

Beta Test Agreement Terms & Conditions

THIS BETA TEST AGREEMENT (“**Agreement**”) is a binding agreement between NABLA Mobility, Inc. whose principal place of business is located at Sakanoue Terrace #7, 9 Haraikatamachi, Shinjuku-ku, Tokyo, 162-0841, JAPAN (“**NABLA Mobility**”) and the person or entity identified at the end of this Agreement as “Beta Test Customer” (“**Customer**”). NABLA Mobility and Customer are each hereinafter jointly referred to as “**parties**” and individually as a “**party**” to this Agreement.

IMPORTANT: *This Beta Test Agreement governs customer’s use, testing and evaluation of NABLA Mobility’s Weave Pilot via this portal or hosted environment. NABLA Mobility provides the services and access to Weave Pilot solely on the agreement and on the condition that customer accepts and complies with the agreement. By using the Services you (a) accept this agreement and agree that customer is legally bound by its terms; and (b) represent and warrant that: (i) you are of legal age to enter into a binding agreement and (ii) if customer is a corporation, governmental organization, or other legal entity, you have the right, power, and authority to enter into this agreement on behalf of customer and bind customer to its terms. If customer does not agree to the terms of this agreement, NABLA Mobility will not provide access to the products or services described herein nor license to the customer and you must not access the services.*

1. DEFINITIONS

The following definitions apply to this Agreement:

1. “**Confidential Information**” means all confidential data or information in any form disclosed by one Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”) by any means that is designated as confidential. As a non-exhaustive list of examples, Confidential Information includes Data, information regarding a Party’s financial condition and financial projections, business and marketing plans, product plans, product and device prototypes, the results of product testing, research data, market intelligence, technical designs and specifications, secret methods, manufacturing processes, source code of proprietary software, the content of unpublished patent applications, customer lists, vendor lists, internal cost data, the terms of contracts with employees and third parties. Information may be Confidential Information regardless of the medium or manner by which it is disclosed, including disclosures orally or via printed or handwritten document, email or other electronic messaging, fax or telephone.
2. “**Customer**” means you, the person or entity that will be testing the Weave Pilot.
3. “**Customer Data**” means any electronic data, information or material provided or submitted by the Customer in the course of using a Service. For the avoidance of doubt, Customer Data does not include data and information related to Customer’s use of the Services that is used by NABLA Mobility in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services, or any other information reflecting the access or use of the Services by or on behalf of Customer or any Authorized User.
4. “**Customer Infrastructure**” means any information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services, on which Software is installed or will be installed.
5. “**Intellectual Property Rights**” are the exclusive rights held by the owner of a copyright, patent, trademark, or trade secret, including (i) the rights to copy, public perform, public display,

distribute, adapt, translate, modify and create derivative works of copyrighted subject matter; (ii) the right to exclude another from using, making, having made, selling, offering to sell, and importing patented subject matter and from practicing patented methods, (iii) the rights to use and display any marks in association with businesses, products or services as an indication of ownership, origin, affiliation, endorsement, or sponsorship; and (iv) the rights to apply for any of the foregoing rights, and all rights in those applications. Intellectual Property Rights also include any and all rights associated with particular information that are granted by law and that give the owner, independent of contract, exclusive authority to control use or disclosure of the information, including enforceable privacy rights and any rights in databases recognized by applicable law.

6. **“SaaS Services”** means the Weave Pilot’s initial service and associated content, operated and maintained by NABLA Mobility, and made accessible via a website or IP address designated by NABLA Mobility from time to time, or ancillary online or offline products and services provided to the Customer (and its Authorized Users) in respect of the Site.
7. **“Services”** means collectively or individually, the SaaS Services and/or the Support Services.
8. **“Support Services”** means the maintenance and upgrade services described herein and in any as may be further described in a Sales Order.
9. **“Test Period”** shall mean the period beginning the first business day after the Customer accepts these terms and conditions and ending as soon as the company terminates the agreement.

2. PROVISION OF SERVICES TO CUSTOMER

1. In return for Customer’s agreement to provide feedback and comments concerning the Weave Pilot, NABLA Mobility shall provide to Customer limited access during the Test Period to the Weave Pilot via the SaaS Services for Customer’s testing and evaluation purposes only and subject to the terms and conditions of this Agreement.

3. LIMITATIONS ON USE OF WEAWE PILOT

1. Customer may use the Services and access and use the Weave Pilot only for evaluation purposes and for its own internal business purposes in accordance with this Agreement. Customer shall not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services or Products, modify, translate, or create derivative works based on the Services or the Products; copy for any purpose, rent, lease, download, transmit, distribute, pledge, assign, or otherwise transfer or encumber rights to the Products or the Services; use the Products or Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; or access or attempt to access any other NABLA Mobility subscriber accounts, files or restricted information other than Customer’s own Customer Data (as defined in Section 1). Customer shall not permit any contractor of Customer, nor any other third party to do any of the foregoing.

4. USE OF PRODUCT IS AT CUSTOMER’S RISK

1. Customer expressly acknowledges and agrees that its use and access of the Weave Pilot and Services is at its own sole risk. Customer understands that the Weave Pilot and Services may have errors, be incomplete, and may produce unexpected results. Customer agrees to backup data and take other appropriate measures to protect its programs and data and systems.

5. DISCLAIMER OF WARRANTIES

1. *The services and the Weave Pilot are provided “as is, where is” and NABLA Mobility makes no warranties either express or implied, as to the Weave Pilot and the services provided to customer, or any other matter whatsoever, and disclaims all implied warranties, including all implied warranties of merchantability, fitness for any particular purpose, title, non-infringement and the accuracy, completeness or fitness of any data or services provided or processed pursuant to this agreement. Without limiting the foregoing, NABLA Mobility does not warrant that the Weave Pilot or the services will meet any or all of customer’s business requirements or will operate in a particular computer environment or that the operation of the Weave Pilot or the services will be uninterrupted or error-free. In no event shall NABLA Mobility be liable for any direct, special, indirect, incidental, consequential, punitive or exemplary damages, loss of profits, or loss of goodwill, including but not limited to damages or loss due to lost data, lost profits or lost savings, arising out of or in connection with the use or inability to use, or the performance or lack thereof, of the Weave Pilot or services, even if customer has been advised of the possibility thereof. NABLA Mobility’s entire liability for any claim arising hereunder shall not exceed ten U.S. dollars (\$10.00 U.S.).*

6. CUSTOMER SHALL PROVIDE FEEDBACK

1. Customer agrees, upon request, to provide feedback to NABLA Mobility about the Weave Pilot. Customer shall keep its feedback confidential and not disclose the feedback to any other person or entity other than NABLA Mobility. Customer agrees not to disclose any of its own proprietary or confidential information to NABLA Mobility. Customer further agrees that the contents of all oral and written reports and feedback to NABLA Mobility and any other materials, information, ideas, concepts, and know-how provided by Customer (including corrections to problems or issues with the Weave Pilot) (collectively, “**Improvements**”) become the property of NABLA Mobility and may be used by NABLA Mobility for any and all business purposes, without any accounting or any payment to Customer. Customer agrees to assign and hereby does assign all Improvements conceived, communicated or provided to NABLA Mobility during the Test Period. All feedback and Improvements described hereunder shall be considered the Confidential Information of NABLA Mobility.

7. OWNERSHIP OF PRODUCTS AND SERVICES

1. Customer acknowledges that the Weave Pilot and the Services, together with all of the intellectual property and proprietary rights embedded within or arising from the Weave Pilot and the Services are the sole and exclusive property of NABLA Mobility. Customer acquires no ownership interest in the Weave Pilot or the Services from this Agreement or its use of the Weave Pilots and Services hereunder except for its limited use and access rights during the Test Period.

8. CUSTOMER DATA AND SECURITY OF SYSTEMS

1. While using the Weave Pilot under this Agreement Customer may enter Customer Data into the Weave Pilot and/or the Weave Pilot may collect Customer Data. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all information, instructions, and materials provided by or on behalf of Customer or any Authorized User in connection with the Services; (c) Customer’s information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services; (d) the security and use of Customer’s and its Authorized Users’ access credentials; and (e) all access to and use of the Services and Documentation directly or indirectly by or through the Customer Infrastructure or its or its Authorized Users’ access credentials, with or without

Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

2. Customer agree that NABLA Mobility may access, store, process and use any information and personal data that you provide in accordance with, the terms of the [Privacy Policy](#) and your choices.

9. CUSTOMER OBLIGATION TO MAINTAIN SECURITY

1. Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) protect against any unauthorized access to or use of the Weave Pilot and Services; and (b) control the content of and use of Customer Data, including the uploading or other provision of Customer Data to or through the Weave Pilot and Services.

10. CONFIDENTIALITY

1. Each Party agrees as follows: (a) to use Confidential Information disclosed by the other Party only for the purposes described herein; (b) that such Party will not reproduce Confidential Information disclosed by the other Party, and will hold in confidence and protect such Confidential Information from dissemination to, and use by, any third party; (c) that neither Party will create any derivative work from Confidential Information disclosed to such Party by the other Party; (d) to restrict access to the Confidential Information disclosed by the other Party to such of its personnel, agents, and/or consultants, if any, who have a need to have access and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement; and (e) to the extent practicable, return or destroy, all Confidential Information disclosed by the other Party that is in its possession upon termination or expiration of this Agreement. Notwithstanding the foregoing, Customer agrees that NABLA Mobility may collect aggregated statistical data regarding Customer's use of the Services and provide such aggregated statistical data to third parties. In no event shall NABLA Mobility provide to third parties specific data regarding Customer or Customer's authorized users.
2. Notwithstanding the foregoing, these provisions will not apply to Confidential Information that (a) is publicly available or in the public domain at the time disclosed; (b) is or becomes publicly available or enters the public domain through no fault of the recipient; (c) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (d) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (e) is independently developed by the recipient; or (f) is approved for release or disclosure by the disclosing Party without restriction. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (x) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (y) to establish a Party's rights under this Agreement, including to make such court filings as it may be required to do.

11. TERMINATION

1. This Agreement may be terminated immediately by either party through written notice if the other party breaches any of the material provisions of this Agreement and fails to remedy such breach within thirty (30) days after written notification by the other party of such breach. Notwithstanding the foregoing, this Agreement may be terminated immediately by NABLA Mobility in the event of Customer's breach of the confidentiality, security and proprietary and related ownership rights provisions of Sections 7-10 of this Agreement.

12. GENERAL PROVISIONS

1. This Agreement does not authorize Customer to use NABLA Mobility's names or trademarks or the fact of the beta test for any publicity or marketing or other activities. Neither Customer nor NABLA Mobility has any obligation to purchase anything under this Agreement. No agency, partnership, joint venture, or other joint relationship is created by this Agreement.
2. This Agreement is a complete statement of the agreement between the parties, supersedes all prior understandings or agreements whether verbal or written between the parties related to the Weave Pilot and subject matter, and any change or addition to this Agreement must be in writing and signed by both parties. Customer may not assign, transfer or otherwise authorize any other person to exercise Customer's rights, obligations or interest in or under this Agreement without the prior written consent of NABLA Mobility. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of this or any other right under this Agreement.

13. GOVERNING LAW

1. The agreement shall be governed by and construed in accordance with the laws of Japan.

14. AGREED JURISDICTION

1. Each party agrees that if any dispute arises between the Parties with respect to the agreement and the need for litigation arises, the Tokyo District Court or the Tokyo Summary Court shall be the court of exclusive jurisdiction in the first instance.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement on the dates set forth under their signatures.