

QAMETA SOFTWARE INC  
ALLURE TESTOPS  
SOFTWARE LICENSE TERMS

**THESE SOFTWARE LICENSE TERMS CONSTITUTE A BINDING LEGAL AGREEMENT BETWEEN THE ORGANIZATION YOU REPRESENT (the "LICENSEE") AND QAMETA SOFTWARE, INC (the "LICENSOR").**

**BY USING THE PRODUCT, YOU ACCEPT THESE SOFTWARE LICENSE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, YOU MUST NOT ACCEPT THEM, CREATE AN ACCOUNT, OR USE THE PRODUCT.**

THE PRODUCT IS DESIGNED SOLELY FOR BUSINESS APPLICATIONS OR FOR USE IN CONNECTION WITH AN INDIVIDUAL'S TRADE, CRAFT, OR PROFESSION.

**"Allure TestOps"** is the Licensor's proprietary software program, including executable files and data in machine-readable form, licensed by the Licensor ("Product"). This includes any updates, upgrades, enhancements, and related documentation (see: [Allure TestOps Product Documentation](#)) provided by the Licensor to the Licensee.

These Software License Terms ("Agreement") apply to the Product specified above, including any updates and services by the Licensor, unless such updates or services come with new or additional terms. In that case, the new terms apply moving forward and do not change the rights associated with the software or services provided before the update.

This Agreement is effective from the date you first access the Product ("Effective Date").

## **1. GRANT OF RIGHTS**

- 1.1. License Grant.** Provided that the Licensee adheres to the terms of this Agreement, the Licensor grants the Licensee a non-exclusive, non-transferable, worldwide, revocable, and non-sublicensable right to install and use the Product and its accompanying [Product Documentation](#) on a subscription basis, in consideration of a fee. This license is granted solely for the Licensee's internal use to effectively utilize the Product.
- 1.2. Lawful Use Requirement.** The Licensee agrees to use the Product solely for purposes that are lawful and in accordance with this Agreement.
- 1.3. Responsibility for Installation and Operating Environment.** The Licensee is responsible for downloading and installing the Product and the security of its Operating Environment (consisting of the hardware, software, network

configurations, and security measures that the Licensee uses to install and run the Product). The Product is made available for download on a resource specified by the Licensor.

**1.4. Applicability of Agreement to Reseller Transactions.** This Agreement (except for relevant parts of Section 3) applies regardless of whether the Licensee makes a purchase directly from the Licensor or through an authorized reseller. Resellers and distributors are not authorized to make any representations, promises, or commitments on behalf of the Licensor. The Licensee acknowledges and agrees that the Licensor is only bound by the obligations expressly stated in these Software License Terms.

**1.5. Trial Period.** Subject to the terms of this Agreement, the Licensee is granted a one-time, no-charge right to install and use the Product for evaluation purposes for a period of thirty (30) days from the date of installation (the "**Trial Period**"). During the Trial Period, the Licensee determines whether the Product meets the Licensee's requirements.

Upon the expiration of the Trial Period, the Licensee's right to use the Product will terminate unless the Licensee purchases a subscription to the Product. The Product will be automatically disabled upon the expiration of the Trial Period.

## **2. FEES AND PAYMENT TERMS**

**2.1. Payment Terms.** The Product subscription requires prepayment of fees as outlined in this Agreement ("Subscription Fees"). Current rates are available on <https://qameta.io/#pricing> and must be paid in accordance with the billing terms effective at the time of payment.

The Product is provided on a 'per named user' basis, requiring the Licensee to assign the subscription to a specific user who may access the Product by logging in, as outlined in the Product Documentation.

**2.2. Subscription Fees Determination:** The Subscription Fee is determined by the number of named users with full functionality within the Product ("Full Access Users") and the Subscription Term. Full Access Users are those who can perform all operations, including creating, editing, and managing content, data or entities within the Product.

The Licensee may request additional Full Access User licenses at any time, subject to the Licensor's approval and applicable additional fees.

**2.3. Minimum Subscription fee:** The minimum user and term requirements are specified on <https://qameta.io/#pricing>. The Licensor reserves the right to adjust the minimum Subscription Fee based on a different number of Full Access Users as market conditions change, upon renewal of this Agreement or upon mutual consent with the Licensee.

**2.4. User Access Control and Audit Rights.** The Licensee may not install the Product on multiple devices under the same license string across multiple instances. Each Full

Access User must have unique login credentials assigned exclusively to one individual.

Sharing of credentials to circumvent licensing restrictions is strictly prohibited. The Licensee is responsible for ensuring that all Full Access Users comply with this provision. The Licensor reserves the right to audit the Licensee's usage to ensure compliance with the concurrent user limitations.

- 2.5. Read-Only Users.** Read-Only Users have access limited to viewing operations within the Product. The number of Read-Only Users does not affect the Subscription fee. Read-Only Users cannot perform any actions that modify data or settings within the Product.
- 2.6. Applicable Fee.** The Subscription Fees are fixed during the Licensee's Current term, except if additional users are added during this period, in which case the new users will be charged at the Licensor's current rates.
- 2.7. Fee Adjustments at Renewal.** The Licensor may adjust the Subscription Fees up to the then-current standard rates. These adjusted fees will take effect at the beginning of the Renewal term. If the Licensee disagrees with such an increase, either party may terminate the Agreement not later than 10 days prior to the end of the ongoing committed period of the subscription by providing a notice. Such termination should always occur prior to the transfer of the license keys for the next term. Any previously granted discounts will not automatically apply to renewals unless the Licensee continues to meet the criteria for such discounts.
- 2.8. Subscription Fees and Taxes.** The Subscription Fees must be paid in full, and any levies, duties, and/or taxes imposed by the Licensee's jurisdiction (including, but not limited to, value-added tax, sales tax, and withholding tax) shall be borne solely by the Licensee. The Licensee may not deduct any amounts from fees payable to the Licensor or an authorized Licensor reseller, unless otherwise specified in the applicable invoice.

### **3. RELEASES, UPDATES AND LIMITED SUPPORT**

- 3.1. Software Updates and Version Releases.** The Licensor is dedicated to developing new Product releases and versions, encouraging clients to upgrade to these updates. Announcements of new releases and versions will be posted on the Licensor's website at <https://docs.qameta.io/allure-testops/release-notes/>. Following these announcements, sales and support of previous versions will be discontinued.
- 3.2. Access to New Releases and Hotfixes.** New releases and hotfixes will be accessible for download from resources specified by the Licensor (docker.io/allure, dl.qameta.io). Although the Licensor monitors changes in third-party software for potential integration, there is no obligation to update the Product solely in response to such third-party changes.

**3.3. Licensee's Responsibility for Updates.** The Licensee is responsible for promptly downloading and installing new versions and releases of the Product upon their release by the Licensor.

If the Licensee fails to install a new release and subsequently encounters errors, the Licensee must update the Product to the latest release to resolve such errors.

**3.4. Critical Error Resolution.** The Licensor makes commercially reasonable efforts to rectify any Critical Errors, defined as reproducible, material failure in the Product, that severely impacts the Licensee's use, resulting in a complete loss of essential functionality or rendering the Product unusable.

Should such a situation arise, the Licensee's only recourse is outlined in Section 6.5.2 of this Agreement. Notwithstanding anything to the contrary, this Agreement does not presume any other remedy for claims related to such Critical Errors beyond their correction, as confirmed by the Licensor. This limitation on the Licensor's liability is to be liberally construed, eliminating any liability beyond the obligation to correct reproducible errors.

The Licensor will have no obligation to rectify any Critical Errors or assume liability if: (i) the Product is used in violation of or outside the scope of this Agreement, (ii) any Subscription Fees are overdue, (iii) changes unauthorized by the Documentation are made to the Product, (iv) the number of Users or other limitations are exceeded, or (v) there is any other breach of this Agreement.

If the Licensor determines that there is no fault on its part or that the fault was caused by: (i) incorrect use of the Product, (ii) modification of the Product by anyone other than the Licensor or modifications made by the Licensor based on the Licensee's specifications or instructions, (iii) use of the Product in combination with any hardware, software, equipment, or data not provided or specified by the Licensor or Documentation, or (iv) failure or changes to the Operating Environment, then the Licensee agrees to reimburse the Licensor for the cost of investigating the fault.

**3.5. Discontinuation of Support and Product Modifications.** The Licensor reserves the right to cease support for previous Product versions and to modify prices, features, specifications, capabilities, functions, terms of use, release dates, general availability, and other characteristics of the Product.

**3.6. Fees for Error Correction in Outdated Versions.** The Licensor is not obliged to correct errors in outdated versions of the Product. If it chooses to do so, the Licensor may charge additional fees for correcting errors in outdated versions of the Product if such errors have been resolved in the latest release.

**3.7. Recovery of Costs for Unauthorized Product Modifications.** The Licensor reserves the right to recover costs incurred while investigating faults if the Licensee makes alterations to the Product unauthorized in the Documentation and in violation of Section 4.4 hereof, and such alterations necessitate support. If the Licensor determines the issue is caused by the Licensee's improper use, unauthorized

modifications, or changes to the operating environment, the Licensor may refuse support and/or seek reimbursement.

**3.8. Requirements for Large-Scale Subscriptions.** If the number of users under a purchased License exceeds 50, the Licensee must:

- Establish and manage a local knowledge base concerning the Product.
- Appoint a key user responsible for gathering knowledge about the Product. This key user will serve as the primary point of contact for reporting bugs and requesting features.

#### **4. INTELLECTUAL PROPERTY RIGHTS**

**4.1. Intellectual Property.** The Product, as well as all patent, copyright, trade secret, trademark, and other intellectual property rights associated with the Product is and will remain the exclusive property of the Licensor.

**4.2. The Licensee's Rights.** This Agreement does not grant the Licensee any ownership rights in the Product or its components, only the rights specified in this Agreement.

**4.3. Backup Copies.** The Licensee may make copies of the Product and documentation exclusively for backup purposes.

**4.4. Restrictions on Use and Distribution.** The Licensee shall not, directly or indirectly, and shall not permit any third party to:

**4.4.1. Copy or Reproduce:** Copy, reproduce, or duplicate the Product or any of its components in any form, except as expressly permitted by this Agreement.

**4.4.2. Modify or Adapt:** Modify, adapt, translate, or create derivative works based on the Product or any of its components.

**4.4.3. Unauthorized Changes:** Make changes to the Product other than as may be authorized in the Documentation.

**4.4.4. Reverse Engineer:** Reverse engineer, decompile, decrypt, disassemble, or otherwise attempt to derive the source code, underlying ideas, algorithms, design, internal logic, structure, or internal workings of the Product or any related items containing the Licensor's proprietary information, except to the extent expressly permitted by applicable law.

**4.4.5. Distribute or Transfer:** Distribute, sell, resell, lend, rent, lease, sublicense, assign, transfer, publish, or otherwise make available the Product or any of its components to any third party.

**4.4.6. Disclose:** Disclose or publish any part of the Product or its components, to any third party.

**4.4.7. Permit Access:** Permit access to the Product or any of its components by any third party, whether directly or indirectly, except as expressly permitted by this Agreement.

**4.4.8. Database Structure Alterations:** Alter the database structure, and change (delete, insert, patch) information stored in the database of the Product, directly without explicit instructions and confirmation from the Licensor's support team.

- 4.5. Non-Transferability of Rights.** The Licensee's rights under this Agreement may not be granted, sublicensed, assigned, or otherwise transferred to any third party without the prior written consent of the Licensor.
- 4.6. Trademark Usage Restrictions.** The Licensor may use the Licensee's name and logo on the Licensor's website, in the Licensor's marketing materials, and to identify the Licensee as a client of the Licensor, provided that any such materials are pre-approved by the Licensee. Such approval shall not be unreasonably withheld.
- 4.7. Feedback.** The Licensee is not required to provide the Licensor with any feedback. However, should the Licensee or its users choose to do so, the Licensee grants the Licensor a non-exclusive, worldwide, royalty-free license that may be sublicensed and transferred. This license allows the Licensor to manufacture, use, sell, have manufactured, offer for sale, import, display publicly, distribute, modify, or perform such feedback publicly in any manner, free of any obligations, royalties, or limitations based on intellectual property rights or otherwise.

## **5. DATA RESPONSIBILITY**

- 5.1. Licensee's Data Ownership and Responsibility.** Subject to any rights explicitly or implicitly granted or necessary for the execution of this Agreement, the Licensee maintains all rights, title, and interest, including any intellectual property rights, in any data or content it provides or input into the Product.
- 5.2. Compliance with Third-Party Rights and Applicable Laws.** The Licensee is responsible for the legality of uploaded materials and for any violations of third-party rights resulting from such uploads. The Licensor does not manage or control the data and content entered by the Licensee in the Product and cannot ascertain its legality or impact on third-party rights. The Licensee is solely responsible for ensuring that its use of the Product complies with all applicable laws and does not infringe on the rights of third parties.
- 5.3. Usage Data Transmission and Opt-Out Option.** The Licensee acknowledges and agrees that the Product may contain a function, which transmits the usage statistics, diagnostic information and usage meta-information to the Licensor. The Licensee may opt out of gathering usage statistics by deactivating that function in the settings.
- 5.4. Privacy and Security Compliance.** The Parties shall comply with all laws, rules, regulations, requirements and standards applicable to it, including without limitation all obligations imposed upon them under any applicable data privacy laws, rules, regulations, requirements or standards ("Privacy Laws"). In addition, the Parties shall maintain adequate security management policies and procedures to protect the confidentiality, integrity, availability, or security of confidential information and personal data.

However, the Licensor shall have no responsibility for the Licensee's data, and the Licensee acknowledges and agrees that at all times during performance hereunder, the Licensee remains solely responsible for safeguarding its data from any risks and must consistently, back-up and protect its data, software and images against, loss, damage, corruption or destruction.

- 5.5. **Personal Data Processing.** By accepting this Agreement, the Licensee acknowledges that the Licensor will process personal data in accordance with the Privacy Notice available on the Licensor's website <https://qameta.io/privacy-policy/>.

## 6. TERM AND RENEWAL

- 6.1. **Duration and Renewal.** This Agreement will commence upon installation and access to the Product by the Licensee, and it will continue through the end of the applicable subscription term specified in the invoice ("Subscription Term"), or until terminated in accordance with Section 6.5.

For the Trial period, the Subscription Term will be the period during which the Licensee has the right to install and use the Product for evaluation purposes.

A "Current Term" refers to the ongoing committed period of the subscription, which could be either an Initial Term or a Renewal Term.

- 6.2. **Initial Term.** The Licensee selects the initial duration of the paid subscription term ("Initial Term") as specified in the payment plan and/or outlined on the invoice. The Initial Term commences on the date specified in the invoice.
- 6.3. **Renewal.** The subscription will automatically renew for a period equal either to the same duration as the previous term or one year, whichever is shorter ("Renewal Term"), unless terminated by either party in accordance with Section 6.5. below.
- 6.4. **Early Cancellation.** Notwithstanding anything to the contrary, the Licensee may opt to cancel the subscription early at convenience provided that
- (i) if there is an ongoing committed Subscription term this Agreement will not terminate until the Current term has expired or have been terminated;
  - (ii) the Licensor will not refund any prepaid fees or unused Subscription Fees, and the Licensee will promptly pay all unpaid fees due through the end of the Current Term.

However, this Section 6.4. does not supersede the termination for cause by the Licensee as per Section 6.5.2, where the Licensee is eligible for a pro-rata return.

### 6.5. Termination Methods.

- By mutual written agreement of both Parties.
- **Unilaterally.** By either Party giving at least thirty (30) days' written notice before the Current term expiration.
- **Termination for Cause.** Either party may terminate the Agreement due to a material breach of obligations, effective ten (10) days after issuing a written notice to the breaching party without liability for any harm that may result from such termination. If the breach is remedied within the notice period, the termination notice is voided.

6.5.1. The Licensor may terminate this Agreement for cause if the Licensee:

- Fails to make due payments and does not rectify the default.
- Misuses its rights in a manner that contravenes the terms of this Agreement, otherwise breaches the Agreement or engages in behavior that may harm the Licensor's reputation.
- Infringes upon intellectual property rights or confidentiality obligations, or violates applicable laws.
- Engages in unauthorized use of the proprietary information, including granting access to third parties without proper authorization.
- Disrupts or imminently threatens the security, integrity, or availability of a Product.

Consequences of such termination:

- All rights granted to the Licensee under this Agreement are revoked.
- The Licensee shall discontinue use of the Product and delete all copies from its operating environment (notwithstanding anything else in this Agreement).
- The Licensor shall not be liable for any damages or losses resulting from termination due to the Licensee 's material breach.
- The Licensor may prohibit the Licensee from re-registering, block the Licensee's email and IP address to prevent any future purchases.

6.5.2. The Licensee may terminate the Agreement for cause if:

- The Licensee disagrees with (i) any significant changes to these Software Licensing Terms as outlined in Section 11.1, (ii) fee adjustments that take effect at the start of the Renewal Term, (iii) assignment by the Licensor as per Section 13.4.
- The Licensor materially breaches the Agreement, or applicable law.
- The Licensor is unable to rectify a Critical Error in the Product within thirty (30) days from the date of written notification from the Licensee (the 'Remedy Period'), then either party may terminate this Agreement by providing written notice to the other party within thirty (30) days after the end of the Remedy Period.

If the Licensee terminates this Agreement under this Section 6.5.2, they are entitled to a pro-rata refund for any prepaid fees calculated based on the number of full months left in the Current Term as of the termination date or the start of the Remedy Period. This Section 6.5.2. outlines the Licensor's total liability and the Licensee's exclusive remedy for any claims associated with such termination.

The Licensor will not issue refunds for prepaid or unused Subscription Fees if the termination is for reasons not covered by this Section 6.5.2.



This Agreement may not otherwise be terminated prior to the end of the Current Term.

## **7. WARRANTY DISCLAIMER**

- 7.1.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSOR PROVIDES THE PRODUCT STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND AS TO THE PRODUCT'S USE OR PERFORMANCE.
- 7.2.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSOR AND ITS AFFILIATES, SUBCONTRACTORS, AGENTS, AND VENDORS (INCLUDING THIRD PARTY SERVICE PROVIDERS AND RESELLERS) HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, (INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR PARTICULAR PURPOSE) WITH REGARD TO THE PRODUCT AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES.
- 7.3.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE LICENSOR DOES NOT REPRESENT OR WARRANT THAT THE PRODUCT OR ANY SERVICES RELATED THERETO (A) ARE ACCURATE, RELIABLE, OR CORRECT; (B) WILL MEET THE LICENSEE'S REQUIREMENTS, (C) WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED, ERROR-FREE, OR SECURE; (D) ARE FREE OF DEFECTS OR ERRORS AND THAT ANY, IF FOUND, WILL BE CORRECTED; (E) ARE FREE FROM VIRUSES OR OTHER HARMFUL CODE.
- 7.4.** The Licensee acknowledges and agrees that any information or advice given by the Licensor, its staff, or resellers shall not be deemed to create or in any way increase the scope of the warranties set forth herein and that the Licensee shall not rely on any such information or advice.
- 7.5.** The Licensor further disclaims representations, warranties or assurances that the products are designed for, or suitable for use in: (a) any aircraft or automobile, including any safety or navigation devices related thereto; (b) any life support or other healthcare delivery systems or medical devices; (c) any nuclear facilities; (d) any weapon systems or other military or policing devices; or (e) any other high risk environment or manner that could reasonably be expected to result in personal injury, death or property damage ("high risk use"). The Licensee accepts all disclaimers related to any high risk use and takes sole responsibility for, and agrees to indemnify and hold harmless the Licensor and its personnel from any claim arising from, Licensee's high risk use.

## **8. LIABILITY**

- 8.1. Limitation of liability.** The Parties will not be liable for any indirect, special, or consequential damages arising out of this Agreement, except for unauthorized use or disclosure of the Product by the Licensee.

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE LICENSOR BE LIABLE FOR: ANY LOSS OF PRODUCTION, LOSS OF PROFITS OR REVENUE, LOSS OF USE, LOSS OF DATA OR CONTENT, BUSINESS INTERRUPTION, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, INCURRED BY ANY PERSON AS A RESULT OF OR IN CONNECTION WITH THE USE OF THE LICENSE, EVEN IF THE LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR POSSIBILITY OF LIABILITY EXCEEDING SUCH AN AMOUNT.

- 8.2.** IF DESPITE THE TERMS OF THIS AGREEMENT, THE LICENSOR IS DEEMED LIABLE, ITS TOTAL AGGREGATE LIABILITY FOR ANY CLAIMS, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE GREATER OF \$100 OR TOTAL AMOUNT THE LICENSEE PAID FOR THE RESPECTIVE LICENSE IN THE SIX (6) MONTHS PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM. THIS LIMITATION APPLIES WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.
- 8.3.** THE LICENSEE UNDERSTANDS AND AGREES THAT ABSENT IT'S ACCEPTANCE OF THIS LIMITATION OF LIABILITY, THE LICENSOR WOULD NOT PROVIDE THE SUBSCRIPTION TO THE LICENSEE.
- 8.4. Third-Party Products.** THE LICENSOR DISCLAIMS ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS AND SERVICES THAT THE LICENSEE USES.
- 8.5.** THE LICENSOR AND ITS VENDORS FURTHER DISCLAIM ANY AND ALL LIABILITY OR RESPONSIBILITY FOR ANY DELAYS, FAILURES, ALTERATION, LOSS, OR OTHER DAMAGES THAT THE LICENSEE AND/OR THE LICENSEE'S DATA MAY SUFFER, THAT ARE BEYOND THE LICENSOR'S CONTROL.

## **9. INDEMNITY**

- 9.1.** The Licensee agrees to indemnify, defend, and hold harmless the Licensor from and against all claims, demands, suits or proceedings brought against the Licensor (and its officers, directors, employees, agents, service providers, licensors, and Affiliates) by a third party not affiliated with the Licensor and all resulting liabilities, damages, losses, and expenses awarded by a court or included as a part of a final settlement arising out of (i) the Licensee's breach of this Agreement, or other agreements by and between the parties, (ii) any negligent, fraudulent or misuse of the Service, (iii) the Licensee's infringement of any third party's intellectual property right in connection with its use of the Product, except cases when such alleged infringement arises solely from a breach of the Agreement by the Licensor; (iv) unauthorized use

of the Product by any other person using the Licensee's keys or Licensee 's credentials, and (iv) the Licensee's violation of any law or rights of a third party.

The Licensee will not accept any settlement that (i) imposes an obligation on the Licensor; (ii) requires the Licensor to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on the Licensor without the Licensor's prior written consent.

- 9.2.** The Licensor shall indemnify, defend, and hold harmless the Licensee from and against all claims, demands, suits or proceedings brought against the Licensee (and its officers, directors, employees, agents, service providers, and licensors) by a third party not affiliated with the Licensee and all resulting liabilities, damages, losses, and expenses awarded by a court or included as part of a final settlement, arising out of the Product's infringement or misappropriation of such third party's intellectual property rights ("Claims").

The Licensor will not accept any settlement that (i) imposes an obligation on the Licensee; (ii) requires the Licensee to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on the Licensee without the Licensee's prior written consent.

The Licensor will not have any obligation or liability under this section if the alleged claim is caused by or based on: (i) any combination of the Product use with any hardware, software, equipment, or data not provided by the Licensor, (ii) modification of the Product by anyone other than the Licensor, or modification of the Product by the Licensor in accordance with specifications or instructions that the Licensee provided, (iii) use of the Product in violation of or outside the scope of this Agreement.

Notwithstanding the foregoing, in the event of such a Claim, or the Licensor believes that such a Claim is likely, the Licensor may, at its sole option and expense: (a) modify the Product or provide the Licensee with substitute Subscription that is non-infringing; or (b) obtain a license or permission for the Licensee to continue to use the Product, at no additional cost to the Licensee; or (c) if neither (a) nor (b) is, in the Licensor's judgment, commercially practicable, terminate the Licensee's access to the Product (or to a portion thereof as necessary to resolve the claimed infringement) and refund any prepaid but unused fees covering use of the Product after termination in accordance with Section 6.5.2. of this Agreement.

THIS SECTION STATES THE LICENSOR'S ENTIRE LIABILITY AND THE LICENSEE'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM PROVIDED FOR UNDER THIS SECTION.

- 9.3.** The indemnifying party's obligations are conditioned on the indemnified Party (i) promptly notifying the indemnifying Party in writing of the claim for which indemnification is sought, (ii) reasonably cooperating with the indemnifying Party in connection with the claim, (iii) providing the Licensee (at the Licensee 's expense) with any and all information and assistance reasonably requested by the Licensee to

handle the defense or settlement of the claim, and (iv) tendering sole control to the indemnifying Party over the defense and/or settlement of the claim. The indemnified Party shall have the right to provide for a separate defense with counsel of its own choosing at its own expense.

## 10. **CONFIDENTIAL INFORMATION**

**10.1. Purpose.** This section aims to safeguard Confidential information exchanged between the parties during their collaboration under this Agreement. The party disclosing Confidential Information is the "Disclosing Party" and the party receiving the Confidential Information is the "Receiving Party". Each party undertakes to treat as confidential all information disclosed to it in the course of this Agreement relating to the business, products and services of the other and marked as "Confidential" or "Proprietary", or a similar designation, or that reasonably appears to be confidential or proprietary due to other legends or markings. If the Confidential Information includes oral statements, the Disclosing Party will notify the Receiving Party in writing within two days from the time of disclosure that such information is confidential.

**10.2. Non-disclosure.** The Receiving Party must not disclose Confidential Information without express permission from the Disclosing Party and is required to protect it diligently. The Receiving Party is permitted to use confidential information solely for executing this Agreement.

Access to confidential information is limited to the Receiving Party's employees, vendors or contractors who are directly involved in this Agreement and who are also bound by similar confidentiality agreements. Disclosing confidential information to other third parties is permitted only with the written consent of the Disclosing Party.

**10.3. Compelled Disclosure.** If required by law or a valid subpoena or court order to disclose the Disclosing Party's Confidential Information, the Receiving Party shall to the extent permitted by law immediately inform the Disclosing Party in writing to allow them to seek a protective order or other relief. The Receiving Party will cooperate in seeking this protection at the Disclosing Party's expense. If disclosure is still required, the Receiving Party will only reveal the necessary portion of the Confidential Information and will strive to ensure it is treated as confidentially as possible.

**10.4. Exceptions to Confidentiality Obligations.** Confidential Information shall not, however, include any information which (i) is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party, generally known and made generally available in the public domain; (ii) or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party; (iii) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by documents and other competent evidence in the Receiving Party's possession; or (iv) was already known to the Receiving Party prior to disclosure by the Disclosing Party, as proven by the

files of the Receiving Party in existence at the time of disclosure, without any restriction on disclosure.

- 10.5. All documents and other tangible objects containing or representing confidential information which have been disclosed by the Disclosing Party to the Receiving Party and all copies thereof shall be and remain the property of the Disclosing Party and shall be promptly returned to the Disclosing Party (or at its request destroyed) upon the Disclosing Party's written request, termination or expiration of this Agreement.
- 10.6. **Duration of Confidentiality Obligations.** This Section 10 should survive termination and will remain effective for five (5) years from the date the Confidential information is last disclosed.
- 10.7. **Liability for Breach.** The Receiving Party must compensate for damages resulting from breaches of confidentiality obligations.

## 11. AMENDMENTS

- 11.1. **Right to Modify Terms.** The Licensor reserves the right, from time to time and at its discretion, to modify these Software License Terms. The amended Software License Terms will become effective within fifteen (15) days of being posted to the website.
- 11.2. **Notification of Changes.** The Licensor will post updated terms on this website and will notify the Licensee of these changes via the email address provided when creating an account or specified at the time of purchase.
- 11.3. **Acceptance of Modified Terms.** Continued use of the Product after changes to the terms have taken effect constitutes the Licensee's acceptance of the revised terms. If the Licensee does not accept the modifications, its sole remedy is to terminate the Agreement. Termination under this Section 11 will result in a pro-rata refund of any pre-paid but unused Subscription fees.

## 12. ARBITRATION AGREEMENT

- 12.1. **Arbitration.** The Licensee agrees to submit any dispute, claim or controversy arising out of or relating in any way to this Agreement or its use of the Product to a binding and final arbitration on an individual basis.  
The Licensee may seek relief (including monetary, injunctive, and declaratory relief) only on an individual basis and waives its right to have any claims against the Licensor resolved by a jury or in a court of law.
- 12.2. **Negotiation.** Should any disputes arise from this Agreement, the parties shall first attempt to resolve the issue through negotiation. If the parties are unable to reach a settlement through negotiations within thirty (30) days from the date on which the dispute is first communicated by one party to the other, and a party intends on taking legal action, the dispute shall be referred to arbitration with the American Arbitration Association ("AAA").

**12.3. Arbitration Process.** The arbitration shall be conducted in accordance with the rules established by the Commercial Arbitration Rules ("AAA Rules") of the AAA American Arbitration Association ("AAA"), and any additional rules agreed upon by the parties. For any such filing of a demand for arbitration, a party must effect proper service under the applicable arbitration rules.

For a claim for \$20,000 or less, the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, unless any party requests an oral hearing, or the arbitrator determines that an oral hearing is necessary.

If a claim exceeds \$20,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

Unless the parties agree otherwise, any arbitration hearings will take place in a reasonably convenient location for both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the determination will be made by the AAA.

The parties agree that arbitration shall be the sole and exclusive forum for resolving disputes under this Agreement, and hereby waive their right to pursue claims in court.

In any arbitration proceeding under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and related costs and disbursements, as awarded by the arbitrator.

**12.4. Prohibition of Class and Representative Actions and Non-Individualized Relief.** The Licensee will pursue claims against the Licensor on an individual basis and waives its rights to bring claims as a plaintiff or class member in any purported class or representative action or proceeding. Further, unless both parties agree otherwise, the arbitrator may not consolidate more than one person's claims with the Licensee's claims and may not otherwise preside over any form of a representative or class proceeding.

### **13. GENERAL PROVISIONS**

**13.1. Governing Law.** These Terms are governed by the laws of the State of Delaware without reference to any conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

**13.2. Entire Agreement.** This document, including any exhibits and appendices, represents the full agreement between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, concerning this subject matter.

**13.3. Severability.** If any provision of these terms is found to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions, which will remain in full force and effect.

**13.4. Assignment.** The Parties may not assign or transfer their rights and obligations hereunder without the other party's prior written consent. However, the Licensor is permitted to assign their rights to a successor in the event of a merger, reorganization, sale of all or substantially all of its assets, change of control, or operation of law. The Licensee will receive a minimum of fifteen (15) days' advance notice of such changes. Should the Licensee disagree with the assignment, it may choose to terminate this Agreement by notifying the Licensor within fifteen (15) days of receiving this notice.

**13.5. Sanctions Compliance.** The Licensee agrees to comply with applicable sanctions laws and regulations, including but not limited to those administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury ("Sanctions Authorities") in the Licensee's use of the Product.

The Licensee represents and warrants that it is not designated or blocked by Sanctions Authorities, or otherwise owned or controlled by or acting on behalf of any entity or person designated or blocked by Sanctions Authorities.

The Licensee will not directly or indirectly export, re-export, or transfer the Product or related services to sanctioned countries and territories or persons restricted by Sanctions Authorities, or permit use of the subscription or provide access to the Product by such persons or from such countries and territories. A breach of this provision shall be considered a material breach of this Agreement.

If, in the Licensor's judgment, the Licensee's purchase constitutes a high-risk transaction, the Licensor may require the Licensee to provide (i) Certificate of Incorporation/Business Registration, (ii) Articles of Association/Similar Governing Documents, (iii) other relevant business licenses or permits, a copy of a recent bank statement for the credit or debit card used for the purchase and an affidavit certifying compliance.

**13.6. Survival.** Upon termination of this Agreement, the terms of this Section 13.6 and the terms of the following Sections will survive: Section 2 (Fees and Payment Terms), Section 3.7. (Recovery of Costs for Unauthorized Product Modifications), Section 4 (IP Rights), Section 5 (Data Responsibility), Section 6 (Mutual Indemnification), Section 7 (Warranties), Section 8 (Limitation of Liability), Section 9 (Indemnity) Section 10 (Confidentiality), and any applicable terms in Section 13 (General).

**13.7. Independent Contractors.** The parties are independent contractors, not agents, partners or joint venturers, and nothing in this Agreement is intended to or shall operate to create a partnership between the parties or authorize either party to act as agent for the other.

**13.8. Authority.** Each party represents and warrants to the other that it has full power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms. The Licensee further warrants and represents that it has the authority to procure its Affiliates compliance with the terms of this Agreement.

Each Party hereby represents and warrants that, as of the Effective date of this Agreement, each is not currently involved in any bankruptcy proceedings, nor has it filed for bankruptcy protection under any applicable laws. Each Party further affirms that it has not made any assignment for the benefit of creditors or taken any steps towards insolvency.

- 13.9. Force Majeure.** Neither Party shall be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance, or non-performance, of any of its obligations under this Agreement (except payment obligations), arising directly from an act of God, fire, flood, natural disaster, act of terrorism, strike, lock-out, labor dispute, public health emergency, civil commotion, riot, or act of war.
- 13.10. Notice.** Any notice or consent under this Agreement must be in writing and will be deemed given: (a) upon receipt if by personal delivery, (b) upon receipt if by certified or registered U.S. mail (return receipt requested) or (c) one day after dispatch if by a commercial overnight delivery service.
- If to the Licensor, notice must be provided to Qameta Software Inc., 2093 PHILADELPHIA PIKE #8802 CLAYMONT, DE 19703 US, with a copy emailed to sales@qameta.io. Notices to the Licensee may be sent by the Licensor to the email address provided at registration or to the email address of the Licensee's procurement contact. Operational notices may also be delivered through the Product.
- Either party may update its address with notice to the other party. The Licensee is responsible for keeping its email address accurate and up to date.
- 13.11. Interpretation.** Headings and titles are for convenience only and do not affect the interpretation of this Agreement. Terms such as "including" are not exhaustive.
- 13.12. No Waiver.** The Licensor's failure to enforce or exercise any part of this Agreement is not a waiver of that section.
- 13.13. Opportunity to Review.** The Licensee affirms that it has had ample opportunity to review and understand the full contents of these Software Licensing Terms, to consult independent legal counsel prior to agreeing to them and refer any questions and objections to the Licensor. Therefore, this Agreement is not subject to any statutory regulations concerning "contracts of adhesion."
- 13.14. Independent Contractors.** The parties are independent contractors, not agents, partners or joint venturers, and nothing in this Agreement is intended to or shall operate to create a partnership between the parties or authorize either party to act as agent for the other.

Date of last revision: 11.November 2024

Qameta Software Inc, 2093 PHILADELPHIA PIKE #8802 CLAYMONT, DE 19703 US