

# About The Beta Participant Agreement

Congratulations on being selected to participate in Canary's Beta Program! This Beta Participant Agreement is a legal document being executed between you and Canary Connect Inc. ("Canary") that outlines your obligations by participating in the Beta Program. It is important for Canary that you are comfortable with these terms. While it may not be exciting reading, you should read the entire agreement before you sign it. If you do not understand or agree to any part of the agreement, you should not sign this document and instead ask questions before completing it.

By signing this document, you are agreeing to all the provisions. Included in these terms is your agreement to:

- Actively use and evaluate the product or service being tested;
- Provide the types of feedback requested and respond to questions;
- Give Canary all rights to use any feedback you submit;
- Not disclose that you are participating in the Beta Program;
- Not show the materials to others;
- Not share copies, pictures, or videos of any materials you receive in any form (including social media);
- Return any materials or hardware if requested.

Thank you! We look forward to your participation!

# BETA PARTICIPANT AGREEMENT

This Beta Participant Agreement (“Agreement”) is entered into between \_\_\_\_\_ (“Participant”) and Canary Connect Inc. (“Canary”), and is effective as of the date of signature by the Participant.

Participant is an individual that desires to participate in Canary’s Beta Program, which provides access to confidential materials, services, products, and features currently in development by Canary. In exchange, Canary will receive the benefit of Participant’s feedback and reports as a beta tester of Canary’s materials, services, products, and features.

Canary and Participant agree to the following:

1. **Beta Test Material.** All materials, services, products, and features (including any related components, accessories, and documentation) provided by Canary in connection with the Beta Program shall be referred to in this Agreement as the “Beta Test Material.”
2. **License.** Canary grants Participant a personal, non-exclusive, non-transferable license to use each Beta Test Material solely for the purpose of Participant’s internal evaluation and testing of the Beta Test Material for Canary. The Beta Test Material may not be disclosed (publicly or privately), sublicensed, sold, assigned, leased, loaned, or otherwise transferred by Participant to any third party, for any reason.
3. **Third Party Software.** The Beta Test Materials may contain or use certain software that is owned by third parties (“Third Party Software”). Third Party Software is subject to terms and conditions other than those in this Agreement. Participant may view the relevant licenses and/or notices for such Third Party Software on their respective websites. A list of third party software can be provided upon request. As applicable, the terms of Participant’s use of the Third Party Software is subject to and governed by the applicable third party licenses and/or terms of service, except that the Sections “License”, “Disclaimer of Warranty” and “Limitation of Liability” of this Agreement also govern Participant’s use of the Third Party Software. Participant agrees to comply with the terms and conditions of the relevant Third Party Software licenses and/or terms of service.
4. **Canary’s Obligations.**
  1. Canary will deliver the Beta Test Material to Participant at Canary’s expense.
  2. Canary will provide shipping return services for the Beta Test Material at its own expense.
  3. Canary will provide technical support for the Beta Test Material.
  4. Canary has no obligation to develop or provide any updates or revisions to the Beta Test Material, and Canary reserves the right to alter or adjust performance specifications for the Beta Test Material as it deems necessary or desirable.

5. Canary will provide the instructions, safety information, warnings or cautions concerning the Beta Test Material.

**5. Participant's Obligations and Representations.**

1. Participant agrees to test and evaluate the Beta Test Material as requested and described in any instructions provided by Canary. Participant agrees to familiarize itself with the Beta Test Material information, instructions and documentation provided by Canary and to only use or test the Beta Test Material as directed. Participant will promptly notify Canary of any and all functional flaws, errors, anomalies, and problems directly or indirectly associated with the Beta Test Material known to or discovered by Participant. Participant agrees to provide Canary with such reports via the methods designated by Canary and to promptly respond to any and all reasonable inquiries, questionnaires, surveys, and other test documents submitted to Participant by Canary.
2. If Participant is a company or other entity, Participant shall designate to Canary, an employee or representative who will serve as the single point of contact and who will be responsible for maintaining communication with Canary. In addition, the address, where Participant will test the Beta Test Material, will be provided to Canary. If Participant changes either its contact person or address, it will promptly notify Canary of such change.
3. Participants acknowledge that the Beta Test Materials may monitor and record persons in range, which may include persons of all ages. Participants are solely responsible for ensuring that they provide the appropriate notice to and obtain consent from, in accordance with applicable law, all persons (or in the case of a person under the age of majority in the particular jurisdiction, appropriate parent or legal guardian) whose voice or image may be captured through the Beta Test Materials.
- 4. Participants agree, that as a condition of participation in the Beta Program, Canary will have access to all video recorded by any Canary device in the Beta Program for the purposes of research and refining our service.**
5. Participant agrees to return the Beta Test Material in good condition (taking into account reasonable wear and tear) to Canary within seven (7) days of Participant's receipt of Canary's request to do so.
6. 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 Canary. Participant agrees to assign, and hereby assigns, all right, title, and interest worldwide in the Supportive Information and the related intellectual property rights to Canary. Canary may disclose or use Supportive Information for any purposes whatsoever without any obligation to Participant.
7. Participant agrees to pay all incidental costs (such as, costs for Internet and phone services, accessories, cabling, etc.) associated with the testing of the Beta Test Material and incurred during Participant's possession of the Beta Test Material, unless otherwise agreed to in writing by both parties.
8. You represent that neither you nor any household member is: a) a member of the press or any public newsgroup, or b) an employee or representative of any competitor of Canary. "Competitor" means any person, firm, corporation, or other entity that provides products or services, or has any significant or material business, in either the home security or smart home industries.

- Participant agrees to be bound by any additional terms and guidelines in Canary's Website Terms of Service (available at [www.canary.is/legal](http://www.canary.is/legal)), including any community guidelines and/or prohibited use, in connection with any user forums available or accessible during the Beta Program.

## **6. Confidentiality**

- Participant acknowledges that as a beta tester, Participant, the members of Participant's household, or Participant's employees (as applicable, "Recipients"), may have access to, and Canary may disclose to Participant, certain valuable information belonging to and relating to Canary which Canary considers confidential, including, but not limited to, information concerning the Beta Test Material, the Beta Test Material's trademark(s) and trade name(s), computer programs, user manuals, sales and marketing plans, business plans, processes, and other trade secrets ("Confidential Information"). Participant shall ensure that Participant and all Recipients, use the Confidential Information solely for testing purposes and shall not disclose, without Canary's written consent, such Confidential Information to third parties or use such Confidential Information for their own benefit or for the benefit of third parties.
- If Participant is a company or other entity, Participant shall disclose Confidential Information only to those of its employees who need to know such information for the purpose of testing Canary's products and services, and who are subject to written obligations of confidentiality.
- Participant acknowledges that the Beta Test Material contains Confidential Information developed or acquired by Canary and that all right, title and interest therein and in other Canary Confidential Information remain vested in Canary. Participant shall not, and shall ensure that all Recipients do not, disclose that it is evaluating or testing or has evaluated or tested the Beta Test Material (or the results of such testing) to any third party without Canary's prior written consent, including but not limited to disclosure over social media. In addition, Participant agrees to treat any communications and reports prepared under this Agreement as Confidential Information and will not divulge the existence or content of such communications or reports to any third party without Canary's prior written consent.
- This Agreement shall impose no obligation of confidentiality upon Participant with respect to any portion of the Confidential Information which: (i) now or hereafter, through no act or failure to act on Participant's part, becomes generally known or available; (ii) is known to Participant at the time Participant receives same from Canary as evidenced by written records; (iii) is hereafter furnished to Participant by a third party as a matter of right and without restriction on disclosure.

## **7. Proprietary Rights; No Right to Copy, Modify, or Disassemble.**

- The Beta Test Material provided by Canary and all copies thereof, are proprietary to and the property of Canary. All applicable rights in all copyrights, trademarks, trade secrets, trade names, patents and other intellectual property rights in or associated with the Beta Test Material are and will remain vested in Canary and Participant shall have no such intellectual property rights in the Beta Test Material.
- Participant may not, and shall prevent all Recipients from attempting to, copy or reproduce the Beta Test Material without Canary's prior written consent, except as reasonably needed to perform its obligations hereunder. Participant may not, and shall prevent all Recipients from attempting to, copy or reproduce any software or documentation provided by Canary, without

Canary's prior written consent, except as is reasonably needed to perform Participant's obligations under this Agreement. Each permitted copy of software or documentation must contain Canary'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 Test Material.

3. Participant agrees to secure and protect the Beta Test Material in a manner consistent with the maintenance of Canary's rights therein and to take appropriate actions by instruction or agreement with any of its employees or agents.
4. Participant shall not, and shall prevent all Recipients from attempting to, reverse engineer, alter, modify, disassemble or decompile the Beta Test Material, or any part thereof, without Canary's prior written consent.
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. Participant acknowledges and agrees that the Beta Test Materials may contain, in Canary's sole discretion, more or fewer features or different licensing terms than subsequent commercial release versions. Because the Beta Test Material is subject to change, Canary 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. Without limiting any disclaimer of warranty or other limitation stated herein, Participant agrees that any Beta Test Materials are not considered by Canary to be suitable for commercial use, and that they may contain errors affecting their proper operation. PARTICIPANT ACCEPTS THE BETA TEST MATERIAL "AS IS." CANARY MAKES NO WARRANTY OF ANY KIND REGARDING THE BETA TEST MATERIAL. CANARY 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. NEITHER CANARY NOR ITS LICENSORS WARRANT THAT THE BETA TEST MATERIALS OR THE THIRD PARTY SOFTWARE WILL MEET PARTICIPANT'S REQUIREMENTS, THAT THE OPERATION OF THE BETA TEST MATERIALS OR THE THIRD PARTY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE BETA TEST MATERIALS WILL BE CORRECTED.
9. **Term and Termination.**
  1. The term of this Agreement shall begin on the date set forth above (or, if no date is given, then the later of the dates each party accepted this Agreement by written signature) and shall continue until terminated as set forth below. Upon termination of this Agreement for any reason, the obligation to protect Confidential Information shall survive such termination.
  2. This Agreement shall terminate upon ten (10) days prior written notice by either party.
  3. Upon termination of this Agreement, Participant agrees to (a) return the Beta Test Material and all copies thereof to Canary, if requested by Canary in writing to do so, within seven (7) days after such termination, or (b) if requested by Canary to do so, certify to Canary in writing that the Beta Test Material and all copies thereof have been destroyed, or (c) purchase the Beta Test Material. The provisions of, and the obligations of the parties under, Sections 5, 6, 7, 8, 9 and 10, and any other provisions that would normally survive, shall survive the termination of this Agreement.

- 10. **Limitation of Liability.** IN NO EVENT SHALL CANARY 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, EVEN IF CANARY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY EVEN IF THIS AGREEMENT OR ANY LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
- 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 shall not assign any rights or delegate any obligations under this Agreement, by operation of law or otherwise, without Canary's prior written consent; 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 the State of New York, excluding any such laws that might direct the application of the laws of another jurisdiction. The parties agree that the federal or state courts located in New York, New York shall have exclusive jurisdiction to hear any dispute under this Agreement.
- 15. **Entire Agreement.** This Agreement 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 Participant agrees to the terms of this Agreement effective as of the date of this acceptance.

<b>PARTICIPANT</b>	
<b>Signature</b>	
<b>Participant Name (Print)</b>	
<b>Date</b>	