



About The Beta Test Mutual Non-Disclosure and Participation Agreement

Congratulations on being selected to participate in an upcoming Beta Test of our product. The attached Beta Test Mutual Non-Disclosure and Participation Agreement is a legal document executed between you and The Concinnity Company™ (“TCC”) that outlines our obligations to each other and that sets out the terms of your participation in the Beta Test. By signing this document, you are agreeing to:

- Not disclose that you are participating in this test or disclose any of TCC’s proprietary materials and processes and TCC’s Confidential Information, Beta Test Material or Supplemental Information.
- Not share copies, pictures, or videos of the test materials in any form.
- Not reverse engineer, alter, modify, disassemble or decompile any of TCC’s Confidential Information, Beta Test Material or any aspect of TCC’s processes.
- Understand that by participating you gain no right to any proprietary information or processes that are owned by TCC and/or that result from this Beta Test; you acknowledge that TCC’s technology is novel, non-obvious and useful.
- Designate a Beta Test technical contact.
- Use the Beta Test materials only as directed.
- Notify TCC of all functional flaws, errors, anomalies, and problems (“bugs”) and to provide TCC with reports via the methods designated by TCC.
- Respond to user surveys and our questions, provide us with your complete (positive and negative) input about your use of our product features.

Included in these terms is our commitment to you that we will not disclose any of your confidential information or proprietary processes to which we may be given access as we conduct this Beta Test. We will work collaboratively with you in applying The Concinnity Framework™ to your Board’s work, and will, at a minimum:

- Provide a Virtual Boardroom, a workspace for messaging and video-conferenced meetings that includes a searchable library of your documents,
- Deliver a Board Playbook that sets up a workflow for agreed upon activities, and
- Establish a Board Scoreboard or upload your existing dashboard.

We look forward to working with you, to your using our methodologies that will provide your Board the Freedom to Think™.

The Beta Test Mutual Non-Disclosure and Participation Agreement

This Beta Test Mutual Non-Disclosure and Participation Agreement (“Agreement”) is made and entered into between {Participant} (“Participant”) and The Concinnity Company (“TCC”), collectively referred to as “the Parties” and is effective as of {enter date} or, if no date is supplied, as of the date of acceptance by the Participant. Participant is an organization or business that desires to participate in “beta testing”. Beta testing provides access to confidential materials or services currently in development by TCC. TCC wishes to obtain the benefit of Participant’s services and reports as a beta tester of TCC’s materials or services and the Parties understand that in doing so TCC may be provided with the Participant’s Confidential Information and the Participant may be provided access to TCC’s Confidential Information and Beta Testing Materials. In consideration of the mutual covenants and conditions, the parties agree to the following terms and conditions as to these Confidential materials and Beta Testing Materials and as to participation in the Beta Test:

1. **Confidential Information.** "TCC’s Confidential Information" means, as it applies, all information, whether written or oral, and in any form (including, without limitation, the Beta Testing Materials described below, the Supportive Information described below, software (in source or object code), engineering documents, manuals, reports, designs, drawings, plans, flowcharts, program listings, data file printouts, printed circuit boards, processes, component part listings and prices, product information, new product plans, sales and marketing plans and/or programs, and pricing information) relating to TCC’s beta-tested products or services disclosed either directly or indirectly to Participant. “Participant’s Confidential Information” means, as it applies, all information that the Participant deems to be confidential about its current, previous or future business, whether written or oral, and in any form (including, without limitation, software (in source or object code), processes, information related to the Participant’s business or that of its competitors, business and product plans, sales and marketing plans and/or programs, board information and administrative process).

2. **Confidentiality**
 - a. Participant acknowledges that as a beta tester, Participant may have access to, and TCC may disclose to Participant, certain TCC Confidential Information as described in Section 1. TCC acknowledges that it may have access to and Participant may disclose certain Participant Confidential Information as described in Section 1. The Parties shall use each others’ Confidential Information solely for beta testing purposes and, for a period of three (3) years from TCC’s or Participant’s receipt of the Confidential Information, the parties shall not disclose, without the other’s written consent, such Confidential Information to third parties or use such Confidential Information for its own benefit or for the benefit of third parties.

 - b. If Participant is a company or other entity, Participant shall disclose TCC’s Confidential Information only to those of its board of directors, its employees, agents or consultants (collectively referred to as “Beta Testers”) who need to know such information for the purpose of participating in the agreed-upon beta testing, and shall ensure that Beta Testers observe the confidentiality obligations in this Agreement. TCC agrees that it will provide Participant’s Confidential Information only to its

employees, agents or consultants (collectively referred to as “TCC personnel”) who need to know such information for the purpose of the agreed-upon beta testing, and shall ensure that TCC personnel observe the confidentiality obligations in this Agreement. The Parties acknowledge that the Beta Testing Materials contain Confidential Information developed or acquired by each party respectively and that neither party obtain any rights therein to the others’ Confidential Information by being given access to such information while participating in this Beta Test. Participant and its Beta Testers agree they will not disclose to any third party without TCC’s prior written consent that Participant is evaluating or testing or has evaluated or tested TCC’s product or services. In addition, Participant agrees to treat any communications and reports prepared in Participant’s capacity as a tester during the agreed-upon beta test as Confidential Information and will not divulge the existence or content of such communications or reports to any third party without TCC’s prior written consent.

- c. This Agreement shall impose no obligation of confidentiality upon the Parties with respect to any portion of the Confidential Information which: (i) now or hereafter, through no act or failure to act on the Parties’ part, becomes generally known or available; (ii) was already known at the time that Party received same from the other, as evidenced by written records ; (iii) is hereafter furnished to the disclosing Party by a third party who legally obtained Confidential Information without restriction on disclosure.
3. **Beta Test Material.** Each material or service listed on Exhibit A and all components, accessories, and documentation related to each such Beta Test Material and/or technology provided by TCC including, but not limited to, specifications, features and other technical information, and all updates or revisions thereto, shall be referred to in this Agreement as the “Beta Test Material.” The parties hereto agree that Participant shall be a beta tester for those Beta Test Materials and services set forth on Exhibit A, as may be amended from time to time by TCC.
 4. **License.** TCC hereby grants Participant a non-exclusive, non-transferable consent and license to use Beta Test Material solely for the purpose of evaluating and testing the Beta Test Material for TCC as described in Exhibit A. The Beta Test Material are TCC’s Confidential Information and may not be publicly disclosed, sublicensed, sold, assigned, leased, loaned, or otherwise transferred by Participant to any third party for any reason.
 5. **TCC’s Obligations.**
 - a. TCC will deliver the Beta Test Material to Participant at TCC’s expense.
 - b. TCC will provide the support or warranty service for the Beta Test Material described in the Exhibit A and no other support or services.
 - c. TCC has no obligation to develop or provide any updates or revisions to the Beta Test Material, and TCC reserves the right to alter or adjust performance specifications for the Beta Test Material as it deems necessary or desirable.
 6. **Participant’s Obligations.**
 - a. Participant agrees to test and evaluate the Beta Test Material as requested.

- b. Participant agrees to familiarize itself with the Beta Test Material information provided by TCC and to only use or test the Beta Test Material as directed. Participant will Notify TCC of all functional flaws, errors, anomalies, and problems (“bugs”) and to provide TCC with reports via the methods designated by TCC and to promptly respond to any and all reasonable inquiries, questionnaires, surveys and other test documents submitted to Participant by TCC.
- c. If Participant is a company or other entity, Participant shall designate to TCC, in writing, an employee or representative who will serve as the single technical contact at the Beta site for the Beta Test Material, and who will be responsible for maintaining communication with the TCC personnel on a regular basis. If Participant changes its technical contact person, it will promptly notify TCC in writing of such change.
- d. Any feedback, ideas, modifications, suggestions, improvements, and the like made by Participant with respect to the Beta Test Material (“Supportive Information”) will be the property of TCC and is TCC’s Confidential Information. Participant agrees to assign, and hereby assigns, all right, title, and interest worldwide in the Supportive Information and the related intellectual property rights to TCC and agrees to assist TCC, at TCC’s expense, in perfecting and enforcing such rights. TCC may disclose or use Supportive Information for any purposes whatsoever without any obligation to Participant.

7. Proprietary rights; No Right to Copy, Modify, or Disassemble.

- a. The Parties agree that the Confidential Information provided by each party and all copies thereof, are proprietary to and the property of the providing Party. Parties agree that all applicable rights in all copyrights, trademarks, trade secrets, trade names, patents and other intellectual property rights in or associated with the Confidential Information provided each other are and will remain with the providing party.
 - b. The Beta Test Material, Supportive Information, and other TCC Confidential Information provided by TCC and all copies thereof, are proprietary to and the property of TCC. Participant acknowledges that TCC’s technology is novel, non-obvious and useful. Participant agrees it and its agents, contractors and employees shall not reverse engineer, alter, modify, disassemble or decompile any of the Beta Testing Material, or any part thereof, without TCC’s prior written consent.
 - c. Participant may not copy or reproduce TCC’s Confidential Information, Beta Testing Material, Supportive Information or any aspect of TCC’s processes used in the Beta Test without TCC’s prior written consent, except as reasonably needed to perform its obligations as a beta tester and subject to the following restrictions. Each copy of software or documentation made by Participant, or any of TCC’s document templates used by the Participant that are downloaded must contain TCC’s proprietary and copyright notices in the same form as on the original. Participant shall not remove or deface any portion of any legend provided on any part of the Beta Testing Material or Confidential Information.
8. **Disclaimer of Warranty.** By its nature, the Beta Test Material may contain errors, bugs, and other problems that could cause system failure and the testing and quality assurance of the Beta Test Material

may not yet be completed. Because the Beta Test Material is subject to change, TCC reserves the right to alter the Beta Test Material at any time, and any reliance on the Beta Test Material is at Participant's own risk. PARTICIPANT ACCEPTS THE BETA TEST MATERIAL "AS IS." TCC MAKES NO WARRANTY OF ANY KIND REGARDING THE BETA TEST MATERIAL. TCC HEREBY EXPRESSLY DISCLAIMS ALL IMPLIED AND STATUTORY WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTIES RIGHTS.

9. Term and Termination.

- a. The term of this Agreement shall begin on the date set forth above (or, if no date is given, then the date both parties accept this Agreement by written signature) and shall continue until terminated as set forth below. Upon termination of this Agreement for any reason, the three-year mutual obligation to protect Confidential Information, as set forth in Section 2 shall survive such termination. This Agreement may be terminated at any time for any reason by either party giving ten days prior written notice to the other party. A particular Beta Test Mutual Non-Disclosure and Participation Agreement shall automatically terminate upon the general release to the public of the final product derived from the Beta Test Material by TCC or sooner upon ten days prior written notice by either party, or later if a supplemental Agreement is reached by the Parties. The parties acknowledge that TCC is under no obligation to release any final product or Beta Test Material to the public.
- b. The obligations of the Parties under Sections 2, 8, 9, 10 and 11 shall survive the termination of this Agreement.

10. **Limitation of Liability.** IN NO EVENT SHALL TCC BE LIABLE TO PARTICIPANT OR ANY THIRD PARTY FOR ANY GENERAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, DIRECT, SPECIAL, OR PUNITIVE DAMAGES, ARISING OUT OF OR RELATING TO THE BETA TEST MATERIAL OR THE TRANSACTIONS CONTEMPLATED HEREIN.

11. **Exporting Restrictions; United States Government Legends.** Beta Test Materials, including Software, provided to Participant may be subject to United States Export Restrictions. Participant agrees not to export or re-export any Beta Test Material or accompanying documentation in violation of any applicable laws and regulations of the United States or the country in which Participant obtained them.

12. **Waiver.** A waiver of any default hereunder or of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition, but shall apply solely to the instance to which such waiver is directed.

13. **Assignment; Severability.** Participant agrees not to assign any rights under this Agreement; any attempted assignment shall be null and void and shall result in the termination of this Agreement. If any part of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other part or provision of this Agreement which shall remain in full force and effect.

14. **Governing Law.** This Agreement shall be governed by the laws of Tennessee excluding any such laws that might direct the application of the laws of another jurisdiction. The federal or state courts located in the Tennessee shall have exclusive jurisdiction to hear any dispute under this Agreement.

15. **Entire Agreement.** This Agreement and Exhibit A hereto represent the entire agreement between the parties regarding the subject matter hereof and supersede any and all prior agreements between the parties, whether written or oral, regarding the subject matter hereof. This Agreement may not be modified or amended except by the written acceptance of both parties.

IN WITNESS WHEREOF, the Parties agrees to the terms of this Agreement.

PARTICIPANT Signature

Participant Name (Print)

Date

The Concinnity Company

Date

Exhibit A

Description of TCC Beta Test Material(s) to be Tested:

- a workspace for messaging and video-conferenced meetings that includes a searchable library of your documents,
- a Board Scoreboard or your existing dashboard uploaded, and
- a workflow for agreed-upon activities.