QYRUS SOFTWARE AS A SERVICE AGREEMENT

Last Updated: April 11, 2022

This is a Qyrus Software As A Service Agreement ("Agreement") between you ("Customer" or "you"), and Quinnox, Inc. ("Quinnox") This Agreement governs your use of the Qyrus Services , and associated Software, and related Documentation.

By selecting or checking the box or otherwise indicating agreement you are consenting to be legally bound by and are becoming a party to this Agreement with Quinnox. This Agreement is effective on the date that you indicate agreement to it.

You do not need to agree to the terms of this Agreement, however if you do not agree to this Agreement, you cannot use the Services, Software, or Documentation, and you do not have any rights under this Agreement.

If there is a conflict between the terms of this Agreement and the Order Document, this Agreement will control the conflict.

1.   DEFINITIONS

1.1.   The definitions in this section apply in this Agreement.

(a)   "**Agreement**" means this Qyrus Software as a Service Agreement.

(b)   "**Customer Data**" is Customer Contact Data and Customer Test Data.

(c)   "**Customer Contact Data**" means the data for contacting the customer, such as name, address, email address, phone number, and the like.

(d)   "**Customer Test Data**" means the data provided by Customer that is for testing using the Services, including but not limited to test scripts, test code, data and parameters for use in testing, webpage urls and the associated webpages, including the content thereof, on which testing is to be performed or data is to be gathered.

(e)   "**Documentation**" means the document(s) made available to the Customer online in connection with the Services which sets out a description of the Services and/or the user instructions for the Services.

(f)   "**Illicit Code**" means computer instructions or other code in the Customer's or Third Party's software including viruses, worms, Trojan horses, anomalies, or other instructions that can disable, destroy, or otherwise alter the Software or any data accessed or processed by the Software, or any self-destruction mechanism or copy protection scheme.

(g)   "**Normal Business Hours**" means 8:00 am to 6:00 pm Central Standard Time during a day which is not a Saturday, Sunday or public holiday in the United States.

(h)   "**Services**" means the Qyrus software testing platform services provided by Quinnox to the Customer under this Agreement.

(i)   "**Software**" means the software application(s) provided by Quinnox that allows or enables Customer to use any functionality in connection with the Services.

(j)   "**Subscription Fees**" means the subscription fees payable by the Customer to Quinnox for the Services subscribed to by the Customer.

2. SUBSCRIPTIONS

2.1.   Customer's subscription to the Services ("Subscription") is provided in the applicable order document, which may be a webpage or series of webpages to complete an order, ("Order Document"). The first Subscription will be a 14 day trial ("Trial Subscription"), which is without charge. The term of Customer's Subscription, after the Trial Subscription, is one month. Customer's non-trial Subscription begins when Quinnox receives Customer's first payment of the Subscription Fees. If renewal is offered by Quinnox, Customer may renew the Subscription in one month increments by submitting the applicable Subscription Fees for each incremental renewal month. If the Customer does not submit the applicable Subscription Fees for the next renewal month before the end of the current month Subscription, the Subscription will expire. The Customer may be able to renew the Subscription after expiration by paying the then applicable Subscription Fees, if offered by Quinnox at the time.

2.2.   At the beginning of each renewal month, Quinnox may change Customer's Subscription Fees rate. Quinnox will notify Customer of a rate change. If the Customer does not agree to the rate change the Customer can choose not to renew the Subscription.

2.3.   If Customer's payment fails or Subscription Fees are otherwise not received by Quinnox, Quinnox may suspend or cancel Customer's Subscription. Quinnox shall have no obligation to provide the Services during any period when the applicable Subscription Fees for the applicable Subscription are due and have not been received by Quinnox. In the event that Quinnox terminates access to the Services because of the Customer's nonpayment of Subscription Fees when due and owing, Quinnox shall have no liability to Customer therefor.

2.4.   Customer can end the Customer's Subscription by not renewing it and allowing it to expire. In the case of non-renewal, the Services provided under the Subscription will continue until the end of that monthly period and after which Customer shall have no further access or use to the Services, Software, or Documentation.

2.5.   All fees paid under this Agreement shall be in US Dollars. All amounts and fees paid hereunder are non-cancellable and non-refundable. All prices at any specific time are net price. Customer shall be responsible for paying all taxes associated with the Services under this Agreement at the time of subscribing. Quinnox uses a third party to process payments and Quinnox does not have access to nor does it store Customer's financial payment information, such as a credit card number.

3.   USE OF SERVICES

3.1.   Subject to the terms of this Agreement and Customer's compliance with this Agreement and applicable law, Customer will have non-exclusive, non-transferable access and use of the Services and Documentation made available by Quinnox that Customer has an active and paid for Subscription to. The rights provided under this Section are granted to the Customer only and only during an unexpired, unterminated, and timely paid for, Subscription to the Services.

4.   USE REQUIREMENTS AND RESTRICTIONS

4.1.   Customer may only use the Services for Customer's internal business operations.

4.2.   Customer may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

4.3.   Customer agrees that it will not access the Services if Customer is Quinnox's direct competitor; and Customer will not access the Services on behalf of a third party that is a direct competitor of Quinnnox.

4.4.   Customer will keep a secure password for the Customer's use of the Services and Documentation and shall keep the password confidential. The Customer shall use all reasonable endeavors to prevent any unauthorized access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorized access or use, promptly notify Quinnox.

4.5.   Customer shall not:

(a)   share or allow any other person or entity to use the Customer's login credentials to the Services.

(b)   access, store, distribute, transmit or upload onto the Software or Services any Illicit Code.

(c)   access, store, distribute or transmit any material during the course of Customer's use of the Services, or to use the Services in a manner, that:

i.   is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethically offensive;

ii.   facilitates illegal activity;

iii.   is discriminatory based on race, gender, color, religious belief, sexual orientation, disability, or any other protected status; or

iv.   may cause damage or injury to any person or property;

(d)   attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software, Services, and/or Documentation (as applicable) in any form or media or by any means;

(e)   attempt to reverse compile, dissemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or Services;

(f)   access all or any part of the Services, Software and Documentation in order to build a product or service which competes with the Services and/or the Documentation, nor to assist any third party in doing so;

(g)   use of the Services, Software and/or Documentation to provide the same or similar services to third parties;

(h)   license, sell, rent, lease, transfer, assign, distribute, time share, display, disclose, or otherwise commercially exploit, or otherwise make the Services, Software, and/or Documentation available to any third party;

(i)   attempt to obtain, or assist third parties in obtaining, access to the Services, Software, and/or Documentation;

(j)   use the Services or Software to launch, facilitate, or cause a denial-of-service attack;

(k)   use the Services or Software to test software, webpages, websites, or other property of a third party that Customer does not have authorization to test;

(l)   use the Services or Software to cause harm or liability to a third party or Quinnox, such as by spamming, hacking, harassing, or phishing others or by scraping content of others, and/or,

(m)   use the Services or Software to process data on behalf of any third party.

4.6.   If the Customer breaches any provision of this Section 4, Quinnox shall have the right, at its sole discretion, without liability to the Customer, to: (a) disable and/or suspend the Customer's use and/or access to any portion of the Services, Software, and/or Documentation, and/or (b) terminate Customer Subscription and any access to and/or use of the Services, Software, and/or Documentation and/or delete Customer's account.

5. SERVICES AVAILABILITY

5.1.   Quinnox shall use commercially reasonable efforts to make the Services available 24 hours a day, seven days a week, except for (a) planned downtime for upgrades and maintenance of the Services (of which Quinnox will use commercially reasonable efforts to notify Customer in advance); (b) unscheduled maintenance or fixes performed outside Normal Business Hours; (c) urgent maintenance or fixes for which little or no advance notice may be given; (d) unavailability due to equipment defects or software errors; and (e) for any unavailability caused due to Force Majeure event.

6. CUSTOMER DATA

6.1.   The Customer owns all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

6.2.   The Customer grants Quinnox a royalty-free, non-exclusive license to use, store, transmit, reproduce, distribute, perform, display, and to create derivative works of the Customer Data in order to (a) provide the Services to Customer, (b) communicate with the Customer (c) monitor and generate reports on the use of the Services, and (d) diagnose, modify, enhance, develop, and/or improve the Software and/or the Services and/or other software or services that Quinnox may choose to develop in the future.

6.3.   Quinnox will maintain a backup of Customer Test Data used for testing during the Customer's active Subscription to the Services. Upon expiration or termination of the Subscription, Quinnox will retain Customer Test Data for 90 days after the expiration or termination ("90-Day Retention Period") and will destroy Customer Test Data after the 90-Day Retention Period, unless the data is required to be retained by law or legal process.   In the event of any loss or damage to the Operating Copy of the Customer Data during the Subscription, the Customer's sole and exclusive remedy shall be for Quinnox to use reasonable commercial efforts during the Subscription to attempt to restore the lost or damaged Customer Data within the Service using ordinary restore procedures from the latest available back-up of such Customer Data maintained by Quinnox. Operating Copy as referred to in this paragraph is the version of the Customer Data the Software regularly accesses for providing the Services, which is distinguished from the copy of the Customer Data that is held as a backup.

6.4.   The Customer Data is hosted in the United States unless otherwise specified in the Order Document or another agreement with the Customer. If the Customer is located outside of the United States Customer agrees that Customer's data can be transferred across international borders and to the United States. Customer agrees to Quinnox's Privacy Policy,   as   updated   from   time   to   time   by   Quinnox   and   available   at https://www.qyrus.com/privacy-policy, which includes information about the collection and use of personal information.

7. THIRD PARTY PROVIDERS

The Customer acknowledges that the Services may enable or assist Customer to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Quinnox makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Quinnox. Quinnox recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Quinnox does not endorse or approve any third-party website nor the content of any of the third-party website(s) made available via the Services.

8. DISCLAIMER OF WARRANTIES

8.1. Quinnox does not warrant that the Customer's use of the Services will be uninterrupted or error-free; nor that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements.

8.2. Quinnox is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.3. Written or oral advice and any support provided by Quinnox does not create a warranty.

8.4. Customer shall notify Quinnox of any deficiencies with the Services within 30 days of when the deficient Services were provided.

8.5. **TO THE FULLEST EXTENT PERMITTED BY LAW, QUINNOX DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATIONS THE WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, ACCURACY, TIMELINESS, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, regardless of whether Quinnox knows or had reason to know of Customers' particular needs.**

8.6. This Agreement is non-exclusive and in no way limits or prevents Quinnox from entering into similar agreements with any other third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

9. CUSTOMER'S OBLIGATIONS

9.1. The Customer warrants and agrees to:

(a) provide Quinnox with all necessary co-operation in relation to this Agreement and all necessary access to such information as may be required by Quinnox in order to render the Services, including but not limited to Customer Data, security access information and configuration services;

(b) comply with all applicable laws and regulations with respect to Customer's activities under this Agreement;

(c) carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner;

(d) ensure that Customer uses the Services and the Documentation in accordance with the terms and conditions of this Agreement;

(e) obtain and shall maintain all necessary licenses, consents, and permissions necessary for Quinnox, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services and Customer Data;

(f) ensure that its network and systems comply with the relevant specifications provided by Quinnox from time to time; and

(g) be solely responsible for (1) procuring and maintaining its network connections and telecommunications links from its systems to the Services, and (2) all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9.2. The Customer further represents and warrants that:

(a) Customer has the authority to enter into this Agreement and person signing or agreeing the provisions of this Agreement has the power authority to bind the Customer;

(b) Customer owns or has sufficient rights in the Customer Data to license and to provide Quinnox with the rights in Customer Data granted to Quinnox hereunder, such as provided in section 6.2;

(c) Customer will not provide Quinnox or the Services with data, including but not limited to Customer Data, about third parties, including but not limited to personally identifiable information, that is subject to the privacy protection laws,

including but not limited to the European General Data Protection Regulation (GDPR) or the California Consumer Privacy Act or similar laws; and,

(d)   Customer will not provide Quinnox or the Services with data, including but not limited to Customer Data, that is subject to the health care privacy protection laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA) or similar laws.

10. PROPRIETARY RIGHTS

10.1.   The Customer acknowledges and agrees that Quinnox and/or its licensors own all intellectual property rights in the Software, the Services, and the Documentation. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licenses in respect of the Services, Software, or the Documentation.

10.2.   Quinnox confirms that it has all necessary rights in relation to the Software, Services and the Documentation to grant all the rights granted hereunder, and in accordance with, the terms and conditions of this Agreement.

10.3.   Customer hereby assigns all right, title, and interest to Quinnox any suggestion, idea, enhancement request, recommendation, correction, or other feedback provided by the Customer to Quinnox, whether directly or indirectly, without payment by Quinnox of any compensation to the Customer therefor.

10.4.   Customer agrees to comply with all applicable laws and regulations including but not limited to laws relating to corrupt practices, corrupting benefits and secret commissions. Customer agrees to report to Quinnox, immediately upon knowledge of, any suspected counterfeiting, piracy or other infringement of copyright in software, service, computer programs, manuals, marketing materials or other copyrighted materials owned by Quinnox and agree to reasonably cooperate with Quinnox in the investigation of counterfeit, pirated or illegal software or unauthorized use of the Services through Customer's Users.

11. INDEMNITY

11.1.   The Customer shall defend, indemnify and hold harmless Quinnox against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable attorney fees) arising out of or in connection with the Customer's use of the Services and/or Documentation or breach of any customer warranty or obligation under this Agreement.

11.2. If any third party claims to Quinnox that the Services infringe a third party's intellectual property right, Quinnox may, at Quinnox's option and sole discretion, (1) procure the right for the Customer to continue using the Service, (2) replace or modify the Services so that they become non-infringing or (3) terminate this Agreement on notice to the Customer and provide Customer a prorated refund of the unused Subscription Fees paid to Quinnox for the remaining portion of the then existing Subscription without any additional liability or other additional costs to the Customer.

11.3. In no event shall Quinnox, its employees, agents and sub-contractors be liable to the Customer to the extent that any alleged infringement under Section 11.2 or otherwise is based on:

(a) a modification of the Services or Documentation by anyone other than Quinnox; or

(b) the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Quinnox or contrary to the Documentation.

11.4. Section 11.2 and 11.3 state the Customer's sole and exclusive rights and remedies, and limitations, and Quinnox' (including Quinnox employees', agents' and sub-contractors') entire obligations and liability, for infringement of a third party's intellectual property.

12. LIMITATION OF LIABILITY

12.1. This Section 12 sets out the entire financial liability of Quinnox (including any liability of the acts or omissions of its employees, agents, and sub-contractors) to the Customer in respect of:

(a) any breach of this Agreement;

(b) any use made by the Customer of the Services and Documentation or any part of them;

(c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement, and

(d) any other claim or liability arising from or related to this Agreement, the Services, or the Documentation.

12.2. The Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. Quinnox shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Quinnox by the Customer in connection with the Services, or any actions taken by Quinnox at the Customer's direction. **Customer acknowledges that the Services are intended as a supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of computer programmers, or other**

technology professionals. Customer acknowledges that the professional duty to determine the appropriate modification(s) to the Customer's software and/or Customer Data lies solely with the Customer. Customer takes full responsibility for the use of information provided by the Services and acknowledges that the use of the Services is in no way intended to replace or substitute for professional judgment regarding errors in Customer's software or Customer Data. Quinnox does not assume any responsibility for actions of Customer which may result in any liability or damages due to any actions taken as a result of the Services, negligence, or any other basis.

12.3. **The Services and the Documentation are provided to the Customer on an "AS IS" basis.**

12.4. **QUINNOX SHALL NOT BE LIABLE WHETHER IN TORT (INCLUDING FOR GROSS NEGLIGENCE OR BREACH OF STATUTORY DUTY), CONTRACT, MISREPRESENTATION, RESTITUTION OR OTHERWISE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, DEPLETION OF GOODWILL AND/OR SIMILAR LOSSES OR LOSS OR CORRUPTION OF DATA OR INFORMATION, OR PURE ECONOMIC LOSS, OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES HOWEVER ARISING UNDER OR RELATED TO THIS AGREEMENT, THE SERVICES, OR THE DOCUMENTATION.**

12.5. **QUINNOX'S TOTAL AGGREGATE LIABILITY, INCLUDING WITHOUT LIMITATION, IN CONTRACT, TORT (INCLUDING GROSS NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION, OR OTHERWISE, RELATED TO OR ARISING IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, OR THE DOCUMENTATION, SHALL BE LIMITED TO THE GREATER OF (1) $50 OR (2) THE TOTAL SUBSCRIPTION FEES PAID BY CUSTOMER DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM AROSE.**

13. TERM AND TERMINATION

13.1. This Agreement shall, unless otherwise terminated as provided in this Section 13, commence on the date the Customer agrees to this Agreement and shall continue until terminated by Quinnox, at Quinnox's sole option and discretion.

13.2. On termination of this Agreement for any reason: all Subscriptions, all right to use the Services, including the rights granted under Section 3, and all access to the Services granted under this Agreement shall immediately terminate.

13.3. Quinnox may suspend or terminate Customer's Subscription and access to and use of the Services or delete Customer's account if (1) Customer breaches this Agreement, including without limitation a breach of any of the provisions of section 4, (2) Quinnox is required to in order to comply with a court order or legal requirement, or (3) non-payment of Subscription Fees or other fees due for the Services.

13.4. Customer shall have no access or use of any of the Services or Documentation on expiration, or termination of the Subscription and all right to use the Services, including the rights granted under Section 3, and all access to the Services granted under this Agreement shall immediately terminate.

14. GENERAL

14.1. Modification. Quinnox has the right to modify this Agreement at any time, with notice to Customer. Quinnox will notify you by revising the date at the top of this Agreement incorporating the modification(s), and may also provide additional notice via the Services or through other means, such as email. Unless otherwise noted the modification(s) will be effective immediately, and Customer's continued use of the Services after notice of modification will confirm Customer's acceptance of the modification(s). If Customer does not agree with the modification(s), Customer must stop using the Services and allow Customer's Subscription to expire. Further, Quinnox has the right to modify the Services at any time, including without limitation, adding, changing, or deleting features or aspects of the Services, or discontinuing or imposing conditions on use of the Services.

14.2. Force Majeure. Quinnox shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs, or other industrial disputes (whether involving the workforce of Quinnox or any other party), failure of a utility service or transport or telecommunications or computer network, act of God, war, riot, pandemic, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulations or direction, accident, breakdown of equipment, plant, or machinery, fire, flood, storm or default of suppliers or sub-contractors.

14.3. Waiver. No provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach of the other Party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach.

14.5. Severability. If any provision or portion of this Agreement shall be prohibited or unenforceable by any applicable law, the provision shall be severable and ineffective only to the extent and for the duration of the prohibition or unenforceability, without invalidating any of the remaining provisions and portions, and the remaining portions and provisions remain in full force and effect.

14.6. Entire Agreement. This Agreement, including Order Document(s) and the Privacy Policy, constitute the entire agreement between Customer and Quinnox with respect to the subject matter of this Agreement and they supersede all earlier agreements and understandings, oral and written, between the Parties related to the subject matter. Each

of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

14.7. Assignment. The Customer shall not, directly or indirectly, by operation of law or otherwise, assign, license, transfer, charge, sub-contract or deal in any other manner with all or any part of this Agreement or Customer rights under this Agreement or delegate performance of Customer's duties under this Agreement.

14.8. No Partnership or Agency. 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, and neither Party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

14.9. Third Party Rights. This Agreement is for the benefit of the Parties hereto and is not entered into for the benefit of, and shall not be construed to confer any benefit upon, any other party or entity.

14.10. Surviving Provisions. Sections 1, 6, 8, 10, 11, 12, 13, and 14 will survive any termination or expiration of this Agreement

14.11. Governing Law; Jurisdiction; Venue. This Agreement, and all disputes arising out of or in connection with this Agreement, shall be governed by and/or interpreted according to the laws of the State of Illinois, United States of America, without regards to conflict of law principles. The Parties irrevocably agree and submit to the exclusive jurisdiction and venue of the state and/or federal courts in Cook County, Illinois, USA, for any dispute, interpretation, enforcement or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). The parties acknowledge the aforesaid courts shall have exclusive jurisdiction and venue over this Agreement, and specifically waive any claims which they may have that involve jurisdiction or venue, including but not limited to forum non conveniens.

14.12. Headings. Clause, schedule and paragraph headings are for convenience only and shall not affect the interpretation of this Agreement.