup will provide You with invoices reflecting Your usage of the WiGroup mobile application and fees incurred.

11. **COSTS**

1. Each payment transaction using the Spot mobile application will incur zero fees.
2. These fees are subject to change without notice in the future. You will also be responsible for all standard data costs associated with the download and use of the Spot mobile application.
3. Once You submit Your transaction it cannot be reversed so please ensure that all information is correctly inserted.
4. You will indemnify WiGroup against any losses resulting from:

1. You failing to pay the relevant costs or fees;
2. You providing the wrong recipient/payment information;
3. Someone else carrying out a payment instruction without your permission.

12. US EXPORT REGULATIONS

1. You shall not sell, lease, license, export or otherwise dispose of the Software or any proprietary information to any third party which You know, or should have reason to believe will export, resell, use or otherwise dispose of same to any country to which the disposition is prohibited or regulated by law, including the export administration regulations of the Bureau of Industry and Security of the United States Department of Commerce. This restriction shall not apply if a license has been issued by the appropriate agency giving its consent and the transaction is otherwise lawful.
2. Should You be resident in or conduct its business from any country where the use, license or disposition of the Software is prohibited or regulated by law, you should refrain from registering or using the Software in any manner.

13. LIMITATION OF LIABILITY

To the fullest extent permissible by law, under no circumstances whatsoever, including as a result of WiGroup's negligent (including grossly negligent) acts or omissions or those of its servants or agents or other persons for whom in law WiGroup may be liable ("Others"), shall –

1. WiGroup or any Others (in whose favour this constitutes a benefit for a third party) be liable for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss, damage or damages of any kind whatsoever or howsoever caused (whether arising under contract, delict or otherwise and whether the loss was actually foreseen or reasonably foreseeable), sustained by You, Your directors, servants or agents, including any loss of profits, loss of revenue, loss of operation time, corruption or loss of information and/or loss of contracts;
2. WiGroup's or any Others' (in whose favour this constitutes a benefit for a third party) maximum aggregate liability for any direct loss, damage or damages of any kind whatsoever or howsoever caused (whether arising under contract, delict or otherwise and whether the loss was actually foreseen or reasonably foreseeable), sustained by You, Your directors, servants or agents, exceed an amount equivalent to the license fees paid by You for the Software;
3. WiGroup be liable for loss of Your data regardless of how such loss is occasioned. You acknowledge that back-up of such data is its responsibility and can be undertaken easily so as to recover any data which is lost. Accordingly, You indemnify and hold WiGroup harmless against any losses, damage and damages incurred by You arising directly or indirectly out of or in connection with the loss of any of Your data.

14. BREACH

Should You breach any provision or term of this agreement and fail to remedy same within 7 days of receipt of notice requiring it to do so

and warning that if it is not so remedied WiGroup may exercise its rights in terms of this clause, then WiGroup shall be entitled without notice, in addition to any other remedy available to it at law or under this agreement, including obtaining an interdict, to cancel this agreement or claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to WiGroup's right to claim damages.

15. **EVENTS OF DEFAULT**

Notwithstanding anything to the contrary in this agreement, WiGroup shall be entitled to terminate this agreement at any time by addressing written notice to that effect, if You:

1. commit an act which is or would be an act of insolvency within the meaning of §8 of the Insolvency Act, 1936 (if committed by a natural person) commences business rescue proceedings, is provisionally or finally liquidated, is removed from the company register, takes steps for its voluntary winding up;
2. compromise or attempt to compromise or defer payment of any debt owing by You to Your creditors generally or to any class of Your creditors generally;
3. being a legal entity, are provisionally or finally liquidated, removed from the register of companies, placed under judicial management (provisionally or finally), placed in or under any similar or replacement regime from time to time in South African insolvency law, take any steps for its voluntary winding up or undergoes a change of control;
4. being a legal entity, dispose of all or a material portion of Your assets or business or ceases to conduct Your business.

16. **GOVERNING LAW, JURISDICTION AND LANGUAGE**

1. This agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
2. The parties hereby irrevocably submit to the exclusive jurisdiction of the High Court of South Africa (South Gauteng High Court) (or any successor to that court) in respect of all and any matters arising out of or in connection therewith. The parties irrevocably waive any objection they may now or hereafter have that such action or proceeding has been brought in an inconvenient forum.
3. This agreement has been concluded in the English language. In the case of any conflict between the English and any other translation version, the English version shall prevail.

17. **FORCE MAJEURE**

WiGroup shall be under no liability to You in respect of anything which, in the absence of this provision might constitute a breach of this agreement, arising by reason of force majeure, vis major, casus fortuitus or due to any circumstances beyond WiGroup's reasonable control, even if WiGroup should have foreseen the possibility of the occurrence or existence of those circumstances. For the purposes hereof, vis major and force majeure include acts or omissions of any government, government agency, provincial or local or similar authority (but, where You are an organ/body of state, specifically excluding Your acts or omissions which are not the exercise of executive government

powers), civil strife, riots, sabotage, insurrection, acts of war or public enemy, illegal strikes, combination of workmen, interruption of transport, lockouts, interruption of essential services from public utilities (including electricity, water and sewerage), prohibition of exports, inability on WiGroup's part due to Force Majeure to obtain goods or services from its suppliers (including telecommunications suppliers and Merchants), rationing of supplies, flood, storm, fire or any other circumstances (without limitation eiusdem generis) beyond the reasonable control of the Party claiming Force Majeure and comprehended in the term Force Majeure.

18. **WHOLE AGREEMENT, NO AMENDMENT**

1. This agreement constitutes the whole agreement between the parties relating to its subject matter, supersedes all prior or oral or written communications and representations with respect to the Software, and, prevails over any conflicting or additional terms in any document or other communication between the parties leading up to and during the term of this agreement.
2. No amendment or consensual cancellation of this agreement or its provisions or terms or of any agreement or other document issued or executed pursuant thereto or in terms thereof, no settlement of any disputes arising under this agreement, and, no extension of time, waiver or relaxation or suspension of any provisions or terms of this agreement or of any agreement or other document issued pursuant thereto or in terms thereof, shall be binding unless recorded in a written document signed by the parties or by the party granting the extension, waiver or relaxation, as the case may be. Any extension, waiver or relaxation given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given and shall not operate as an estoppel against the party making or giving it nor operate to preclude such party thereafter from exercising its rights strictly in accordance with this agreement.
3. To the extent permissible by law no party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

19. **SEVERABILITY**

1. Any provision in this agreement which is or may become illegal, invalid or unenforceable shall be ineffective to the extent thereof and shall be treated pro non scripto and severed from the balance of this agreement, without invalidating the remaining provisions.
2. WiGroup reserve the right to terminate this agreement and refund any license fee paid if, in either of their opinion, the severing of any provision by operation of this clause unreasonably compromises either of their rights or liabilities. You agree that such refund will be Your sole and exclusive remedy in the event of any such termination by WiGroup.

20. **INTERPRETATION**

In this agreement –

1. clause headings are for convenience and reference only and shall not be used in interpreting, modifying or amplifying its terms or clauses;
2. unless a contrary intention clearly appears, words importing any one gender include the other two, the singular include the plural and vice versa, and, natural persons include created entities (corporate or unincorporate) and the state and vice versa;
3. any reference to an enactment is to that enactment as at the date of acceptance of this agreement and as amended or re-enacted from time to time;
4. if a provision in a definition confers rights or imposes obligations on a party, effect shall be given to it as if it was a substantive provision in the body of the agreement, notwithstanding that it is only in a definition;
5. any number of days prescribed shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
6. its termination shall not affect those terms as expressly provide that they will operate after termination or which of necessity must continue to have effect after termination, notwithstanding that the clauses themselves do not expressly provide for this;
7. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply;
8. any reference to a party to it shall, if such party is liquidated or sequestrated, be applicable also to and binding on that party's liquidator or trustee;
9. the words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed nor take effect as limiting the generality of any preceding words;
10. the words "other" and "otherwise" shall not be construed as being of the same kind or nature as any preceding words where a wider construction is possible.

21. **CONTACT**

Any questions or concerns regarding this Agreement or the App, please contact us at support@wiGroup.co.za. If you have any banking related queries please contact your bank directly.

22. **CHANGES TO THIS AGREEMENT**

Wigroup may change this Agreement from time to time by updating this page. You should regularly view this page to ensure that You are satisfied with any changes. The revised version of this Agreement will apply after 7 calendar days from the date on which we had updated the page. If You are not satisfied with the revisions made, You should stop using the Spot mobile application immediately.

23. **ACCEPTANCE**

By registering for the App You agree and acknowledge that You accept the terms and conditions of this agreement and, further, represent and warrant that You are of full legal age, or are emancipated or have Your guardian's consent to enter into this agreement.

