**DEVELOPMENT AND LICENSING AGREEMENT**

* **ostajan näkökulmasta**

Development and Licensing Agreement -sopimuspohja on tehty ostajan näkökulmasta tilanteeseen, jossa ohjelmistoyhtiö kehittää asiakasyritykselleen uutta räätälöityä softaa, jonka asiakasyritys yhdistää omiin ohjelmistotuotteisiinsa ja myy eteenpäin omille loppuasiakkailleen. Tässä ohjelmistoyritys saa alkumaksun työstään sekä lisenssimaksuja asiakasyrityksen tuotemyynnistä.

Sopimuspohjan kaikki kohdat tulee tarkistaa ja muuttaa vastaamaan käytännön tilannetta; on myös huomioitava, että yhden sopimuskohdan muuttaminen yleensä vaikuttaa myös sopimuksen muihin lausekkeisiin ja lisämuutokset ovat tällöin tarpeen.

**HUOM.! Tämä sopimuspohja ei sovellu käytettäväksi käytännön tilanteisiin ilman sopimusjuridisen asiantuntijan tarkistusta ja korjauksia.**

 *DRAFT 0.1 - January \_\_, 20\_\_*

**DEVELOPMENT AND LICENSING AGREEMENT**

This Development and Licensing Agreement (“Agreement”) is made by and between

Firma Ltd (“**Firma**”'), a Finnish corporation and

Bolag Technology AB., a Swedish corporation (“**Bolag**”').

 **WHEREAS**, Firma develops and markets computer software;

 **WHEREAS**, Firma owns and/or has rights to certain software that is compatible with the Microsoft software and other software; and

 **WHEREAS**, Bolag and Firma desire to incorporate certain Firma software into that certain Bolag Product as defined below that will be compatible with the Microsoft software.

 **NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1 - DEFINITIONS**

1.1 'Affiliate' of a Person means a Person (a) which controls, directly or indirectly, the first Person, (b) which is controlled, directly or indirectly, by the first Person, or (c) which is controlled, directly or indirectly, by any Person qualifying as an Affiliate under clause (a) or (b) above.

1.2 'Advance Royalty Payment' means the aggregate amount of € \_\_\_\_\_\_\_\_\_\_\_\_ payable by Bolag to Firma in one advance payment pursuant to Article 5.2 of this Agreement.

1.3 'Agreement' means this Development and Licensing Agreement, as amended, supplemented, or modified from time to time by the parties in writing.

1.4 'Firma Software' means the AB1 Software and BC2 Software.

1.5 'Confidential Information' means any information, including, without limitation, any technical information and any information relating to the present and future business operations or financial condition of the party disclosing the information, whether such information is written or oral, including, but not limited to, market information, technical information, data, devices, trade secrets, techniques, concepts, samples, plans, methods, financial information, packaging information, formulae, recipes, processes, instructions, outlines of processes, component parts, marketing strategies, projections, matters of a business nature (such as development and improvement of specifications, requirements and preferences, costs and prices, feasibility studies, research data related to the business of the disclosing party, methods of conducting business, and systems), all other items related to the operations and plans (whether current or in development) of the disclosing party which is marked as confidential at the time of disclosure, disclosed by one party to the other pursuant to this Agreement. 'Confidential Information' does not include information that (a) is or becomes generally known or available by publication, commercial use, or otherwise through no fault of the receiving party; (b) was known by the receiving party at the time of disclosure by the disclosing party as evidenced by competent written proof; (c) is independently developed by the receiving party without use of the disclosing party's Confidential Information; (d) is lawfully obtained from a third party who has the right to make such disclosure without breaching an obligation of confidentiality; (e) is publicly disclosed by the disclosing party in writing; or (f) is obligated to be produced by the receiving party under an order of a court of competent jurisdiction, or valid administrative subpoena, or otherwise pursuant to applicable law, so long as the receiving party provides the disclosing party adequate notice prior to such production to enable the disclosing party to take steps to protect the information from disclosure.

1.6 'Effective Date' means the date that this Agreement is executed by the parties, or, if executed on different dates, the date corresponding to the date on which the final party executes this Agreement.

1.7 'Error' means defect or bug in the Firma Software delivered to Bolag which prevents it from performing in accordance with the Specifications and end-user documentation provided by Firma.

1.8 'Net Receipts' shall mean the total amounts invoiced by Bolag to customers with respect to sales of the Firma Software or Derivative Works, less (i) freight, packaging, handling or other reasonable shipment expenses, (ii) sales, use, value-added, excise and other taxes, (iii) insurance, (iv) customs duties and other governmental charges, (v) cash or trade discounts, (vi) returns or credits, (vii) bad debts, and (viii) other similar expenses.

1.9 'Person' means any individual, company, corporation, firm, partnership, joint venture, association, organization, or trust, in each case whether or not having a separate legal identity.

1.10 'Bolag Product' means any and all commercial versions of that Bolag product known as Bolag XYZ or any other future Bolag product in which the Firma Software is incorporated by Bolag, in whole or in part (including any Bolag product manufactured by Bolag for a third party or by such third party under a license from Bolag which software are distributed under such third party's name).

1.11 'Source Code' means the human level intelligible instructions regarding the XX Software module expressed in the high-level technical and specialized programming language in which the XX Software module was written. Source Code shall be deemed also to include the computer programming language and all programmers comments included in the instructions.

1.12 'Specifications' means the specifications for design and development of the Firma Software attached to this Agreement in Addendum 1.

1.13 'SSS Software' means Firma's SSS software, Version 2.0 as modified by Firma pursuant to Article 2 and all international versions including Firma's electronic end-user instructions training an end-user customer to use same and any new versions thereof.

1.14 'Term' means the term of this Agreement, as it may be extended or earlier terminated in accordance with Articles 9.1 and 9.2 hereof.

1.15 'XX Software' means Firma's XX Software module as developed by Firma pursuant to Article 2.

**ARTICLE 2 - DEVELOPMENT OF FIRMA SOFTWARE**

2.1 PREPARATION OF PROJECT PLAN. Firma shall prepare and submit to Bolag a project plan ('Project Plan') for the development of the Firma Software by February 28, 20\_\_. The Project Plan shall include the following:

 (a) a listing of all items to be delivered to Bolag under this Agreement ('Deliverables');

 (b) a delivery schedule containing milestones for each Deliverable; and

 (c) acceptance tests and criteria for each Deliverable.

Firma and Bolag have agreed on the Specifications for the Firma Software as set forth in Addendum 1 attached hereto. Upon delivery of the Project Plan by Firma, Bolag shall have fifteen (15) days in which to review and approve the Project Plan which such approval shall not be unreasonably withheld. Upon written approval of the Project Plan by both parties, it will be marked as Addendum 2 and will be deemed by both parties to have become a part of this Agreement and will be incorporated by reference. Addendum 2 shall consist of the following items:

Part A - Deliverables, Part B - Milestones and Delivery Schedule, and Part C - Acceptance Tests and Criteria.

If the parties fail to agree on the Project Plan, the Agreement shall terminate and Firma shall return the Advance Royalty Payment.

2.2 DEVELOPMENT OF FIRMA SOFTWARE. Upon delivery of the Project Plan and receipt of all sums due therefore, Firma shall commence development of the Firma Software that will substantially conform to the requirements set forth in the Specifications. Firma is not obligated to develop the Firma Software hereunder, and Bolag has not contracted for any development, unless and until each part of all Addenda is executed by both parties and attached hereto.

2.3 DELIVERY. For any Deliverable covered by Addendum 2, such Deliverable shall be delivered on \_\_\_\_\_ media in object code format. Delivery shall take place at a mutual acceptable time and format pursuant to the applicable milestone as set forth in Part B of Addendum 2. In consideration of Firma's development with respect to any Addendum, Bolag shall pay Firma as set forth in Article 5 of this Agreement.

2.4 ACCEPTANCE. Bolag shall have thirty (30) days from the date of delivery of each Deliverable to inspect, test and evaluate it to determine whether the Deliverable satisfies the acceptance criteria in accordance with procedures set forth in Part C of Addendum 2, or as established by Firma and approved by Bolag prior to testing. If the Deliverable does not satisfy the acceptance criteria, Bolag shall give Firma written notice stating why the Deliverable is unacceptable. Firma shall have thirty (30) days from the receipt of such notice to correct the deficiencies. Bolag shall then have fifteen (15) days to inspect, test and evaluate the Deliverable. If the Deliverable still does not satisfy the acceptance criteria, Bolag shall have the option of either (1) repeating the procedure set forth above, or (2) terminating this Agreement pursuant to Article 9 of this Agreement whereupon Firma shall return to Bolag the Advance Royalty Payment except as provided in Article 5.2. If Bolag does not give written notice to Firma within the initial thirty (30) day inspection, testing and evaluation period or any extension of that period, that the Deliverable does not satisfy the acceptance criteria, Bolag shall be deemed to have accepted the Deliverable upon expiration of such period.

2.5 DESIGN REVIEW AND SPECIFICATION CHANGES. The parties acknowledge that there may be additions, deletions or other changes which may affect Firma's development of the Firma Software at any time during the term of this Agreement. Upon written notice of such desired changes by either party, Firma and Bolag shall work together to make any necessary changes to the Project Plan. Other than as set forth herein, each Part of any Addendum (including Addendum 2) may change only upon the parties' mutual written agreement.

2.6 OWNERSHIP AND LICENSE OF FIRMA SOFTWARE. Firma shall be the sole owner of the Firma Software. Bolag shall retain no right, title or interest therein whatsoever other than the license set forth herein and ownership of any changes made by Bolag to the Source Code. Bolag is the sole owner of the Bolag Product subject to Firma's exclusive ownership of and rights in the underlying Firma Software.

2.7 WARRANTY, DEFECTS AND REPAIRS. Firma warrants that the Firma Software will substantially conform to the Specifications for ninety (90) days following the delivery of any master copy of the Firma Software to Bolag and following the delivery of any copy of the Firma Software to an end-user customer as contemplated by this Agreement. Bolag shall promptly notify Firma of any nonconformance to the foregoing warranty. In the event of any nonconformance to the foregoing warranty as reported in writing to Firma by Bolag, Firma will promptly use its reasonable commercial efforts to test and confirm any reported Error and will thereafter, at its sole option and expense, (i) promptly repair or replace the nonconforming Firma Software, or (ii) in the case of a warranty claim by an end-user customer, accept return of the nonconforming Firma Software and refund to Bolag the applicable royalty fee received by Firma for the nonconforming copy of the Firma Software. Firma shall use its reasonable commercial efforts to commence testing of any reported Error(s) no later than the first working day after its receipt of written notice of the nonconformity. The warranty set forth in this Article 2.7 shall not apply if: (a) the Firma Software is not used in accordance with the end-user documentation and the nonconformance is caused by such use; or (b) the Error is caused by a modification or extension not made by Firma or its authorized representative; or (c) the Error is caused by installation of the Firma Software in an operating or hardware environment for which the Firma Software has not been licensed; or (d) the Error is caused by a third-party software malfunction.

**ARTICLE 3 - SUPPORT**

3.1 BOLAG OBLIGATIONS. Bolag will provide direct first level technical support for the Firma Software to end-user customers acquiring the Firma Software from Bolag or its distributions as provided by this Agreement. Such support shall include answering product use questions, diagnosing problems and using reasonable efforts to provide solutions to problems.

3.2 TECHNICAL SUPPORT. For the consideration set forth in Article 5.4, during the term hereof Firma shall provide Bolag (and Bolag only), during Firma's ordinary business hours, with the amount of telephone support for the Firma Software in accordance with Addendum 3.

Notwithstanding the foregoing, Firma shall have no obligation to support (i) altered, damaged or modified Firma Software provided such modifications were not made by Firma or its authorized representative; (ii) Errors caused by Bolag's negligence, hardware malfunction or other causes beyond the reasonable control of Firma; or (iii) Firma Software installed in an operating environment or in a hardware environment for which the Firma Software has not been licensed.

**ARTICLE 4 - LICENSE OF FIRMA SOFTWARE BY BOLAG, SOURCE CODE RELEASE AND OBLIGATIONS OF THE PARTIES**

4.1 MODIFICATION LICENSE. Firma hereby grants to Bolag, under all of Firma's intellectual property rights in and to the XX Software, a limited non-exclusive, non-transferable, irrevocable, license to use, reproduce and prepare derivative works of the Source Code (the 'Derivative Works') for the sole purpose of creating, maintaining and enhancing Bolag products for use in connection or conjunction with the Bolag Products.

4.2 OBJECT CODE REPRODUCTION LICENSE. Firma hereby grants to Bolag, under all of Firma's intellectual property rights in and to the Firma Software, a non-exclusive, non-transferable, license to reproduce, in object code format only, the Firma Software and/or Derivative Works.

4.3 DISTRIBUTION LICENSE. Firma hereby grants to Bolag, under all of Firma's intellectual property rights in and to the Firma Software, a non-exclusive, non-transferable license to distribute copies, in object code format, of the Firma Software and/or Derivative Works for use in connection or conjunction with the Bolag Product.

4.4 DOCUMENTATION. Firma shall provide Bolag with an electronic version of the end-user documentation for the Firma Software (the 'Documentation'). Firma hereby grants to Bolag a non-exclusive, non-transferable, license to use, reproduce, and distribute the Documentation and to modify, create derivative works and distribute those derivative works of the documentation to end-users of the Firma Software.

4.5 USE OF SOURCE CODE. Bolag shall use the Source Code under carefully controlled conditions in accordance with and for the limited purposes of this Agreement, and to inform those employees who are given access to the Source Code by Bolag that such materials are confidential and proprietary information of Firma and disclosed to Bolag as such.

4.6 BOLAG OBLIGATIONS. Bolag shall:

 (a) use its reasonable commercial efforts to distribute the Firma Software in conjunction or combination with the Bolag Product;

 (b) maintain on its staff qualified individuals trained in the use, demonstration, application and service of Firma Software;

 (c) be responsible for coordinating all warranty claims and product service for Firma Software sold in any Bolag Product;

 (d) in consideration of the development, use and support the Firma Software, pay Firma all payments as set forth in Article 5 of this Agreement;

 (e) be responsible for creating all end-user documentation for Firma Software as distributed in conjunction or combination with the Bolag Product; and

 (f) be responsible for engineering the installation of Firma Software as contemplated by this Agreement.

4.7 FIRMA OBLIGATIONS. Firma shall:

 (a) provide Bolag with master copies of the Firma Software in order for Bolag to incorporate such Firma Software into Bolag Product;

 (b) provide Bolag with reasonable technical support and assistance and necessary technical data and other information which facilitate the incorporation of the Firma Software into the Bolag Product and the configuration of the Firma Software with the Bolag Product;

 (c) provide Bolag with the most current electronic end-user documentation for the SSS Software. Firma shall retain all rights, title and interest therein whatsoever;

 (d) provide Bolag with one copy of the current Source Materials in order for Bolag to install Firma Software as contemplated by this Agreement; and

4.8 SALES BY BOLAG. Bolag shall sell Firma Software as distributed in conjunction or combination with the Bolag Product at prices and on terms which Bolag determines in its discretion.

4.9 TRADEMARKS. 'Firma Products,' 'SSS' and 'XX' (hereinafter 'Trademark' or 'Trademarks') and any other trademarks and service marks adopted by Firma to identify the Firma Software belong to Firma; Bolag will have no rights in such marks except as expressly set forth herein and as specified in writing from time to time. Firma grants Bolag the right to use the Trademarks in its marketing and distribution of the Firma Software as contemplated by this Agreement. Bolag's use of the Trademarks shall be under Firma's trademark policies and procedures in effect from time-to-time. Bolag agrees not to use the Trademarks or any other mark likely to cause confusion with the Trademarks as any portion of the Bolag's tradename, trademark for the Bolag Product, or trademark for any other products of Bolag. Bolag shall have the right to use the Trademarks solely to refer to the Firma Software.

Bolag agrees with respect to each registered trademark of Firma, to include in each advertisement, brochure, or other such use of the trademark, the trademark symbol 'circle R' and the following statement:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a registered trademark of Firma Ltd, Helsinki, Finland

Unless otherwise notified in writing by Firma, Bolag agrees, with respect to every other trademark of Firma, to include in each advertisement, brochure, or other such use of the trademark, the symbol 'TM' and the following statement:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a trademark of Firma Ltd, Helsinki, Finland

Bolag shall not market the Firma Software in any way which implies that the Firma Software is the proprietary product of Bolag or of any party other than Firma.

**ARTICLE 5 - PAYMENT**

5.1 DEVELOPMENT FEE. In consideration of Firma's development work and performance hereunder, Bolag shall pay the sum [\_\_\_\_\_\_\_\_\_\_] Euros to Firma as follows:

 (a) €[\_\_\_\_\_\_] due and payable upon Bolag's approval of the Project Plan which such approval shall not be unreasonably withheld;

 (b) €[\_\_\_\_\_\_\_\_] due and payable at a mutually agreeable midway point as defined in Part B of Addendum 2; and

 (c) €[\_\_\_\_\_\_\_\_] due and payable upon delivery and acceptance of the final version of the Firma Software as set forth in Part B of Addendum 2.

5.2 ADVANCE ROYALTY PAYMENT. In the event that the final version of the Firma Software does not satisfy the acceptance criteria in accordance with the procedures set forth in Part C of Addendum 2 by December 31, 20\_\_, provided that the Project Plan is not amended in writing by the parties pursuant to Article 2.5 of this Agreement, Bolag shall have the right to terminate this Agreement and receive a refund of the Advance Royalty Payment. Notwithstanding the foregoing, in the event that Bolag has pre-sold the Firma Software prior to the delivery of the final version, the Advance Royalty Payment shall automatically become nonrefundable.

5.3 ROYALTY FEES. For each and every copy of Firma Software and/or Derivative Work as distributed in conjunction or combination with the Bolag Product which Bolag or a third party under a license from Bolag distributes (directly or indirectly) to a third party, Bolag shall pay Firma [\_\_\_\_] percent of Bolag's Net Receipts for such Firma Software or Derivative Work as distributed in conjunction or combination with the Bolag Product.

On the Effective Date of this Agreement, Bolag shall pay Firma an advance royalty payment in the amount of € [\_\_\_\_\_\_\_\_] ('the Advance Royalty Payment'). The Advance Royalty Payment will be offset against any royalty payments payable to Firma pursuant to this Article 5.2.

Any royalty payments payable to Firma pursuant to this Article 5.2 in excess of the Advance Royalty Payment will be paid to Firma quarterly within forty-five (45) days after the end of each calendar quarter. Within forty-five (45) days after the end of each calendar quarter, Bolag will send Firma a written report on the distribution of all copies of Firma Software in conjunction or combination with the Bolag Product during the quarter. Each report will specify (i) the number of copies of the Bolag Product distributed, itemized by version and name; (ii) the total applicable royalties; (iii) the amount of any unused Advance Royalty Payments being credited; and (iv) the net amount due Firma. If no royalties are owed for any quarter, such fact shall be stated.

Firma will have the right, not more than once per calendar year during the term of this Agreement through an independent certified public accountant reasonably acceptable to Bolag, upon not less than fifteen (15) days prior written notice to Bolag, to conduct a review at Bolag's principal business offices of all Bolag's books and records relating to Bolag's sale and distribution of the Bolag Product to which royalties are related, in which instance Bolag shall reasonably cooperate with Firma in making all such records available. If any such audit uncovers a shortfall in royalty payments hereunder in excess of ten percent (10%) for the audited period (and no audit shall occur (a) more than once in any 12 month period and (b) for any period which was previously audited), all expenses of such audit shall be paid by Bolag.

5.4 SUPPORT FEES. In consideration of the support services as set forth in Article 3.2, Bolag shall pay Firma the annual support fee set forth in Addendum 3 attached hereto and made a part hereof. Such annual support fee shall be paid in advance of the term in which support services are to be provided; such support services are expressly conditioned upon the prior receipt of such fee. Such support shall be provided for one (1) year beginning ninety (90) days from the acceptance of the final version of the Firma Software and shall be extended each year thereafter for an additional one (1) year term unless terminated by either party at the end of the original support term or at the end of any renewal support term by giving the other party written notice at least ninety (90) days prior to the end of any such support term; provided that Firma shall not terminate its support services for the three (3) year term of this Agreement except for a failure to pay the annual support fees on the part of Bolag. In the event Bolag fails to make any payment or otherwise elects to discontinue the support services except due to a breach by Firma of its support obligations, then to reinstate or renew such services, Bolag must first pay Firma the current annual support fee and all past support fees. Said support fee may be increased annually by not more than five (5) per cent, and any increase shall be upon at least sixty (60) days prior written notice. If Firma changes the annual maintenance fees in the middle of any maintenance period, said change shall not apply to the maintenance services provided during such period.

5.5 BUNDLES. Bolag may license or distribute the Firma Software and/or Derivative Work as part of a package or bundle with the Bolag Product. The price of the Firma Software or Derivative Work, as the case may be, for the purposes of computing royalties hereunder shall be: (the standard Bolag retail price of the Firma Software or Derivative Works, as the case may be, in the bundled product divided by the standard retail price of all separately obtainable products in the bundle, including the Firma Software or Derivative Works, in the bundled product) multiplied by (the actual retail price of the bundled product charged by Bolag for the bundled product).

**ARTICLE 6 - REPRESENTATIONS AND WARRANTIES**

6.1 BOLAG. Bolag represents and warrants as follows:

(a) Bolag is a corporation duly organized, validly existing and in good standing under the laws of Sweden;

(b) Bolag has all requisite corporate power and authority to enter into this Agreement and to carry out and perform its obligations under the terms of this Agreement;

(c) this Agreement has been duly authorized, executed and delivered by Bolag and is a valid and binding obligation of Bolag enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency moratorium, and other laws of general application affecting the enforcement of creditors' rights; and

(d) the execution, delivery, and performance of and compliance with this Agreement does not and will not conflict with, or constitute a default under, or result in the creation of, any mortgage, pledge, lien, encumbrance, or charge upon any of the properties or assets of Bolag, nor result in any violation of (i) any term of Bolag's articles of incorporation or bylaws, (ii) in any material respect, any term or provision of any mortgage, indenture, contract, agreement, instrument, judgment or decree or (iii) to the best of Bolag's knowledge, any order, statute, rule or regulation applicable to Bolag, the violation of which would have a material adverse effect on Bolag's business or properties.

6.2 FIRMA. Firma represents and warrants as follows:

(a) Firma is a corporation duly organized, validly existing, and in good standing under the laws of Finland;

(b) Firma has all requisite corporate power and authority to enter into this Agreement and to carry out and perform its obligations under the terms of this Agreement including, but not limited to, the right to grant the licenses granted herein;

(c) the Firma Software does not infringe any EU or US patent existing as of the Effective Date, copyright, trademark, or other intellectual property right of any third Person;

(d) this Agreement has been duly authorized, executed, and delivered by Firma and is a valid and binding obligation of Firma enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, moratorium, and other laws of general application affecting the enforcement of creditors' rights; and

(e) the execution, delivery, and performance of and compliance with this Agreement does not and will not conflict with, or constitute a default under, or result in the creation of, any mortgage pledge, lien, encumbrance or charge upon any of the properties or assets of Firma, nor result in any violation of (i) any term of Firma's certificate of incorporation or bylaws, (ii) in any material respect, any term or provision of any mortgage, indenture, contract, agreement, instrument, judgment or decree or (iii) to the best of Firma's knowledge, any order, statute, rule or regulation applicable to Firma, the violation of which would have a material adverse effect on Firma's business or properties.

**ARTICLE 7 - DISCLAIMER AND LIMITATION OF LIABILITIES**

7.1 DISCLAIMER. EXCEPT AS SET FORTH IN THIS AGREEMENT, FIRMA MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, CONCERNING THE FIRMA SOFTWARE, AND HEREBY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

7.2 LIMITATION OF LIABILITY. EXCEPT FOR FIRMA'S OBLIGATIONS UNDER ARTICLE 8 BELOW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE FIRMA SOFTWARE, EVEN IF INFORMED OF THE POSSIBILITY THEREOF IN ADVANCE. EXCEPT FOR FIRMA'S OBLIGATIONS UNDER ARTICLE 8 BELOW, IN NO EVENT WILL FIRMA'S LIABILITY IN CONNECTION WITH THE FIRMA SOFTWARE OR THIS AGREEMENT EXCEED AMOUNTS PAID TO FIRMA BY BOLAG HEREUNDER. THESE LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE.

**ARTICLE 8 - INDEMNITY**

8.1 INDEMNITY. Firma shall at its expense, defend, or at its option, settle any claim, demand, suit or proceeding made or brought against Bolag for infringement of any US or EU patent existing, as of the Effective Date, copyright, trade secret, trademark or any other intellectual property right by the use, reproduction and distribution of the Firma Software by Bolag in accordance with this Agreement and shall pay any settlements entered into or damages awarded against Bolag to the extent based on such a claim. Firma's obligations under this Article shall only apply if (1) Bolag promptly notifies Firma in writing as soon as Bolag becomes aware of any actual or threatened infringement claim and (2) grants Firma exclusive control over its defense and settlement. The foregoing obligation in this Article 8 will cover only those releases of the Firma Software delivered hereunder, but under no circumstances shall it cover any modifications made based on specifications provided by Bolag or any third party if the infringement would have been avoided without such modifications.

Notwithstanding the foregoing, Firma's obligations under this Article 8 will not cover claims that the Firma Software infringes any third party's rights (i) as used in combination with any software or hardware not supplied by Firma if such claim could have been avoided but for such combination and/or (ii) if the Firma Software has been modified by Bolag if such claim could have been avoided but for such modification.

If an infringement claim is asserted or if Firma believes one likely, Firma will have the right, but not the obligation at its sole expense, to procure a license from the person claiming or likely to claim infringement or otherwise to take steps to modify the Firma Software to avoid the claim of infringement. In such case, modification of the Firma Software for this purpose shall not materially impair the operation of the Firma Software for use with the Bolag Product.

**ARTICLE 9 - TERM AND TERMINATION**

9.1 TERM. The Term of this Agreement shall be for three (3) years starting with the Effective Date (the 'Initial Term'), and shall automatically renew for additional, consecutive terms of one (1) year each as of the anniversary date starting with the expiration of the Initial Term, unless either party provides the other with written notice at least ninety (90) days prior to the expiration of the then current term of such party's intent to terminate the Agreement, in which case this Agreement shall terminate as of the then current term's expiration date.

9.2 TERMINATION FOR CAUSE. Either party shall have the right to terminate this Agreement immediately upon written notice at any time if (a) the other party is in breach of any material warranty, term, condition, or covenant of this Agreement, and such breaching party fails to cure such breach within thirty (30) calendar days following its receipt from the nonbreaching party of a written notice to the breaching party of the breach and of the non-breaching party's intention to terminate unless such breach is cured within such 30 days; or (b) the other party (i) becomes insolvent, (ii) fails to pay its debts or perform its obligations in the ordinary course of business as they mature, (iii) admits in writing its insolvency or inability to pay its debts or perform its obligation as they mature, or (iv) makes an assignment for the benefit of creditors.

9.3 EFFECT OF TERMINATION. Upon any termination or expiration of this Agreement, all licenses granted to Bolag with respect to the XX Software (including Source Code) shall survive. In addition, the following Articles shall also survive; 2.6, 5.3, 6, 7, 8, 9, 10, 11, 12, and 13. No such termination or expiration will relieve either party from any liability arising from any breach of this Agreement occurring prior to termination. Neither party will be liable to the other party or any third party for damages of any sort solely as a result of terminating this Agreement in accordance with its terms. Upon termination, amounts payable or accrued to Firma under this Agreement shall become immediately due and payable.

**ARTICLE 10 - CONFIDENTIALITY**

Each party will protect the other's Confidential Information from unauthorized dissemination and use with the same degree of care that each party uses to protect its own like information but in no event less than reasonable care. Neither party will use the other's Confidential Information for purposes other than those necessary to further the purposes of this Agreement. Neither party will disclose to third parties the other's Confidential Information without the prior written consent of the other party. The parties' obligations hereunder with respect to Confidential Information shall survive the expiration or earlier termination of this Agreement. Source Code and Source Materials shall automatically be considered Confidential Information.

**ARTICLE 11 - ARBITRATION**

In the event of any dispute arising out of this Agreement or the breach thereof, the parties hereto shall use their best endeavors to settle such disputes. To this effect they shall consult and negotiate with each other, in good faith and understanding of their mutual interests, to reach a solution satisfactory to both parties.

If the parties do not reach such solution within a period of sixty (60) days, then the disputes shall be finally settled in arbitration, in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce and observing the content of this Article. The Arbitration proceedings shall be held in \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_. The language of the proceedings, documentation and award shall be English.

**ARTICLE 12 - NOTICES**

 All notices, waivers, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered by prepaid certified mail or registered mail, receipt acknowledged or hand delivery (receipt acknowledged) or dispatched (with reasonable evidence of receipt) by e-mail, or three (3) days after being sent by an internationally recognized overnight courier service, addressed to the party to whom the notice is intended to be given at the addresses and addressees specified below:

 To Bolag: Bolag Technology Ab

 To Firma: Firma Ltd

Either party may from time to time designate a different address and addressee as to itself by notice sent in accordance with this Article 12.

**ARTICLE 13 - GENERAL**

13.1 FORCE MAJEURE. Neither party will be liable for any failure or delay in its performance under this Agreement due to causes, including, but not limited to, acts of God, acts of civil or military authority, fire, epidemic, flood, earthquake, riot, war, sabotage, labor shortage, or dispute, and governmental action, which are beyond its reasonable control; provided however, that the delayed party (a) gives the other party written notice of such cause promptly, and in any event within fifteen (15) calendar days of discovery thereof, and (b) uses its reasonable efforts to correct such failure or delay in its performance.

13.2 INDEPENDENT PARTIES. None of the provisions of this Agreement shall be deemed to constitute a partnership, joint venture, or any other such relationship between the parties hereto, and neither party shall have any authority to bind the other in any manner. Neither party shall have or hold itself out as having any right, authority, or agency to act on behalf of the other party in any capacity or in any manner, except as may be specifically authorized in this Agreement.

13.3 ANNOUNCEMENTS. The parties shall consult with each other prior to making any public announcement concerning any of the transactions contemplated in this Agreement, and shall cooperate to issue appropriate joint press releases in connection with the execution of this Agreement.

13.4 TAXES. In the event that taxes or fees (other than withholding taxes or taxes on income of Firma arising out of this Agreement) such as, but not limited to, customs, technology transfer, sales, use, value-added, or other taxes, duties, or imposts are imposed or levied on the parties arising out of or related to this Agreement, Bolag shall be responsible for the payment of same.

13.5 ASSIGNMENT. The rights and liabilities of the parties hereto will bind and inure to the benefit or their respective successors, executors, and administrators, as the case may be; however, except to the extent expressly provided herein, neither party may assign or delegate its obligations under this Agreement, either in whole or in part, without the prior written consent of the other, other than (i) to an Affiliate or (ii) to a Person into which it has merged or which has otherwise succeeded to all or substantially all of such party's business and assets to which this Agreement pertains and which has assumed in writing or by operation of law its obligations under this Agreement. Any attempted assignment in violation of the provisions of this Article will be void.

13.6 APPLICABLE LAW. The validity, construction, and performance of this Agreement will be governed by and construed in accordance with the laws of Finland.

13.7 SEVERABILITY. If any provision of this Agreement shall be held to be illegal, invalid, or unenforceable, such provision will be enforced to the maximum extent permissible and the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

13.8 NO WAIVER. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

13.9 NO RIGHTS IN THIRD PARTIES. This Agreement is made for the benefit of Bolag and Firma and their respective Affiliates, if any, and not for the benefit of any third parties.

13.10 MISCELLANEOUS. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which collectively will constitute one and the same instrument. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. This Agreement will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party based on draftsmanship of the Agreement or otherwise.

13.11 COMPLETE AGREEMENT. This Agreement, including all exhibits and documents directly referenced, constitutes the entire agreement between the parties with respect to its subject matter superseding and rendering void any and all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. No amendment to or modification of this Agreement will be binding unless in writing and signed by a duly authorized representative of both parties.

**IN WITNESS WHEREOF,** Bolag and Firma have executed this Agreement on the dates noted below.

**Date: January \_\_, 20\_\_ Date: January \_\_, 20\_\_**

 **FIRMA LTD BOLAG TECHNOLOGY AB**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**CEO JOHN DOE CEO MATTI MEIKÄLÄINEN**

 ADDENDUM 1

**SPECIFICATIONS**

 (FUNCTIONS, FEATURES, SYSTEMS REQUIREMENTS, DESCRIPTION OF DELIVERABLES)

**PLATFORMS SUPPORTED:**

XXXXXXXXXXXXXX that includes:

 1. User Interface, including:

 A YYYYYY interface

 B. Interface for specification of attributes for calculated

 variables

 2. Computation engine yyyyyyyyyy

 This executable will be installed on both client AND server but

 computation will take place solely on server.

**XX specifically will not support:**

 1. Creation zzzzzzzzzzzzz. This will not be supported in this deliverable….

 2. XX will not support an explicit interface for zzzzzz

 3. XX will not include specific interfaces for zzzzzzzzz

 4. XX will not be used as a zzzzzzzzzzzz

 5. Criteria functionality zzzzzzzzz

To support XX, Bolag will provide:

 ADDENDUM 2

 PART A - LIST OF DELIVERABLES

 PART B - MILESTONE AND DELIVERY SCHEDULE

 PART C - ACCEPTANCE TESTS AND CRITERIA

ADDENDUM 3

SUPPORT SERVICES