

# MASTER SOFTWARE SUBSCRIPTION LICENSE AGREEMENT

## Gurock Software GmbH

Bonner Straße 12  
51379 Leverkusen  
Germany

THIS MASTER SOFTWARE SUBSCRIPTION LICENSE AGREEMENT, dated as of the latest date set forth on the signature pages below (the "Effective Date"), between Gurock Software GmbH, a private limited company organized under the laws of Germany ("Gurock"), and the customer set forth on the signature page below ("Customer"), sets forth the terms and conditions whereby Gurock agrees to provide to Customer for a limited period of time and Customer agrees to acquire from Gurock one or more limited licenses to install, access and use certain software and documentation and maintenance services related thereto, owned or licensed by Gurock or a subsidiary or an affiliate of Gurock, as set forth on the Order Form (as defined below) delivered in connection with this Agreement. To the extent any terms or conditions contained in the Order Form conflict with the terms or conditions contained in this Agreement, the terms and conditions of the Order Form shall supersede only those conflicting terms or conditions contained in this Agreement and only to the minimum extent necessary to harmonize the terms and conditions in such Order Form with the terms and conditions contained herein. The Order Form together with the terms and conditions of this Agreement (as defined below), shall constitute and be construed as a single agreement consisting of the terms and conditions contained in the Order Form together with the terms of this Agreement. This Agreement specifically supersedes and replaces the terms and conditions of all prior agreements between Gurock and Customer relating to the software subscribed to hereunder by Customer, including, but not limited to, any shrink-wrap agreements, click-wrap agreements or any demo or trial agreements which may accompany or are embedded in Gurock's products or which have been previously in force between the parties. If Customer is evaluating Evaluation Software (as defined in Section 16 below), then only the terms and conditions of Section 16 below (including those Sections of this Agreement incorporated therein by reference) will govern Customer's temporary use of such Evaluation Software (and no other terms of this Agreement shall apply to Customer or govern Customer's use of Evaluation Software) and upon purchase of a commercial license or commercial subscription for such Evaluation Software, this entire Agreement, exclusive of Section 16, shall apply to Customer and govern all use of the Licensed Material (as defined below). In consideration of the mutual promises and agreements contained herein, the parties hereto also agree as follows:

### GENERAL TERMS AND CONDITIONS

#### 1. Definitions –

- operation of the Licensed Software substantially in accordance with the Licensed Documentation.
- (a) "Affiliate" means, with respect to a party, any entity which, directly or indirectly, owns or controls, is owned or is controlled by, or is under common ownership or control of such party, where the term, "control" means the power to direct the management or affairs of an entity, and "ownership" means the beneficial ownership of more than fifty percent (50%) (or, if the law of the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) of the voting equity securities or other equivalent voting interests of the entity.
- (b) "Agreement" means this master software license agreement, together with all exhibits, schedules, annexes and Order Forms made a part hereof in accordance with the terms of this Agreement and all amendments, modifications, supplements and alterations thereto effected in accordance with the terms of this Agreement.
- (c) "Billing Portal" means the online portal available at <https://secure.testrail.com/customers/auth/login/> through which Customer may monitor usage by Users and confirm billing and renewal matters, together with any successor or replacement portal release by Gurock for general use by customers.
- (d) "Confidential Information" means all technical and non-technical information in both tangible and intangible form, including, but not limited to, product design information, software code, technical information, customer information, discounting, cost and pricing information, financial information and the results derived from or methodology employed by Customer in conducting any benchmark testing of the Licensed Software; provided that the term "Confidential Information" shall not include information which the recipient can show by reasonable proof (i) to have been known by the recipient prior to the time of disclosure by the disclosing party, (ii) to have become part of the public domain through no fault or breach of this Agreement by the recipient, (iii) to have been disclosed to the recipient in good faith by a third party who is not under any obligation of confidence or secrecy to the disclosing party at the time such third party discloses the information to the recipient or (iv) to have been compelled to be produced by a court of competent jurisdiction, provided that the recipient shall first give notice to the disclosing party of any such request or order of the court to give the disclosing party an opportunity to contest or limit said request or order of the court.
- (e) "Customer Data" means all electronic data or information inputted or uploaded by or for Customer to the Licensed Software.
- (f) "Error" means any error, defect or omission that (i) is discovered in the Licensed Software, (ii) is reproducible and (iii) prevents
- (g) "Inputs" means submissions to the Licensed Software by Customer or its Users.
- (h) "Licensed Documentation" means the published user manuals that Gurock makes generally available for the Licensed Software.
- (i) "Licensed Material" means the Licensed Software and the Licensed Documentation.
- (j) "Licensed Software" means the machine-readable object code version of (i) the software specified on each Order Form, whether embedded on disc, tape, internet download site or other media and (ii) all Updates for the Licensed Software that Gurock makes available to users of the Licensed Software, including Updates made available in connection with Maintenance Services pursuant to Section 4 of this Agreement.
- (k) "License Term" means, with respect to any Licensed Software, the period of time or duration of the subscription specified on the Order Form pursuant to which Customer subscribed to such Licensed Software, together with all renewals thereof effected in accordance with the terms of this Agreement; provided that to the extent no such time period or duration is specified in the Order Form pursuant to which Customer subscribed to such Licensed Software, the period of time or duration of the subscription shall be one (1) year commencing on the date of such Order Form, together with all renewals thereof effected in accordance with the terms of this Agreement.
- (l) "Maintenance Services" means the technical support services provided by Gurock pursuant to Section 4 hereof.
- (m) "Order Form" means (i) Gurock's standard price quote, purchase order, order form or purchase confirmation (including such price quotes, order forms and purchase confirmations as may be delivered through use of Gurock's online store), as such document may be amended, supplemented or modified from time to time in accordance with this Agreement or (ii) any other non-Gurock price quote, purchase order, order form or purchase confirmation delivered by Customer to Gurock but solely to the extent permitted by and delivered in accordance with Section 15.
- (n) "Outputs" means responses generated by the Licensed Software to Inputs.
- "User" means each individual who is authorized by Customer to access or use the Licensed Software through the creation of a user account for such individual, whether such user account has been created by Customer or by

Gurock at Customer's request and whether or not such user account actually access or uses the Licensed Software. Users may include, but are not limited to, user accounts created for employees, consultants, contractors and agents of Customer, or, subject to the restrictions contained herein, third parties with whom Customer transacts business, whether or not such user accounts actually access or use the SaaS Software.

- (o) "Update" means any revision, enhancement, improvement or modification to or programming fix for the Licensed Software or Licensed Documentation which Gurock makes generally available, incorporates into and makes a part of the Licensed Software or Licensed Documentation and does not separately price or market.

## 2. LICENSE & LICENSE TYPES –

(a) **License** – Subject to the terms and conditions of this Agreement, including, but not limited to the applicable licensing restrictions set forth in Section 2(b) below, and subject further to Customer's full compliance herewith and according to the scope, time period and other terms indicated on the applicable Order Form delivered in connection with this Agreement, Gurock hereby grants Customer and Customer hereby accepts from Gurock, a limited, non-exclusive and non-transferable (except as otherwise expressly provided in Section 17(a) below) right and license during the License Term to install, access and use the Licensed Software in accordance with the applicable restrictions and conditions contained in this Agreement. Customer's right to use the Licensed Software during the License Term shall extend to use by Affiliates of Customer and to use by third parties under a written agreement with Customer to provide outsourcing services for Customer's own internal business operations; provided, in each case that (i) such Affiliates and third parties have agreed to abide by the terms of this Agreement and (ii) Customer shall remain primarily liable for all acts and omissions by such Affiliates and third parties.

(b) **License Usage and Restrictions** – Customer acknowledges and agrees that, as between Customer and Gurock, Gurock, its subsidiaries and affiliates and its licensors own and shall continue to own all right, title, and interest in and to the Licensed Material and all derivatives thereof, including associated intellectual property rights under copyright, trade secret, patent, or trademark laws. This Agreement does not grant Customer any ownership interest in or to the Licensed Material, but only a limited right and license to install and use the Licensed Material during the License Term in accordance with the terms of this Agreement and each applicable Order Form. Customer further acknowledges and agrees that the licenses granted hereunder and the restrictions applicable to Customer's installation, access and use of the Licensed Software will vary according to the type of Licensed Software purchased by Customer and the type of license purchased by Customer. One or more of the restrictions set forth in this Section 2 may apply to the Licensed Software depending upon the type of Licensed Software purchased by Customer, the type of license purchased and the terms contained in the applicable Order Form relating to the Licensed Software. Customer is encouraged to carefully review all terms and restrictions contained in this Section 2 and each Order Form. Customer hereby agrees to the following license restrictions and conditions applicable to the Licensed Software as set forth in the Order Forms delivered by Customer under this Agreement:

- (i) For all Licensed Software made generally available by Gurock on a per-User subscription basis (a "User Subscription"), Customer may Use such Licensed Software by no more than the specified number of Users for which licenses have been purchased, as set forth in an Order Form; and
- (ii) For all Licensed Software made generally available by Gurock on a per-Use basis (a "Per-Use Subscription"), Customer may Use such Licensed Software by no more than the number of Uses for which licenses have been purchased, as set forth in an Order Form.

Additional User licenses may be added during the License Term for a pre-existing User Subscription, prorated for the remainder of the License Term in effect at the time the additional Users are added and all such additional Users' subscriptions shall terminate on the same date as the pre-existing User Subscriptions. User

Subscriptions are for designated Users and shall not be used or shared by more than one User, but may be reassigned to new Users to replace existing Users. A User may access and use the Licensed Software from no more than three (3) different devices or unique IP addresses and no person other than the individual Registered in the user account for a User may access or use the SaaS Service – a User account may not be shared by multiple persons or accessed by different persons. In no event shall Customer access or use the Licensed Software in contravention of the foregoing restrictions applicable to such Licensed Software or any other restrictions contained in this Agreement. In no event shall Customer operate, use or access the Licensed Software in contravention of the foregoing restrictions applicable to the Licensed Software or any other restrictions contained in this Agreement.

(c) **Renewal of License Term; Cancellation** – Upon expiration of each License Term, unless otherwise specified in the applicable Order Form, all limited subscription licenses granted under this Agreement shall automatically renew for an additional annual License Term at the then-current subscription-based price for such additional License Term, unless at least thirty (30) days prior to the expiration of the then-current License Term Customer either (i) notifies Gurock in writing of such non-renewal by completing Gurock's non-renewal form located at [TestRail.com/billing/nonrenewal](https://TestRail.com/billing/nonrenewal) or (ii) disables auto-renewal in the Billing Portal prior to such date. Upon each renewal, Customer shall renew at the then-current applicable user pricing in effect at the time of such renewal. Each annual License Term shall expire on the date 12 months following purchase of the annual License Term. Upon expiration of an annual License Term without renewal, all unused user accounts shall be forfeited.

(d) **Other Services** – All licenses and Maintenance Services subscribed to by Customer in respect of the Licensed Material shall be governed by this Agreement, together with the applicable Order Forms delivered hereunder. Unless otherwise agreed by the parties in writing, all professional services purchased by Customer in respect of the Licensed Software, if any, including implementation services, training services and professional services (collectively, "Ancillary Services"), shall be governed solely by a separate written mutually acceptable services agreement entered into by the parties or, in the absence of such agreement, Gurock's standard professional services agreement, and acceptance of the Licensed Material shall not be contingent upon Customer's acceptance of any such Ancillary Services.

(e) **Restrictions on Sublicensing** – In the event that Customer has purchased and paid for an Enterprise version of a Licensed Software, Customer may sublicense to third party customers and clients of Customer (each, a "Customer-Related Client") the limited right to access and use the Licensed Software during the License Term for the benefit of such Customer-Related Client; provided, that (i) such Customer-Related Client complies with all terms and conditions of this Agreement, (ii) Customer remains fully and primarily liable for all acts and omissions by such Customer-Related Client, including any act or omission that constitutes a breach of this Agreement, (iii) Customer has entered into a written agreement with such Customer-Related Client that contains confidentially obligations substantially similar to, and as protective as, the confidentiality obligations contained herein and (iv) in no event shall any Customer-Related Client assign, transfer or sublicense any of its rights to access and use such Licensed Software. Except for the limited right to sublicense expressly provided in this Section 2(e), under no other circumstances may Customer sublicense any of its rights under this Agreement.

(f) **Use of Artificial Intelligence Features** – Gurock may, from time to time, offer products, functionalities or capabilities within the Licensed Software that incorporate artificial intelligence ("AI Features") using technology provided by one or more third-party tools, software or services ("Third-Party AI Tools"). Customer's access to and use of all AI Features is governed by this Agreement and the Supplemental AI Terms published by Gurock, from time to time, at <https://www.sembi.com/legal/gurock/#tab2> (the "Supplemental Terms"). AI Features may be enabled by default within the Service. Customer may disable some or all AI Features at any time via the applicable account or administrative settings. Gurock will not use any Customer Data to train, fine-tune, or otherwise improve any artificial intelligence or machine-learning models owned or operated

by Gurock or any Third-Party AI Tools (collectively, "AI Models") and will not use Customer Data for any cross-customer or cross-tenant training purposes. Disabling or opting out of the AI Features may limit Customer's access to certain features of the Service. Customer's use of the AI Features is subject to continued compliance with the terms of this Agreement and all applicable Supplemental Terms. Notwithstanding anything to the contrary in this Agreement, (i) Gurock may use Customer Data and Outputs for performing its obligations under this Agreement and to generate Outputs and to improve Outputs and the AI Features for Customer within Customer's account or environment (including through tenant-scoped training or fine-tuning using Customer Data, Inputs and Outputs) and (ii) Gurock may use only aggregated and de-identified Customer Data and Outputs to train, fine-tune or otherwise improve the AI Features, AI Models and Service generally.

### 3. REGISTRATION AND PAYMENT TERMS –

- (a) **Registration** – To use and access the Licensed Software, Customer must register with Gurock at [www.testrail.com](http://www.testrail.com) by generating a username and password for each User ("Registration"). All passwords shall be personal and non-transferable. The parties shall treat all passwords and usernames generated for the purpose of Registration as Confidential Information.
- (b) **Payment** – Upon delivery of an Order Form by Customer, Gurock shall deliver an invoice to Customer specifying the license fees payable pursuant to such Order Form for the License Term. Customer shall pay all license fees specified therein within thirty (30) days of Customer's receipt of such invoice (unless otherwise expressly set forth in an Order Form) and shall pay such amount in the currency designated therein by Gurock. In the event that Customer elects to purchase a license for the Licensed Software online through use of Gurock's website or online store, Customer is required to pay all fees due hereunder with a credit card, and Customer (i) shall provide Gurock with a valid form of credit card payment at the time of such purchase and to keep all such credit card information current and accurate in respect of all renewal fees, (ii) shall promptly notify Gurock if its credit card has changed or has been declined and (iii) hereby consents to Gurock automatically processing and charging all fees due by Customer hereunder as they become due, including all renewal fees, to the credit card submitted by Customer. All fees payable by Customer in respect of such Ancillary Services may be separately invoiced. Customer's payment obligation with respect to all license fees owing hereunder shall be independent of the provision of Ancillary Services, whether or not such Ancillary Services are separately invoiced. Any late payment of any amount owing hereunder shall accrue interest at a rate equal to the lesser of (i) 15% per annum and (ii) the maximum rate permitted by law.
- (c) **Taxes** – All payments referred to in this Agreement are exclusive of value added tax, sales tax and any other applicable taxes, duties or imposts which (with the exception only of those based on Gurock's income) shall also be payable by Customer in accordance with applicable law.

**4. MAINTENANCE** – Gurock does not warrant that the Licensed Software will operate error-free or may be used error-free. Customer's right to use the Licensed Software during the License Term shall include the provision of Maintenance Services by Gurock at no additional fee. Upon Customer's payment of the license fees associated with the License Term purchased by Customer for the Licensed Software specified in an Order Form, Gurock shall provide Maintenance Services in accordance with this Section 4 and in accordance with any additional Maintenance Services terms specified in such Order Form. Gurock or its authorized representative will provide Maintenance Services for the Licensed Software during each License Term. Maintenance Services includes problem determinations, reasonable problem resolutions, provisioning of software program temporary fixes and new releases. Maintenance Services shall also include the additional Maintenance Service terms expressly set forth in writing in the Order Form delivered by Customer, which are hereby incorporated herein by reference. Maintenance Services shall entitle Customer to receive, at no additional cost, all Updates. Gurock

reserves the right to update the Licensed Software at any time without notice to Customer.

### 5. PROPRIETARY RIGHTS

- (a) Customer shall not acquire, by virtue of this Agreement, any right or license other than as expressly provided herein. Customer shall not reproduce the Licensed Material or other confidential or proprietary information of Gurock, except as provided in this Agreement. All proprietary rights in and to the Licensed Material and all Evaluation Software (as defined in Section 16 below), all derivatives, translations, modifications, adaptations, improvements, enhancements or developments thereof and all confidential or proprietary information of Gurock, including without limitation, all rights under and with respect to patents, copyrights, trademarks and rights under the trade secret laws of any jurisdiction shall remain the sole property of Gurock, its subsidiaries or affiliates or its applicable licensors, whether recognized by or perfected under applicable local law. Customer shall promptly notify Gurock of any infringement of Gurock's proprietary rights of which it becomes aware.
- (b) Customer shall retain ownership of all rights, title and interest in and to all Customer Data. Customer is solely responsible for obtaining all consents necessary to process any Customer Data, including any personally identifiable information inputted or uploaded into the Licensed Software by Customer or Users and Customer shall fully comply with all applicable laws governing the processing, disclosure, transmission or protection of personally identifiable information. Gurock shall maintain appropriate administrative, physical, and technical safeguards for protection of Customer Data as set forth in the Gurock Data Processing Agreement and the Gurock's Privacy Policy, as each may be amended from time to time, and available on the Gurock website. Except as otherwise expressly permitted under the terms of this Agreement, Gurock shall not (i) modify Customer Data, and (ii) disclose Customer Data except as required by law.
- (c) Customer hereby grants to Gurock a worldwide, royalty-free, non-exclusive license, with the right to sublicense, copy, reproduce, modify, use, perform, display, distribute, and create derivative works of all data, content, materials, Inputs and Outputs provided or generated by Customer through the SaaS Service, including any AI Features (collectively, "Customer Content"), solely during the Term of this Agreement and for the following purposes: (a) to deliver and operate the Licensed Software in accordance with this Agreement; (b) to develop, enhance, and improve the Licensed Software (subject to and as limited by Section 2(g) with respect to any AI Features); (c) to carry out any actions expressly authorized or directed by Customer in writing (including via email); and (d) to comply with applicable law. Customer represents and warrants that it has all necessary rights, licenses, and consents to provide the Customer Content to Gurock and to grant the foregoing license, and that such provision and use do not infringe, misappropriate, or otherwise violate the intellectual property or other rights of any third party. Gurock shall have no liability for: (i) any Customer Content transmitted, processed, or viewed through the Licensed Software ; (ii) any errors or omissions in Customer Content; or (iii) any loss or damage arising from use of, or inability to access, Customer Content. Customer retains all ownership rights in and to the Customer Content, subject to the rights granted to Gurock under this Agreement. Gurock reserves the right, in its sole discretion, to remove any Customer Content from the Licensed Software at any time and without notice if Gurock becomes aware that such content may violate this Agreement or applicable law. Customer acknowledges that Gurock does not pre-screen Customer Content but may do so at its discretion. Customer is solely responsible for backing up all Customer Content, and Gurock expressly disclaims all liability for the loss, corruption, or unauthorized access of any Customer Content stored or transmitted on its systems or networks, whether temporarily or permanently. Customer further acknowledges and agrees that it is responsible for the actions and omissions of its authorized users with respect to Customer Content.
- (d) Gurock agrees that Customer (a) retains all rights to its Inputs, and (b) owns its Outputs. Subject to Customer's compliance with this Agreement and the Supplemental Terms, Gurock hereby assigns to Customer its right, title and interest (if any) in and to Outputs. Due to the nature of the Licensed Software and artificial intelligence generally, Outputs may not be unique, and other users may receive

similar Outputs from our Licensed Software. Gurock's assignment above does not extend to other users' outputs or any third-party outputs.

**INFORMATION, OR AS A SUBSTITUTE FOR PROFESSIONAL ADVISE.**

## 6. LIMITED WARRANTIES

- (a) **Warranty by Gurock** – Gurock warrants to Customer that during the License Term (the "Warranty Period") such Licensed Software will perform substantially as described in the accompanying Licensed Documentation. Gurock does not warrant that (i) the Licensed Software will satisfy or may be customized to satisfy any of Customer's requirements or any other particular use or (ii) the use of the Licensed Software will be uninterrupted or error-free. Laws from time to time in force may imply warranties that cannot be excluded or can only be excluded to a limited extent. This Agreement shall be read and construed subject to any such statutory provisions.
- (b) **Remedies** – If at any time during the Warranty Period, Gurock breaches the warranty set forth in clause (a) above, then Customer shall promptly notify Gurock of such Error or breach and Gurock shall (A) use all commercially reasonable efforts to correct such Error or breach within thirty (30) days of notification or (B) provide Customer within thirty (30) days of notification with a plan reasonably acceptable to Customer for correcting such Error or breach. If such Error or breach is not corrected or if a reasonably acceptable plan for correcting such Error or breach is not established within such thirty (30) day period, Customer may terminate this Agreement and Gurock shall refund to Customer the pro rata portion of all pre-paid license fees actually paid by Customer for the defective Licensed Software in respect of the remaining portion of the current License Term. Gurock's obligations under this Section 6(b) shall be waived in the event such Error or breach is due to (I) any defect in or misconfiguration of Customer's computer hardware or network upon which the Licensed Software is installed, (II) the failure of Customer's internet service, or (III) an unauthorized alteration, revision or configuration of the Licensed Software or to Customer's computer system by Customer or its employees. Customer acknowledges that this Section 6(b) sets forth Customer's sole and exclusive remedy, and Gurock's and its authorized representatives' sole and exclusive liability, for any breach of warranty, Error or failure of the Licensed Software to function properly.
- (c) **Warranty by Customer** – Customer warrants to Gurock that Customer shall not (i) use the Licensed Software to process, store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to process, store or transmit material in violation of third-party privacy rights, (ii) use the Licensed Software to transmit advertisements, viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs, or (iii) attempt to gain unauthorized access to the Licensed Software.
- (d) **Third Party Websites.** Gurock may include in the Licensed Software links to other sites on the internet that are owned and operated by third parties, including affiliates and other customers of Gurock (all such internet sites, "Third Party Sites"). Customer acknowledges that Gurock is not responsible for the availability of, or the content located on or through, any Third Party Sites. Customer's use of Third Party Sites is subject to the terms of use and privacy policies of each such Third Party Site, and Gurock is not responsible for the products, services or content offered or made available on any Third Party Site.
- (e) **Disclaimer** – EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE LICENSED MATERIAL, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY GUROCK OR ITS AUTHORIZED REPRESENTATIVES OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE) ARE HEREBY OVERRIDDEN AND DISCLAIMED. YOU ACCEPT AND AGREE THAT ANY USE OF OUTPUTS FROM OUR LICENSED SOFTWARE IS AT YOUR SOLE RISK AND YOU WILL NOT RELY ON OUTPUTS AS A SOLE SOURCE OF TRUTH OR FACTUAL

## 7. INDEMNITY

- (a) **Indemnity by Gurock** – Subject to this Section 7 and Section 8 below, Gurock agrees during the License Term to indemnify, defend and hold harmless Customer from and against all claims, damages, losses, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) arising out of any claim by a third party asserting that the Licensed Material infringes upon any third party's patent, copyright or trademark; provided that (i) Customer promptly notifies Gurock in writing no later than thirty (30) days after Customer's notice of any potential claim, (ii) Customer permits Gurock to defend, compromise or settle the claim, and provided further that no settlement intended to bind Customer shall be made without Customer's prior written authorization and (iii) Customer gives Gurock all available information, reasonable assistance, and authority to enable Gurock to do so.
- (b) **Alternative Remedy** – If a claim described in Paragraph 7(a) may or has been asserted, Customer will permit Gurock, at Gurock's option and expense, to (i) procure the right to continue using the Licensed Material during the current License Term, (ii) replace or modify the Licensed Material to eliminate the infringement while providing functionally equivalent performance or (iii) accept the return of the Licensed Material and refund to Customer the pro rata portion of all pre-paid license fees actually paid by Customer for such Licensed Software in respect of the remaining portion of the current License Term.
- (c) **Limitation** – Gurock shall have no indemnity obligation to Customer hereunder if the violation or infringement claim results from (i) a correction or modification of the Licensed Material not provided by Gurock or its authorized representative, (ii) the combination of the Licensed Software with other non-Gurock software or services, (iii) Customer's failure to obtain all consents and licenses necessary to process the Customer Data processed by Customer using the Licensed Software or (iv) continuing the allegedly infringing activity after receiving written notice of such infringement claim from Gurock, or (v) Customer's Inputs, instructions, prompts, or other data provided to or used with any AI Features of the Licensed Software, or Customer's use of AI-generated Outputs in violation of this Agreement or applicable usage policies.
- (d) **Indemnity by Customer** – Customer shall defend Gurock against all claims, damages, losses, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) arising out of any claim by a third party (x) asserting that the Customer Data or the Customer's processing of Customer Data through use of the Licensed Software infringes upon any third party's patent, copyright or trademark or (z) arising out of Customer's Inputs, prompts, training data, or other materials provided to any AI Features within the Licensed Software, provided that (i) Gurock promptly notifies Customer in writing no later than thirty (30) days after Gurock's notice of any potential claim, (ii) Gurock permits Customer to defend, compromise or settle the claim, and provided further that no settlement intended to bind Gurock shall be made without Gurock's prior written authorization and (iii) Gurock gives Customer all available information, reasonable assistance, and authority to enable Customer to do so.

**8. NO CONSEQUENTIAL DAMAGES – UNDER NO CIRCUMSTANCES WILL EITHER PARTY, THEIR RESPECTIVE AFFILIATES OR ANY OF THEIR RESPECTIVE AUTHORIZED REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS BY THE OTHER PARTY OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, PROFITS, USE OF MONEY OR USE OF THE LICENSED MATERIALS, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY OF GUROCK AND ITS AFFILIATES FOR ALL CLAIMS, LOSSES, DAMAGES AND CAUSES OF ACTION**

UNDER OR RELATING TO THIS AGREEMENT AND THE LICENSED MATERIALS EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE SPECIFIC LICENSED SOFTWARE THAT DIRECTLY CAUSED THE DAMAGE DURING THE CURRENT LICENSE TERM. GUROCK SHALL HAVE NO LIABILITY ARISING FROM OR RELATED TO: (I) CUSTOMER'S INPUTS, PROMPTS, INSTRUCTIONS, OR OTHER DATA PROVIDED TO ANY AI FEATURES WITHIN THE LICENSED SOFTWARE; (II) CUSTOMER'S USE OF AI-GENERATED OUTPUTS IN VIOLATION OF THIS AGREEMENT OR ANY APPLICABLE USAGE POLICIES; OR (III) MODIFICATIONS, COMBINATIONS, OR USES OF AI-GENERATED OUTPUTS FOR PURPOSES NOT EXPRESSLY AUTHORIZED HEREIN. ALL LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION APPLY EQUALLY TO ALL AI FEATURES MADE AVAILABLE THROUGH OR INTEGRATED INTO THE LICENSED SOFTWARE.

## 9. CONFIDENTIALITY

(a) **Confidentiality.** – Customer acknowledges that the Licensed Materials incorporate confidential and proprietary information developed or acquired by or licensed to Gurock and that all results of testing of the Licensed Software, whether performed by Customer or another third party, are confidential. In no event will Customer publish or disclose the results of any testing or performance specifications of the Licensed Software without Gurock's express prior written consent. A party that receives Confidential Information (the "Receiving Party") from the other party (the "Disclosing Party") shall not: (i) export or re-export (within the meaning of US laws or other export control laws or regulations) any Confidential Information, except in strict compliance with US laws; (ii) reverse engineer any Confidential Information; or (iii) disclose or make available the Disclosing Party's Confidential Information to any of the Receiving Party's employees, agents, contractors or consultants or to any third parties, except those that have agreed in writing to be bound by terms and conditions substantially similar to, and no less restrictive with respect to limitations on use and disclosure, than those contained in this Agreement and each of which have a "need to know" in order to carry out the purposes set forth in this Agreement. Each party shall take all reasonable precautions necessary to safeguard the confidentiality of all Confidential Information disclosed by the other party, including those precautions (A) taken by the disclosing party to protect its own Confidential Information and (B) which the disclosing party or its authorized representative may reasonably request from time to time. Neither party shall allow the removal or defacement of any confidentiality or proprietary notice placed on the Confidential Information disclosed by the disclosing party. The placement of copyright notices on Confidential Information shall not constitute publication or otherwise impair their confidential nature of such information. All AI Features within the Licensed Software, including system prompts, model parameters, model behavior, and any proprietary information reflected in AI-generated outputs, constitutes Gurock's Confidential Information, and Customer shall not disclose such information except as permitted under this Agreement.

(b) **Disclosure** – If an unauthorized use or disclosure of the disclosing party's Confidential Information occurs within the recipient party's enterprise, the recipient party will immediately notify the disclosing party or its authorized representative and take, at recipient party's expense, all steps which may be available to recover such Confidential Information and to prevent its subsequent unauthorized use or dissemination.

**10. TERMINATION** – Customer's right to access and use the Licensed Software will automatically terminate upon expiration or termination of the License Term or termination of this Agreement in accordance with the terms hereof. In addition to the termination rights afforded Customer in Sections 6(b) and 7(b) hereof, in the event that Gurock breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days of Customer's delivery of written notice specifying such breach, Customer may terminate this Agreement and all licenses purchased hereunder. Except as expressly provided for in this Agreement, upon any termination or expiration of this Agreement, Customer shall not be entitled to any refund or credit of any amounts paid by Customer or a release from or cancellation, waiver or novation of any amounts payable or promised to be paid by Customer hereunder and all such amounts payable or promised to be paid by Customer in respect of the remaining portion of the current License Term shall

automatically accelerate, become immediately due and payable and shall survive termination of this Agreement. If Customer or any of Customer's employees, consultants, authorized representatives or permitted third parties breach any term or condition of this Agreement, Gurock may terminate this Agreement, without judicial or administrative resolution or obligation to refund and all amounts payable or promised to be paid by Customer in respect of the remaining portion of the current License Term shall automatically accelerate, become immediately due and payable and shall survive termination of this Agreement. This Agreement will terminate automatically if Customer ceases to do business, becomes insolvent, goes or is put into receivership or liquidation, passes a resolution for its winding up (other than for the purpose of reconstruction or amalgamation) or for any of the foregoing, makes an arrangement for the benefit of its creditors, enters into bankruptcy, suspension of payments, moratorium, reorganization or any other proceeding that relates to insolvency or protection of creditors' rights or takes or suffers any similar action in consequence of debt. Upon the termination of this Agreement for any reason, all rights granted to Customer hereunder will cease, and Customer will promptly (A) cease access to and use of the Licensed Software and purge all Licensed Software and any related Updates from all of Customer's computer systems, storage media and other files, (B) destroy the Licensed Material and all copies thereof and (C) deliver to Gurock an affidavit certifying that Customer has complied with these termination obligations. The provision of Sections 1, 3(a), 3(b), 8 through 15 and 17 shall survive the termination of this Agreement.

**11. U.S. EXPORT RESTRICTIONS** – Customer acknowledges that the Licensed Materials and all related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. Customer covenants and agrees to comply with all import and export control regulations of the United States with respect to the Licensed Material. Customer acknowledges that it may not re-export or divert the Licensed Material or any related technical information, document or material, or direct derivatives thereof, to any country set forth on the U.S. Department of Commerce's list of State Sponsors of Terror (currently, Iran, North Korea, Sudan and Syria), including any future changes to the government's list of State Sponsors of Terror.

**12. EQUITABLE RELIEF** – The parties recognize that Sections 5, 9, 11 and 13 are necessary for the protection of the business and goodwill of the parties and are considered by the parties to be reasonable for such purpose. The parties agree that any breach of such Sections would cause the other party substantial and irreparable damage and therefore, in the event of any such breach, in addition to other remedies which may be available, the non-breaching party shall have the right to seek specific performance and other injunctive and equitable relief in a court of law.

**13. REPORTING & AUDIT**– Gurock reserves the right to gather data on license usage by Customer for each item of Licensed Software, including server IP addresses, email addresses of Users, domain counts, the quantity of Customer Data, and applications processed and other information deemed relevant, to ensure that the Licensed Software is being used in accordance with the terms of this Agreement. Gurock expressly prohibits domain count overrides without prior written approval. Customer hereby consents to Gurock gathering and processing such usage information and agrees not to block, electronically or otherwise, the transmission of data required for compliance with this Agreement. Any unauthorized use of the Licensed Software by Customer or other use by Customer in violation of the restrictions contained in this Agreement shall be deemed a material breach of this Agreement. In addition to the foregoing, within ten (10) business days of Customer's receipt of Gurock's written request, Customer shall provide to Gurock a written report certifying to Gurock the number of licenses for Licensed Software used or accessed by Customer, the identity of the Users, applicable servers, hardware or computers upon which such licenses are access and used and, as applicable, the total number of Scans, the quantity of Customer Data or applications processed using the Licensed Software, in each case for the time period so specified in Gurock's written request, together with such other information as may be requested by Gurock and necessary to confirm Customer's compliance with the terms of this Agreement. The auditing, reporting and certification rights and obligations set forth in this Section 13(a) shall survive termination of this Agreement for a period of eighteen months.

**14. ENFORCEABILITY** – If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, void, invalid or illegal, that provision shall be enforced to the maximum extent

permissible so as to effect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.

## 15. ENTIRE AGREEMENT

- (a) Customer acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms. Customer and Gurock further agree that, subject to clause (b) below, this Agreement, together with all Order Forms delivered in connection herewith and all exhibits, schedules and annexes hereto, is the complete and exclusive statement of the agreement between Customer and Gurock and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement, including any shrink-wrap agreements, click-wrap agreements or demo or trial agreements which may accompany or be embedded in the Licensed Software or the Licensed Material or which may have been previously in force between the parties. Subject to clause (b) below, this Agreement may not be amended, modified, supplemented or altered except by a written agreement that is signed by both parties.
- (b) **UNDER NO CIRCUMSTANCES MAY THE TERMS OF THIS AGREEMENT OR ANY GUROCK ORDER FORM BE AMENDED, MODIFIED, SUPPLEMENTED, ALTERED, SUPERSEDED OR REPLACED BY ANY NON-GUROCK GENERATED ORDER FORM, PURCHASE CONFIRMATION, PURCHASE ORDER OR OTHER SIMILAR INSTRUMENT DELIVERED BY CUSTOMER OR ANY RESELLER TO GUROCK. EACH PARTY ACKNOWLEDGES AND AGREES THAT, SOLELY AS A CONVENIENCE TO CUSTOMER AND ONLY FOR CUSTOMER'S INTERNAL ACCOUNTING PROCEDURES, CUSTOMER OR A RESELLER MAY DELIVER TO GUROCK A CUSTOMER-GENERATED OR RESELLER-GENERATED ORDER FORM, PURCHASE CONFIRMATION, PURCHASE ORDER OR OTHER SIMILAR DOCUMENT FOR ANY TRANSACTION CONTEMPLATED HEREUNDER AND THAT NO ACTION BY GUROCK, INCLUDING GUROCK'S DELIVERY OF THE SAAS SERVICES OR ANY LICENSED MATERIALS OR ACCEPTANCE OF PAYMENT, SHALL BE DEEMED TO BE ACCEPTANCE OF ANY OF THE TERMS OR CONDITIONS CONTAINED IN SUCH CUSTOMER-GENERATED OR RESELLER-GENERATED ORDER FORM, PURCHASE CONFIRMATION, PURCHASE ORDER OR OTHER SIMILAR INSTRUMENT AND SUCH TERMS AND CONDITIONS SHALL BE VOID AND OF NO FORCE OR EFFECT, UNLESS ACCEPTED BY GUROCK PURSUANT TO A WRITTEN INSTRUMENT SIGNED BY BOTH PARTIES.**

## 16. TRIAL LICENSE

- (a) If Customer is evaluating Evaluation Software (as defined below), then only the terms and conditions of this Section 16 (including those Sections of this Agreement incorporated in this Section 16 by reference) will govern Customer's temporary use of such Evaluation Software (and no other terms of this Agreement shall apply to Customer or govern Customer's use of Evaluation Software) and upon purchase of a commercial license or commercial subscription for such Evaluation Software, this entire Agreement, exclusive of this Section 16, shall apply to Customer and govern all use of the Licensed Material.
- (b) Gurock is the owner and provider of certain proprietary software and documentation that Customer may request to use, from time to time, on a temporary basis for the sole purpose of testing and evaluating such software prior to purchasing a commercial license for such software ("Evaluation Software"). All access and usage of Evaluation Software by Customer requires a temporary User generated username and password ("Trial Registration") and Customer is only permitted to use Evaluation Software during the term identified on Gurock's website (the "Trial Term").
- (c) Evaluation Software is provided to Customer solely for evaluation purposes for Customer's own testing and evaluation purposes (an "Evaluation") and upon Trial Registration Gurock hereby grants Customer a non-transferable, nonexclusive, limited license to access and use the Evaluation Software for such Evaluation during the period commencing on the date Customer first accesses the Evaluation Software and ending on the expiration of the Trial Term

(including any extensions thereof authorized by Gurock, the "Evaluation Period"). Evaluation Software may be used by Customer solely for Customer's internal evaluation purposes and may not be used for any commercial purpose or any purpose for which Customer charges any third party a fee. Customer agrees not to cause or permit the reverse engineering, disassembly, modification, translation or decompilation of any Evaluation Software. Customer shall not copy the Evaluation Software, or create or develop any derivative software based upon the Evaluation Software. Customer's use of all AI Features is governed by the Supplemental Terms and Customer should not use any AI Features in a manner that violates any applicable usage restrictions, attempt to extract or infer proprietary model information, or use AI-generated outputs for any commercial purpose or in a manner inconsistent with this Section 16.

- (d) Customer acknowledges that all Evaluation Software incorporates confidential and proprietary information developed or acquired by or licensed to Gurock and that all results of testing of the Evaluation Software, whether performed by Customer or another third party, are confidential. In no event will Customer publish or disclose the results of any testing or performance specifications of the Evaluation Software without Gurock's express prior written consent. Customer shall not remove or deface of any confidentiality or proprietary notice placed on the Evaluation Software. The placement of copyright notices on Evaluation Software shall not constitute publication or otherwise impair their confidential nature of such information.
- (e) **ALL EVALUATION SOFTWARE PROVIDED BY GUROCK IS DELIVERED "AS IS, WHERE IS" AND GUROCK SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. GUROCK DOES NOT WARRANT THAT THE EVALUATION SOFTWARE WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE. UNDER NO CIRCUMSTANCES WILL GUROCK OR ITS AUTHORIZED REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE OR WHETHER BASED ON CLAIMS BY CUSTOMER OR ANY THIRD PARTY, ARISING OUT OF OR RELATED TO CUSTOMER'S USE OF EVALUATION SOFTWARE. IN NO EVENT WILL THE AGGREGATE LIABILITY OF GUROCK OR ITS AUTHORIZED REPRESENTATIVES INCURRED IN ANY ACTION OR PROCEEDING RELATING TO CUSTOMER'S USE OF EVALUATION SOFTWARE EXCEED ONE HUNDRED DOLLARS. GUROCK SHALL HAVE NO LIABILITY ARISING FROM OR RELATING TO CUSTOMER'S INPUTS, PROMPTS, DATA, INSTRUCTIONS, OR OTHER MATERIALS PROVIDED TO ANY AI FEATURES OF THE EVALUATION SOFTWARE, OR FROM CUSTOMER'S USE OF AI-GENERATED OUTPUTS.**
- (f) The Evaluation and the evaluation license granted under this Section 16 shall automatically terminate immediately upon the earliest of (i) the expiration of the Evaluation Period, (ii) the date upon which Customer purchases a commercial license or commercial subscription for such Evaluation Software and (iii) the date upon which either party notifies the other party of its termination of the Evaluation. Upon expiration of the Evaluation Period or the Evaluation, Customer shall cease using and shall uninstall and destroy the Evaluation Software unless Customer has purchased a commercial license for such Evaluation Software on or prior to such expiration.
- (g) Sections 1, 5, 9, 11, 14, 15 and 17(a) through 17(g) of this Agreement shall be deemed incorporated by this reference in this Section 16 and the Evaluation license granted under this Section 16.

## 17. MISCELLANEOUS

- (a) Customer shall not assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder to any other person or entity, whether by contract, merger or operation of the law, without Gurock's prior written consent. In the event of any merger of Customer or a sale of substantially all of the assets of Customer in which Customer is not the surviving entity, Customer may assign or

transfer any licenses granted under this Agreement; provided, that Customer provides Gurock with written notice of such transfer within thirty days of such merger or sale. Any assignment or delegation in breach of this Section 17(a) shall be void. This Agreement shall be binding upon the parties hereto and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

- (b) All notices or approvals required or permitted under this Agreement must be given in writing and delivered to the appropriate party at the address set forth in this Agreement, in any Order Form delivered in connection with this Agreement or in the Billing Portal. Customer hereby agrees to maintain current, complete and accurate contact information in the Billing Portal.
- (c) The waiver of compliance with or breach of any term or condition of this Agreement or the failure of a party to exercise any right under this Agreement shall in no event constitute a waiver as to any other failure to comply or breach, whether similar or dissimilar in nature, or prevent the exercise of any right under this Agreement.
- (d) **THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF ENGLAND AND WALES WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW RULES. GUROCK AND CUSTOMER HEREBY IRREVOCABLY AGREE ON BEHALF OF THEMSELVES THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE FOR ANY LITIGATION ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF SHALL BE IN THE HIGHEST COURT OF ENGLAND.**
- (e) Unless otherwise specified herein, the rights and remedies of Gurock set forth in this Agreement are not exclusive and are in

addition to any other rights and remedies available to it at law or in equity. In the event of Customer's failure to pay any fees set forth in this Agreement, Gurock shall be entitled to recover its costs and expenses, including but not limited to reasonable attorneys' fees, incurred in any collection efforts or legal action to enforce its rights hereunder.

- (f) This Agreement is not intended to be nor shall it be construed as a joint venture, association, partnership or other form of business organization or agency relationship.
- (g) Headings used in this Agreement are for reference purposes only and shall not be used to modify the meaning of the terms and conditions of this Agreement. This Agreement may be executed in counterparts, all of which shall constitute one single agreement between the parties hereto.
- (h) In consideration of the mutual covenants contained herein, including the rights and licenses granted to Customer herein, the parties hereto do hereby agree that for a period of two years following Customer's most recent purchase of any licenses or services, including Maintenance Service, from Gurock or its authorized representative, Customer shall not solicit, induce, hire, engage, or attempt to hire or engage any employee of Gurock, or in any other way interfere with Gurock's contractual or employment relations with any of its employees, nor will Customer hire or engage or attempt to hire or engage any individual who was an employee of Gurock at any time during such two-year period.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Gurock and Customer have caused this Agreement to be executed by their duly authorized representatives identified below, as of the date last written below.

[NAME OF CUSTOMER]

GUROCK SOFTWARE GMBH

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Gurock Software GmbH  
Bonner Straße 12  
51379 Leverkusen  
Germany  
Attn: Finance Department

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Attn: \_\_\_\_\_