ALLURE TESTOPS CLOUD

GENERAL TERMS AND CONDITIONS

THESE GENERAL TERMS AND CONDITIONS FORM A BINDING LEGAL AGREEMENT BETWEEN THE ORGANIZATION YOU REPRESENT ("CUSTOMER") AND QAMETA SOFTWARE, INC ("SAAS PROVIDER").

BY USING THE PRODUCT, YOU ACCEPT THESE GENERAL TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO THESE TERMS, YOU SHOULD NOT ACCEPT THEM, NOR SHOULD YOU 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.

These General Terms and Conditions (the "Agreement") govern your subscription and use of Allure TestOps - a cloud-based software offering various functionalities as described in the Documentation published on https://docs.qameta.io/allure-testops/ ("the Product").

These General Terms and Conditions apply to the Product specified above, including any updates and services by the SaaS Provider, 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 Product or services provided before the update.

These General Terms and Conditions take effect from the date of your access to the Product ("Effective Date").

1. Use of Services

1.1. Access. The SaaS Provider grants the Customer a non-exclusive, non-transferable, worldwide, revocable right to access the Product on a subscription basis in consideration for a fee, within the limits specified and, in the manner outlined in this Agreement. The rights under this Agreement are granted solely for the Customer's internal use to effectively utilize the Product.

1.2. Evaluation of the Product.

- **Eligibility and Conditions:** The SaaS provider permits a one-time trial use of the Product at no charge for evaluation purposes for a period of fourteen (14) days (the "Trial Period"), subject to conditions specified by the SaaS provider. During the Trial Period, the Customer determines whether the Product meets

the Customer's requirements. Upon expiration of the Trial Period, access to the Product will cease.

- **Access Termination**: The Customer may terminate the Trial Period at any time at its sole discretion. Upon the expiration or termination of the Trial Period, the Customer's right to access the Product will terminate unless the Customer purchases a subscription to the Product.
- **Data Retention and Deletion**: The Customer's data will be retained for seven (7) days following the end of the Trial Period. Unless the Customer purchases a subscription within this seven-day period, all of the Customer's data will be permanently deleted, and the SaaS Provider will not be able to recover it
- **Acceptance:** The Product shall be deemed accepted by the Customer if the Customer proceeds with the purchase following the conclusion of the trial period.

1.3. Access to New Releases. The SaaS Provider will provide access to new releases of the Product at its discretion during the Agreement term and will notify the Customer through available channels.

1.4. Support. The SaaS Provider will use commercially reasonable efforts to rectify any Critical Errors, constituting a 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.

If the SaaS Provider 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 SaaS Provider or modifications made by the SaaS Provider based on the Customer's specifications or instructions, (iii) use of the Product in combination with any hardware, software, equipment, or data not provided or specified by the SaaS Provider or Documentation, or (iv) failure or changes to the Operating Environment, then the Licensee agrees to reimburse the SaaS Provider for the cost of investigation.

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 SaaS Provider. This limitation on the SaaS Provider's liability is to be liberally construed, eliminating any liability beyond the obligation to correct reproducible errors. Should such a situation arise, the Customer's only recourse is outlined in Section 3.5.2 of this Agreement.

1.5. Customer Use Obligations
- **Compliance with Rate Plan:** The Customer must use the Product according to the selected rate plan and number of users.
- **Authorized Users**: Access to the Product is restricted to the Customer's authorized users (the "User"). Each User's account is assigned to a single person (named user) and cannot be shared or used by multiple Users simultaneously. Sharing of login credentials or accounts is strictly prohibited. Any such sharing may result in the termination of this Agreement. The

Customer must ensure that all User activities adhere to the terms of this Agreement.

- **Contact Information:** To receive notifications about amendments to this Agreement and Product updates, the Customer must ensure that the SaaS Provider has its up-to-date contact information at all times.
- **Accurate information:** During registration, the Customer must provide accurate and current information. Registration on behalf of another individual or entity without proper legal authorization is prohibited. The Customer must ensure that all provided information is accurate, complete, and complies with applicable laws.
- **Account Security Responsibilities:** The Customer responsible for the security of their account and all associated activities: Users must keep their usernames and passwords confidential and notify the SaaS provider immediately of any suspected unauthorized access or security breaches. Users should securely log out at the end of each session. The SaaS provider is not responsible for losses or damages resulting from the Customer's failure to secure their account (including data loss). Data recovery due to Customer-induced data loss will only be attempted if technically feasible.
- **Lawful Use:** The Customer agrees to use the Product solely for purposes that are lawful and in accordance with this Agreement.
- **Knowledge base and key user:** If the number of users under a purchased Subscription exceeds 50, the Customer 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.
- **Storage Limit and Excess Storage Fees.** The SaaS Provider allocates a storage capacity of 60 GB as a part of the Licensee's subscription package. If the Licensee exceeds the allocated storage capacity, the Licensee must either: (i) promptly remove excess data to return to the agreed limit, or (ii) opt to pay additional fees for excess storage usage as per the rates specified by the SaaS Provider.

The SaaS Provider reserves the right to delete excess data that exceeds the storage limit after notifying the Licensee about nearing or exceeding the storage capacity, allowing the Licensee time to manage data storage accordingly.

1.6. Monitoring. The SaaS Provider reserves the right, but is not obligated, to monitor and review new accounts.

1.7. Audit. The SaaS Provider may create, protect, and retain audit records to maintain integrity and enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate activity.

The SaaS Provider analyzes the audit records to detect unauthorized activity with respect to the Product. Actions of users can be uniquely traced to those Users so the Customer can be held accountable for their User's actions.

1.8. Adjustments to these General Terms and Conditions. The SaaS provider reserves the right to adjust rates and amend the terms of this Agreement unilaterally. The Customer will receive a minimum of fifteen (15) days' advance notice of such changes. Should the Customer disagree with the revisions, it may terminate the Agreement by notifying the SaaS provider within fifteen (15) days of receiving this notice. Continued use of the Product after changes to the terms have taken effect constitutes the Customer's acceptance of the revised terms. If the Customer does not accept the modifications, its sole remedy is to terminate the Agreement.

2.Fees and Payment Terms

2.1. Payment Terms. The subscription to the Product 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.

2.2. Subscription Fees. The Subscription Fees are fixed during the Customer's Current term, except if additional users are added during this period, in which case the new users will be charged at the SaaS Provider's current rates.

Upon renewal, Subscription Fees will automatically be applied according to the selected subscription plan, if auto-renewal is not disabled by the Customer.

2.3. Fee Adjustments at Renewal. The SaaS Provider may adjust the Subscription Fees up to the then-current standard rates at the beginning of the Renewal term. If the Customer 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. Any previously granted discounts will not automatically apply to renewals unless the Customer meets the eligibility criteria for such discounts.

2.4. Payment of Fees. Unless an invoice is required for a bank wire transfer, the Customer authorizes the SaaS Provider to charge the Customer's designated payment method (such as a bank card) for all fees due during the subscription term. The SaaS Provider may use a third-party service to process payments and the Customer's payment information may be shared with this third party.

If the SaaS Provider is unable to process a charge to your payment method, the SaaS Provider reserves the right to retry billing. If the billing issues are resolved, the SaaS Provider will resume automatic billing. The SaaS Provider may also receive and use updates on the Customer's payment method from the payment service providers to continue billing. Should the SaaS Provider be unable to successfully charge a valid payment method or in the event of non-payment or untimely payment of an invoice,

the Customer's access to the Product is automatically suspended or the Customer's account terminated as outlined in the "Termination for Cause" section.

2.5. Payment Timing. Payment by the Customer is deemed completed when the funds are credited to the SaaS provider's bank account or charged by the third-party process payments service provider.

2.6. **Subscription Fees and Taxes**. The Subscription fees must be paid in full, and any levies, duties, and/or taxes imposed by the Customer's jurisdiction (including, but not limited to, value-added tax, sales tax, and withholding tax) shall be borne solely by the Customer. The Customer may not deduct any amounts from Subscription fees.

3. Term and Termination

3.1. Duration and Renewal. This Agreement will commence on the Effective Date and will continue through the end of the applicable subscription term specified in the respective payment plan and/or invoice, or until terminated in accordance with Section 3.5. ("Subscription Term").

For the Trial period, the subscription term will be the period during which the Customer has an account to access the Product for an evaluation.

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

3.2. **Initial Term.** The Customer selects the initial duration of the paid subscription term ("Initial Term") through the payment plan, which is detailed in the invoice. The Initial Term begins on the date specified in the invoice.

3.3. The Subscription Term 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 as outlined below.

3.4. Early Cancellation. Notwithstanding anything to the contrary, the Customer 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 has been terminated.

(ii) the SaaS provider will not refund any prepaid fees or unused Subscription Fees, and the Customer will promptly pay all unpaid fees due through the end of the Current Term. However, this Section 3.4. does not supersede the termination for cause by the Customer as per Section 3.5.2, where the Customer is eligible for a pro-rata return.

3.5. Termination Methods.

- By mutual written agreement of both Parties.

o **Unilaterally.** By either Party giving at least thirty (30) days' written notice before the Current term expiration.

o **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.

3.5.1. The SaaS Provider may terminate this Agreement for cause if the Customer:

- Fails to make due payments and does not rectify the default.
- Misuses their rights in a manner that contravenes the terms of this Agreement (including, but not limited to Sections 1.5., 11.3 hereof), or infringes upon intellectual property rights or confidentiality obligations, or applicable laws.
- Engages in unauthorized use of the proprietary information, including granting access to third parties without proper authorization.

Consequences of Termination by SaaS Provider under this Section 3.5.1.:

- All rights granted to the Customer under this Agreement are revoked.
- The SaaS Provider can suspend, restrict, or terminate the Customer's access to the Product.
- The SaaS Provider shall not be liable for any damages or losses resulting from termination due to the Customer's material breach.

3.5.2. The Customer may terminate the Agreement for cause if:

- Customer disagrees (i) with any significant changes to these General Terms and Conditions as outlined in Section 1.8, (ii) with fee adjustments that take effect at the start of the Renewal Term, or (iii) with the assignment detailed in Section 11.7. of this Agreement.
- The SaaS Provider materially breaches the Agreement (incl, intellectual property rights or confidentiality obligations), violates applicable law.
- If the SaaS Provider is unable to correct critical reproducible error within thirty (30) days from the date of written notification from the Customer (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.

In the event of termination under this Section 3.5.2., the Customer is entitled to a pro-rata refund of any prepaid fees based on the number of full months remaining in the Subscription Term as of the date of the termination or the beginning of the Remedy Period. This Section states SaaS Provider's entire liability and Customer's sole and exclusive remedy with respect to any claim related to such termination.

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

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

3.5. Account Suspension and Termination: The SaaS provider reserves the right to suspend, disable, or delete the Customer's account, or restrict access to the Product, at any time without liability, if the Customer violates this Agreement, engages in behavior that may harm the SaaS Provider's reputation, or disrupts or imminently threatens the security, integrity, or availability of a Product.

If the account is terminated under these conditions, the SaaS Provider may prohibit the Customer from re-registering, block the Customer's email and IP address to prevent any future registrations.

4. Customer Data

4.1. Data Storage and Retention. The SaaS provider will retain and manage the Customer's data throughout the duration of this Agreement and for a period aligned with its typical business practices. Following expiration or termination of the Agreement or subscription, or the cancellation of a user account, the SaaS provider will deactivate the relevant accesses or terminate the Customer account(s) and remove all associated data. Once deleted, it will not be possible to restore the account or its data.

4.2. Ownership of Customer Data. Subject to any rights explicitly or implicitly granted or necessary for the execution of this Agreement, the Customer maintains all rights, title, and interest, including any intellectual property rights, in any data or content it provides or input into the Product.

4.3. Legal Compliance. The Customer is responsible for ensuring the legality of uploaded materials and for any violations of third-party rights resulting from such uploads. The SaaS Provider does not manage or control the data entered by the Customer in the Product and cannot ascertain its legality or impact on third-party rights. The Customer is solely responsible for ensuring that their use of the Product complies with all applicable laws and does not infringe on the rights of third parties.

4.4. Data Use. The SaaS Provider may utilize data obtained from the Customer in a consolidated and anonymized form for purposes such as statistical analysis, service enhancement, marketing insights, and industry contributions. This process may involve collecting, organizing, accumulating, storing, updating, using, anonymizing, restricting, and destroying the information.

4.5. Customer Data Licensing. The Customer grants a license to the SaaS Provider to use the Customer Data and store the Customer's data on its servers, solely as necessary to execute this Agreement. This license does not imply any transfer of ownership; the Customer maintains full ownership and responsibility for its data.

The Customer guarantees that it either holds the copyright or has obtained all necessary rights to the source code, its components, and related materials needed to fulfill this Agreement. Moreover, the Customer confirms that it has the authority to grant the SaaS Provider a license to use these materials as required under this Agreement.

4.6. Privacy Notice. By accepting this Agreement, the Customer acknowledges that the SaaS Provider will process personal data in accordance with the SaaS Provider's Privacy Notice available on the SaaS Provider's website https://qameta.io/privacy-policy/

The Customer acknowledges and agrees that the Product stores data (including confidential and personal data) on AWS servers in Germany.

4.7. Data Privacy Laws. 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**.**

The Customer agrees, without the SaaS Provider's prior written consent, not to use the Product to process any personal or other data that: (i) could be deemed as personal data, as defined under the EU GDPR, or sensitive personal data; (ii) is subject to stringent regulations concerning storage, security, transmission, and processing, such as data governed by Health Insurance Portability and Accountability Act (HIPAA), the PCI Security Standards Council (PCI-DSS) or the Children's Online Privacy and Protection Act (COPPA).

5. Intellectual property rights

    5.1.   **Intellectual Property Ownership.** The SaaS Provider has and retains all rights, title, and interest, including all intellectual property rights, in and to the Product, any and all related or underlying technology, its components, any modifications or derivative works of the Product, and any other products or services provided under this Agreement. All such rights are owned exclusively by the SaaS Provider.

    5.2.   **Right to Access.** This Agreement does not grant the Customer any ownership rights in the Product or its components, only the rights to access and use the Product as specified in this Agreement.

    5.3.   **Non-Transferability of Rights.** The Customer'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 SaaS Provider.

    5.4.   **Restrictions on Use.** The Customer shall not, directly or indirectly, and shall not permit any third party to:

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

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

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

d. **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 SaaS Provider's proprietary information, except to the extent expressly permitted by applicable law.

e. **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.

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

g. **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.

5.5.   **Trademark Usage Restrictions.** The SaaS Provider may use the Customer's name and logo on the SaaS Provider's website, in the SaaS Provider's marketing materials, and to identify the Customer as a client of the SaaS Provider, upon approval of any such materials by the Customer. Such approval shall not be unreasonably withheld.

5.6.   **Feedback.** The Customer is not required to provide any feedback. However, should the Customer or its users choose to do so, the Customer grants the SaaS Provider a non-exclusive, worldwide, royalty-free license that may be sublicensed and transferred. This license allows the SaaS Provider 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.

6. Confidential Information

6.1. 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.

6.2 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.

6.3. 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.

6.4. 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.

6.5. Tangible objects. 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.

6.6. Duration of Confidentiality Obligations. This Section 6 should survive termination and will remain effective for five (5) years from the date the Confidential information is last disclosed.

7. Warranty Disclaimer

7.1. General Disclaimer. TO THE FULLEST EXTENT ALLOWED BY LAW, THE SAAS PROVIDER OFFERS THE PRODUCT STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS, DISCLAIMING WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED.

THE SAAS PROVIDER AND ITS AFFILIATES, SUBCONTRACTORS, AGENTS, AND VENDORS (INCLUDING THIRD PARTY SERVICE PROVIDERS AND RESELLERS) HEREBY DISCLAIM THE WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR PARTICULAR PURPOSE OR ACCURACY, OR ANY WARRANTIES EITHER EXPRESS OR IMPLIED BY TRADE USAGE, IN CONNECTION WITH THE DESIGN, SALE, INSTALLATION, PERFORMANCE OR USE OF ANY OF THE PRODUCT.

7.2. Performance and Reliability. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE SAAS PROVIDER DOES NOT WARRANT THAT THE PRODUCT OR ANY SERVICES RELATED THERETO WILL MEET THE CUSTOMER'S REQUIREMENTS, AND THAT THEY WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE PRODUCT IS FREE FROM VIRUSES OR OTHER HARMFUL CODE.

7.3. No Additional Warranties. The Customer acknowledges and agrees that any information or advice given by the SaaS provider, 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 Customer shall not rely on any such information or advice.

8. Limitation of Liability

8.1. General Limitation. 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 Customer.

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE SAAS PROVIDER BE LIABLE FOR: ANY LOSS OF PRODUCTION, LOSS OF PROFITS OR REVENUE, LOSS OF USE, LOSS OF DATA OR CONTENT, BUSINESS OR SERVICE 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 PRODUCT, EVEN IF THE SAAS PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2. Maximum Liability. IF DESPITE THE TERMS OF THIS AGREEMENT, THE SAAS PROVIDER 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 CUSTOMER 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. Essential Basis. THE CUSTOMER UNDERSTANDS AND AGREES THAT ABSENT ITS ACCEPTANCE OF THIS LIMITATION OF LIABILITY, THE SAAS PROVIDER WOULD NOT PROVIDE THE ACCESS TO THE PRODUCT TO THE CUSTOMER.

8.4. Third-Party Products. THE SAAS PROVIDER DISCLAIMS ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS AND SERVICES THAT THE CUSTOMER USES.

THE SAAS PROVIDER AND ITS VENDORS FURTHER DISCLAIM ANY AND ALL LIABILITY OR RESPONSIBILITY FOR ANY DELAYS, FAILURES, ALTERATION, LOSS, OR OTHER DAMAGES THAT THE CUSTOMER AND/OR THE CUSTOMER'S DATA MAY SUFFER, THAT ARE BEYOND THE SAAS PROVIDER'S CONTROL.

9.Indemnity

9.1. **Customer's Indemnification Obligations.** The Customer agrees to indemnify, defend, and hold harmless the SaaS Provider from and against all claims, demands, suits or proceedings brought against the SaaS Provider (and its officers, directors, employees, agents, service providers, and licensors) by a third party not affiliated with the SaaS Provider 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 Customer's breach of this Agreement, or other agreements by and between the parties , (ii) any negligent, fraudulent or misuse of the Service, (iii) the Customer '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 SaaS Provider; (iv) the unauthorized use of the subscription by any other person using the Customer 's credentials, and (iv) the Customer's violation of any law or rights of a third party.

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

9.2. **SaaS Provider's Indemnification Obligations.** The SaaS Provider agrees to indemnify, defend, and hold harmless the Customer from and against all claims, demands, suits or proceedings brought against the Customer (and its officers, directors, employees, agents, service providers, and licensors) by a third party not affiliated with the Customer, 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 SaaS Provider will not accept any settlement that (i) imposes an obligation on the Customer; (ii) requires the Customer to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on the Customer without the Customer's prior written consent.

The SaaS Provider 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 SaaS Provider, (ii) modification of the Product by anyone other than the SaaS Provider, or modification of the Product by the SaaS Provider in accordance with specifications or instructions that the Customer 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 SaaS Provider believes that such a Claim is likely, the SaaS Provider may, at its sole option and expense: (a) modify the Product or provide the Customer with substitute Subscription that is non-infringing; or (b) obtain a license or permission for the Customer to continue to use the Product, at no additional cost to the Customer; or (c) if neither (a) nor (b) is, in the SaaS Provider's judgment, commercially practicable, terminate the Customer'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.

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

9.3. **Conditions of Indemnification.** 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 Customer (at the Customer 's expense) with any and all information and assistance reasonably requested by the Customer 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.

10. **Arbitration Agreement.**

10.1. Arbitration. This agreement to arbitrate contains the Customer's legal rights, remedies, and obligations. The Customer 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.

10.2. 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").

10.3. 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.

10.4. Prohibition of Class and Representative Actions and Non-Individualized Relief: The Customer will pursue claims against the SaaS Provider 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 the Customer and the SaaS Provider agree otherwise, the arbitrator may not consolidate more than one person's claims with the Customer's claims and may not otherwise preside over any form of a representative or class proceeding.

The Customer will only be permitted to seek relief (including monetary, injunctive, and declaratory relief) on an individual basis, and may not be able to have any claims the Customer has against the SaaS Provider resolved by a jury or in a court of law.

11.General Provisions

11.1. Governing Law. This Agreement is governed by the laws of the State of Delaware without regard to any conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

11.2. 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 SaaS Provider, 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 Customer may be provided to the email address provided at registration or to the email address of the Customer'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 Customer is responsible for keeping its email address accurate and up to date.

11.3. Sanctions Compliance. The Customer 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 in the Customer's use of the Product.
The Customer 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 Customer 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.

11.4. Restrictions. The SaaS Provider reserves the right to refuse any order the Customer places with the SaaS Provider. In the SaaS Provider's sole discretion, the SaaS Provider may limit or cancel quantities purchased per person, or per order. These restrictions may include orders placed by or under the same account, the same credit card, and/or orders that use the same billing and/or shipping address. In the event that the SaaS Provider makes a change to or cancels an order, the SaaS Provider may attempt to notify the Customer by contacting the email and/or billing address or other means of communication provided at the time the order was made.

If, in the SaaS Provider's judgment, the Customer's purchase constitutes a high-risk transaction, the SaaS Provider may require the Customer to provide a copy of their (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.

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

11.6. Survival. Upon termination of this Agreement, the terms of this Section 11.6 and the terms of the following Sections will survive: Section 2 (Fees and Payment Terms), Section 3 (Term and Termination), Section 4 (Customer Data), Section 5 (Intellectual property rights), Section 6 (Confidentiality), Section 7 (Warranties), Section 8 (Limitation of Liability), Section 9 (Indemnity), Section 10 (Arbitration Agreement), and any applicable terms in Section 11 (General).

11.7. Assignment. The Parties may not assign or transfer this Agreement without the other party's prior written consent. However, the SaaS Provider is permitted to assign this Agreement 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, provided that such successor is not a competitor of the Customer. The Customer will receive a minimum of fifteen (15) days' advance notice of such changes. Should the Customer disagree with the Assignment, it may terminate the Agreement by notifying the SaaS provider within fifteen (15) days of receiving this notice.

11.8. Entire Agreement. This Agreement represents the entire understanding between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, concerning this subject matter.

11.9. 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.
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.

11.10. 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.

11.11. Interpretation. Headings and titles are for convenience only and do not affect the interpretation of this Agreement. Terms such as "including" are not exhaustive.

11.12. No Waiver. The SaaS Provider's failure to enforce or exercise any part of this Agreement is not a waiver of that section.

11.13. 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: 18. November 2024
Qameta Software Inc, 2093 PHILADELPHIA PIKE #8802 CLAYMONT, DE 19703 US