**LICENSE AGREEMENT FOR REVENUE SHARING (neutraali)**

\* Sopimuspohja tehty neutraalista näkökulmas­ta tilanteeseen, jossa digitaalisen materiaalin tuottaja lisensioi tuotteensa (tässä DVD) jälleenmyyjäyritykselle, joka maksaa levitysoikeudesta alkumaksun ja levityksen laajuuteen perustuvan lisenssimaksun.

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 15, 20\_\_***

**LICENSE AGREEMENT FOR REVENUE SHARING**

As of January 15, 20\_\_ the following (the "Agreement") sets forth the terms of the license agreement (the "License") between Video Producer Company Oy ("**V-COMP**") and Retailer and Distribution Company Oy (the "**Retailer**") for revenue sharing on V-COMP's Rental Picture output (as defined below).

**ARTICLE 1 - TERM**

Three (3) year period commencing upon the "Launch Date" of the first "Rental Picture" (as such terms are defined below) released by V-COMP on or after date of execution of this Agreement.

**ARTICLE 2 – TERRITORY**

Worldwide.

**ARTICLE 3 - DEFINITIONS**

a) "Launch Date" means the first day Retailer is permitted by V-COMP to make a title available for rental to consumers.

b) "Licensed Units" shall mean the total number of DVD units licensed to Retailer hereunder.

c) "Month" shall be defined as each calendar month, and each Month shall end on the last day of such month.

d) "Picture Term" means for each Rental Picture the (as defined below) \_\_\_\_\_\_\_\_.

e) "Rental Picture" means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

f) "Revenue" means in the case of customer subscriptions (each, a "Subscription"), Revenue shall be determined as \_\_\_\_\_\_\_\_\_ . The parties agree that Retailer's calculation shall be subject to review and verification by V-COMP.

**ARTICLE 4 - LICENSED RIGHTS**

a) Video Distribution License: V-COMP licenses to Retailer on a limited and non-exclusive basis video distribution rights to the Rental Pictures in the DVD format only for rental only in the retail market in the Territory during the Term, subject to the terms hereunder.

b) Credit Worthiness: V-COMP and Retailer agree that this License is and shall during the Term be conditioned upon and subject to timely payments by Retailer to V-COMP in accordance with the terms and provisions of Articles 5 through 8 below.

c) Reservation of Title: Legal title to, and risk of loss of, the Licensed Units hereunder shall remain vested in V-COMP, subject to disposition of Licensed Units pursuant to Article 8 below. Retailer shall not permit any encumbrance to attach to any Licensed Units delivered pursuant to this Agreement.

d) Limitations on Bundling: In the event Retailer elects to bundle Rental Pictures with any other of Retailer's products, the effective retail price of the Rental Picture(s) shall be proportionate to the effective rental and/or retail price of each of the other products in the bundle.

**ARTICLE 5 - INITIAL PAYMENT TO V-COMP**

a) Initial Payment: For each Rental Picture licensed hereunder, Retailer shall pay aggregate amount (the "Initial Payment") as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

b) Payment Terms. For each Rental Picture, the Initial Payment shall be due and payable by Retailer \_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_

c) No Initial Payment or any other amount due or owing on any Rental Picture shall be cross-collateralized with the Initial Payment or any other amount due or owing on any other Rental Picture(s).

**ARTICLE 6 - REVENUE SHARING**

For each Rental Picture V-COMP's share of the Revenue shall be calculated as follows:

a) During the Picture Term: During the Picture Term V-COMP's Revenue Share shall be as defined in Article 3.f. above.

For purposes of clarification, the parties agree that V-COMP's share of Revenue per Subscription shall be calculated as: \_\_\_\_\_\_\_\_\_\_

b) Post-Picture Term: After the Picture Term subject to Articles 8.a. and b. below.

**ARTICLE 7 - STATEMENTS AND PAYMENTS**

a) Statements on monthly basis, within ten (10) business days after the Month, for each Rental Picture, Retailer shall provide to V-COMP, in the formats reasonably requested and as periodically amended by V-COMP, a statement (the "Statement") which reflects the rental and related activities for such Month, including, without limitation\_\_\_\_\_\_\_\_\_\_

b) Payments: To the extent any amounts are due pursuant to the Statements, such amounts shall be due and payable within \_\_\_\_\_\_\_\_\_\_\_.

**ARTICLE 8 - TREATMENT OF LICENSED UNITS DURING AND AFTER PICTURE TERM**

a) The parties agree that in the event a customer of Retailer fails or refuses to return any Licensed Unit to Retailer, Retailer shall pursuant to the terms of Article 7 above \_\_\_\_\_\_\_\_\_\_\_\_.

b) Retailer's Rental Inventory:\_\_\_\_\_\_\_\_\_\_\_

c) Effect of Non-Compliance; Penalty: The parties agree that failure by Retailer to comply with this Article 8 shall constitute a material breach of this Agreement. In such case, Retailer shall pay a penalty (the "Penalty") equal to \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**ARTICLE 9 - MARKETING/PROMOTION**

Both parties agree to review Retailer's marketing/promotion of V-COMP's product on an on-going basis during the Term.

**ARTICLE 10 - DELIVERY**

V-COMP, at its cost, shall use its good faith reasonable efforts to deliver product to distribution centers designated by Retailer not less than \_\_\_ business days prior to Launch Date for each Rental Picture, subject to timely placement of purchase orders by Retailer (i.e., by standard order due date).

**ARTICLE 11 - INFORMATION TO BE PROVIDED BY RETAILER**

To the extent reasonably available to Retailer and with respect to V-COMP product only, Retailer agrees to provide the following information to V-COMP at Retailer's expense:

a) Revenue Share Reporting: On a \_\_\_\_, no later than \_\_\_\_\_\_\_\_\_\_for activity \_\_\_\_\_\_\_\_\_\_\_\_ through the \_\_\_\_\_\_\_\_\_\_, Retailer shall deliver to V-COMP via e-mail or as reasonably requested by V-COMP, reports detailing the number of copies, in each instance, by format, by warehouse, provided that for the first ninety (90) days of the Term, the parties will work together to establish an appropriate reporting system for Retailer.

b) Other Information: Retailer and V-COMP shall mutually agree on other information, reporting formats and/or tracking or information formats and systems to be provided to each other.

**ARTICLE 12 - AUDIT RIGHTS**

Upon not less than seven (7) days advance written notice to Retailer, V-COMP, or its representatives or designees, shall have the right during normal business hours but not more than one (1) time per year during the Term and all the Picture Terms and two (2) times after the expiration of the Term and all the Picture Terms to inspect, audit and make extracts of the books and records of Retailer insofar as said books and records relate to the calculation or determination by Retailer of (a) Revenue, (b) V-COMP's Revenue Share, (c) Bad Debt, (d) customer freight charges, (e) the rights licensed hereunder, and any and all other obligations of Retailer under this Agreement throughout the duration Term and all Picture Terms.

Such rights of audit shall continue for a period of one (1) year following the expiration of the last Picture Term, as provided for under this Agreement. For purposes of clarification, there shall be no more than one (1) audit per year during the auditable period. The parties agree that Retailer shall have the right reasonably to approve independent auditors hired by V-COMP to conduct an audit, provided that the internal auditors of V-COMP and the accounting firm of Big & Four or V-COMP's then existing auditors shall be deemed pre-approved for any and all audits conducted pursuant hereto.

**ARTICLE 13 – CONFIDENTIALITY**

 Each of V-COMP and Retailer acknowledges that (i) the terms and conditions of this Agreement, and (ii) all information and data (including, without limitation, rental and revenue forecasts, projections and estimates and actual results, in whatever form or medium) (collectively, the "Confidential Information") provided by each party to the other under this Agreement are highly proprietary and confidential. Each of V-COMP and Retailer agrees that it shall not use Confidential Information (other than in connection with the performance of its obligations under this Agreement or the exercise of its rights under this Agreement) or disclose Confidential Information to any person (other than its officers, employees, agents, representative and licensors and licensees on a need-to-know basis only and who agree to be bound by the confidentiality obligations hereunder) or unless compelled by subpoena or court order or state or federal securities laws to disclose any such Confidential Information. This Article 13 shall survive expiration or earlier termination of this Agreement.

**ARTICLE 14 – INDEMNIFICATION**

a) Indemnification by Retailer: Except as otherwise provided in Article 14.b. below, Retailer shall defend, indemnify and hold V-COMP, its parent company, their affiliates and subsidiaries, and the officers, directors, agents and employees of each, free and harmless from all suits, claims, demands and other liabilities and expenses (including reasonable attorneys' fees) (each, a "Claim") which may arise directly or indirectly out of or by reason of (i) the unauthorized use by Retailer of any patented invention, or of any copyrighted material provided by V-COMP, (ii) a Claim from a customer arising out of Retailer's rental or retail practices or course of dealing with respect to such customer, and/or (iii) a breach or violation of this Agreement or any obligation, covenant, representation or warranty made hereunder by Retailer.

b) Indemnification by V-COMP. Except as otherwise provided in Article 14.a. above, V-COMP shall defend, indemnify and hold Retailer, its parent company, their affiliates, subsidiaries, and franchisees, and the officers, directors, agents, and employees of each, free and harmless from all Claims (including reasonable attorneys' fees) which may arise directly or indirectly out of or by reason of (i) copyright or trademark infringement by, or other third party Claim against, V-COMP or Retailer with respect to the content of any Rental Picture, provided such Claim or infringement is not the result of the negligence of Retailer or any employee or agent of Retailer, (ii) a physical defect in any Licensed Unit provided to Retailer hereunder by V-COMP, provided such defect was not caused by the negligence of Retailer or any employee or agent of Retailer, and/or (iii) a breach or violation of this Agreement or any obligation, covenant, representation or warranty made hereunder by V-COMP.

**ARTICLE 15 – REMEDIES**

a) General: Each of V-COMP and Retailer acknowledge and agree that a material breach by either party of any of its obligations under this Agreement, gives the other party the right to terminate this Agreement upon thirty (30) days prior written notice; provided that in the event the breaching party cures such breach within the notice period, the termination notice shall be void with respect to such cured breach only. Retailer acknowledges that (i) a failure by Retailer to pay V-COMP in accordance with the provisions of Articles 5-8 above and (ii) the failure by Retailer validly to issue the Shares to V-COMP and to grant certain rights with respect to such Shares as set forth in Article 14 above in accordance with all applicable securities laws and regulations shall constitute a material breach of this Agreement. Retailer waives any rights to seek injunctive relief with respect to the sale, license and/or other distribution of any Rental Picture, provided that Retailer does not waive any right it may have to seek specific performance under this Agreement with respect to any Rental Picture being distributed by V-COMP in the rental retail marketplace. The termination of this Agreement shall not relieve the parties of any obligations incurred prior to such termination.

b) Cap on Damages: Retailer specifically waives whatever rights it may have to seek consequential or punitive damages and/or lost profits resulting from a breach by V-COMP of its obligations under this Agreement; provided, however that this provision shall not limit Retailer's right to seek and/or obtain actual or direct damages suffered as a result of any breach by V-COMP of its obligations under this Agreement.

**ARTICLE 16 - REPRESENTATIONS AND WARRANTIES**

a) Representations and Warranties of Retailer:

(i) Authority: Retailer hereby agrees, warrants and represents that Retailer has full authority, capacity and ability to execute this Agreement and to perform all of its obligations hereunder.

 b) Representations and Warranties of V-COMP: V-COMP hereby agrees, warrants and represents that V-COMP has full authority, capacity, ability and right to execute this Agreement, to perform all of its obligations hereunder and to license the rights to Retailer hereunder pursuant to Article 4 above.

**ARTICLE 17 – TRADEMARKS**

a. Retailer Trademarks: V-COMP acknowledges that the Retailer's trademarks (the "Ret Trademarks") belong to Retailer and that V-COMP shall have no rights in such Ret Trademarks except for the purposes set forth in this Agreement. V-COMP shall not use the Ret Trademarks in any manner that is disparaging or that otherwise portrays Retailer in a negative light. V-COMP may not alter, modify or change the Ret Trademarks. Any goodwill arising out of the use of the Ret Trademarks hereunder shall inure to the benefit of Retailer. At no time during or after the term of this Agreement will V-COMP challenge or assist others to challenge the Ret Trademarks or the registration thereof or attempt to register any trademarks, marks or trade names confusingly similar to those Trademarks established as of the execution or during the term of this Agreement. At Retailer's reasonable request, all depictions of the Ret Trademarks that V-COMP intends to use will be submitted to Retailer for approval of design, color, or other details or will be exact copies of those used by Retailer. In the event Retailer does not approve of such depiction, V-COMP shall cease using such depiction upon reasonable notice.

b) V-COMP Trademarks: Retailer acknowledges that V-COMP's trademarks (the "V-COMP Trademarks") belong to V-COMP and that Retailer shall have no rights in such V-COMP Trademarks. Retailer shall not use the V-COMP Trademarks in any manner that is disparaging or that otherwise portrays V-COMP in a negative light. Retailer may not alter, modify or change the V-COMP Trademarks. Any goodwill arising out of the use of the V-COMP Trademarks hereunder shall inure to the benefit of V-COMP. At no time during or after term of this Agreement will Retailer challenge or assist others to challenge the V-COMP Trademarks or the registration thereof or attempt to register any trademarks, marks or trade names confusingly similar to those Trademarks established as of the execution or during the term of this Agreement. At V-COMP's reasonable 9 request, all depictions of the V-COMP Trademarks that Retailer intends to use will be submitted to V-COMP for approval of design, color, or other details or will be exact copies of those used by V-COMP. In the event V-COMP does not approve of such depiction, Retailer shall cease using such depiction upon reasonable notice.

**ARTICLE 18 – MISCELLANEOUS**

a) Amendment and Waiver. Except as otherwise provided herein, no modification, amendment or waiver of any provision of this Agreement shall be effective against any party, unless such modification, amendment or waiver is approved in writing by both Retailer and V-COMP. The failure of any party to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms.

b) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

c) Entire Agreement. Except as otherwise expressly set forth herein, this document embodies the complete agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way.

d) Assignment: (i) Retailer Assignment: This Agreement shall not be assigned by Retailer without the prior written consent of V-COMP, which consent shall not be unreasonably withheld or delayed. (ii) V-COMP Assignment: This Letter Agreement shall not be assigned by V-COMP without the prior written consent of Retailer, except to any corporation or entity which controls, is controlled by, or under common control with V-COMP.

e) Notices. All notices provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed first class mail (postage prepaid) or sent by reputable overnight courier service (charges prepaid) to the parties as follows:

If to Retailer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
If to V-COMP: \_\_\_\_\_\_\_\_\_

f) Governing Law. This Agreement and all matters or issues material thereto shall be governed by the laws of Finland.

g) Descriptive Headings. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

h) Relationship of Parties. Nothing contained herein shall constitute a partnership, joint venture, association or principal and agent relationship or be construed to evidence the intention of the parties to constitute such. Retailer and V-COMP are independent contractors and neither has any authority to act on the other's behalf or to bind the other in any way.

i) Force Majeure. Whenever performance by any party of its obligations under this Agreement, other than any of Retailer's payment obligations hereunder, is substantially prevented by reason of any act of God, strike, lock-out, or other industrial or transport disturbance, fire, lack of materials, law, regulation or ordinance, war or war conditions, or by reason of any other matter beyond such party's reasonable control, then such performance shall be excused and this Agreement shall be deemed suspended during the continuation of such prevention, and the term shall be extended for a period equal to the time of such suspension.

j) Survival: The rights, licenses and obligations in the Agreement of Articles 7, 8, 12, 13, and 17 shall survive and continue after termination or expiration of this Agreement and shall remain in full force and effect and shall bind the parties hereto and their legal representatives, successors, heirs and assigns.

**IN WITNESS WHEREOF**, this Agreement was executed by the parties on the date first written above.

**Date: Date:**

**Place: Place:**

**V-COMP Oy Retailer Oy**

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