**Beta Test Agreement**

* **ohjelmistotuotteen kehittäjän näkökulmasta**

Sopimuspohja tehty ensisijaisesti ohjelmistotuotteen kehittäjän näkökulmasta tilanteeseen, jossa keskeneräinen ohjelmisto annetaan vakiintuneen yhteistyökumppanin ennakkokäyttöön ilman korvausta testaustarkoituksessa.

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 1, 20\_\_***

**Beta Test Agreement**

**1. PARTIES AND OBJECT OF THE AGREEMENT**

1.1 This Beta Test Agreement (hereinafter the “**Agreement”**) is entered into between Finco Software Oy, a Finnish company (“Finco”), and Yhtiö Oy (hereinafter the “Tester”). This Agreement governs Tester’s access to and use of certain software and related services (the “Product”) offered by Finco solely for testing and evaluation purposes (hereinafter the "Beta Test").

1.2 The Product may be upgraded from time to time during Beta Test and the Tester shall permit Finco to install such upgrade(s).

**2. BETA TEST REPORTS AND MEETINGS**

2.1 Finco hereby grants to the Tester a licence to evaluate the Product and the Documentation on the terms and subject to the conditions of this Agreement

2.2 As part of the Beta Test, the Tester will produce weekly written reports on the Product's performance, such reports to include identification of any errors, bugs or shortcomings in the Product as well as the Tester's comments and observations.

2.3 The Product shall be used by the Tester solely to perform an internal evaluation of the Product and for no other purpose whatsoever. In the course of such evaluation the Tester may process its own data and retain the benefit of such processing but Finco shall have no liability whatsoever for any errors or defects therein.

2.4 The Tester shall be entitled to a discount of \_\_\_ per cent from Finco's standard list price of the Product. The Tester's entitlement to such discount shall be subject to the Tester carefully and diligently completing the Beta Test.

**3. TITLE AND RISK**

3.1 The Product are confidential and proprietary to Finco and title to both shall remain with Finco at all times.

3.2 Risk in the Product shall remain with Finco but the Tester shall take all reasonable steps to safeguard the Product from loss or damage.

**4. THE TESTER'S OBLIGATIONS**

4.1 The Tester shall keep confidential and not disclose the existence, features, capabilities or contents of the Product or the results of the Tester's evaluation thereof or this Agreement to any third party except to the Tester's employees who are directly involved in the evaluation and have a specific need to know the information concerned (such confidentiality and non-disclosure obligations to survive the termination of this Agreement);

4.2 The Tester shall ensure that its employees observe the confidentiality and non-disclosure obligations contained in article 4.1 above.

4.3 The Tester shall keep the Product in its exclusive possession and control and safeguard them from access by any unauthorised person.

**5. TERM AND TERMINATION**

5.1 The Tester undertakes to carry out such Beta Testing for a period of \_\_\_ months or such other period as the Parties shall mutually agree (hereinafter the "Beta Test Period").

5.2 Upon termination of this Agreement the Tester shall surrender up to Finco the Product, together with all software, documentation and other data relating thereto whether prepared by the Tester or Finco and return or permit Finco to collect the equipment (if any) provided by Finco.

**6. INTELLECTUAL PROPERTY RIGHTS INDEMNITY**

6.1 Finco shall indemnify the Tester against any claim that the Tester’s use or possession of the Product and the Documentation infringes the intellectual property rights of any third party provided that Finco is given immediate and complete control of such claim.

6.2 Finco shall have the right to replace or change all or any part of the Product or to terminate this Agreement forthwith by notice in writing to the Tester in order to avoid any infringement. The foregoing states the entire liability of Finco to the Tester in respect of the infringement of the intellectual property rights of any third party.

**7. LIABILITY**

7.1 Because of the experimental nature of the Product, Finco does not warrant to the Tester that either is free from faults or defects.

7.2 The Tester shall use the Product at its own risk and in no event shall Finco be liable to the Tester for any loss or damage of any kind arising from the Tester’s use of or inability to use the Product or from faults or defects in either whether caused by negligence or otherwise.

**8. MISCELLANEOUS**

8.1 This Agreement supersedes all prior agreements, arrangements and understandings between the Parties and constitutes the entire agreement between the Parties relating to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the Parties unless made by a written instrument signed by a duly authorised representative of each of the Parties.

8.2 The Tester shall no right to assign this Agreement.

8.3 The headings to the articles of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

8.4 Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.

8.5 This Agreement shall be governed by and construed in accordance with the laws of Finland.

8.6 In the event of any dispute arising out of this Agreement or the breach thereof, the Parties hereto shall use their best endeavours 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 Helsinki, Finland. The language of the proceedings, documentation and award shall be English.

**IN WITNESS** whereof this Agreement has been executed by the Parties by their duly authorized representatives on the date first above written.

**Finco Oy Yhtiö Oy**

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

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**Managing Director Managing Director**

**APPENDIX 1 - PRODUCT**