

TRUQC LICENSED APPLICATION AGREEMENT

This TruQC App Agreement (the "**Agreement**") is by and between the end user ("**You**" or "**Your**") and TruQC, LLC ("**TruQC** ") for use of the TruQC iPad App and related software and services (the "**TruQC App**").

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE TRUQC APP OR DOWNLOADING ANY UPDATES. BY USING THE TRUQC APP OR DOWNLOADING ANY UPDATE, AS APPLICABLE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT USE THE TRUQC APP OR DOWNLOAD ANY UPDATE.

This Agreement establishes the terms and conditions under which TruQC grants rights to use the TruQC App and related services.

1. **TruQC App.** The TruQC App and Hosted Services are licensed, not sold, to You for use only under the terms of this Agreement, unless a product or service is accompanied by a separate license agreement, in which case the terms of that separate license agreement will govern, subject to Your prior acceptance of that separate license agreement. TruQC reserves all rights not expressly granted to You.

2. **Your Data and Hosted Services.** "**Your Data**" includes all user information, data, data analyses and results, and other information and data input by You or on Your behalf into the TruQC App and the Hosted Services, and all information and data that is generated, produced and reported through use of the TruQC App and the Hosted Services by You or on Your behalf. "**Hosted Services**" means the TruQC's online web portal and platform for storing, tracking and analyzing Your Data including, without limitation, all corrections, updates, modifications, releases, versions, and enhancements to such Hosted Services that may hereafter be supplied by TruQC to You. TruQC warrants to You that: (i) TruQC shall perform the Hosted Services in a diligent and workmanlike manner; and (ii) if the Hosted Services become unavailable to You, other than for scheduled maintenance, TruQC shall diligently undertake efforts to remedy such unavailability.

3. **Your License.**

3.1 The license granted to You for the TruQC App is limited to a non-exclusive, non-transferable license to use the TruQC App on any iPad You own or control. You may not rent, lease, lend, sell, redistribute or sublicense the TruQC App. You may not copy (except as expressly permitted by this license), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the TruQC App, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open sourced components included with the TruQC App). If You breach this restriction, You may be subject to prosecution and damages. The terms of the license will govern any upgrades provided by TruQC that replace and/or supplement the original product, unless such upgrade is accompanied by a separate license in which case the terms of that license will govern.

3.2 You are also granted a non-exclusive and nontransferable license to access and use the Hosted Services, and use any documentation which may be made available by TruQC. Access to the Hosted Services shall be via the Internet using the TruQC App.

4. **Use of Your Data.** As between TruQC and You, all Your Data shall be owned exclusively by You. You agree, however, that TruQC may collect and use technical data and related information, including but not limited to technical information about Your device, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to You (if any) related to the TruQC App. TruQC may use this information, as long as it is in a form that does not personally identify You, to improve its products or to provide services or technologies to You. TruQC will maintain Your Data for thirty (30) days after the termination or expiration of this Agreement. Upon Your request during the term of this Agreement or within thirty (30) days thereafter, TruQC shall provide You a copy of Your Data.

5. **Data Backup and Security.** TruQC shall back-up Your Data stored via the Hosted Services on a daily basis. Such back-ups shall be stored in a secure environment (i.e., protected from flood, fire and the like). Standard security for Your Data includes firewall protection commensurate with generally accepted industry standards, SSL (Secure Socket Layer) encoding of transactions, and password-based user authentication. Upon request, TruQC will review its security procedures with You to ensure that the level of security being implemented meets Your requirements. Additional charges may be required for Your requested upgrades.

6. **Support.**

6.1 Consultation regarding the operation of the TruQC App and Hosted Services will be available to You by telephone or e-mail (support@truqcapp.com) during TruQC's normal business hours, which are 9:00 a.m. to 5:00 p.m. Central time.

6.2 In the event of a Critical Problem with the Hosted Services or TruQC App, TruQC agrees to provide a response to You within one hour of notice received during normal business hours and by 9 a.m. Central time the next day where notice is received by TruQC outside normal business hours. "**Critical Problems**" include errors or problems which materially and adversely affect the use of the TruQC APP and the Hosted Services including errors or problems which halt processing of the TruQC App, cause corruption of Your data by the TruQC App, or cause a key function of the TruQC App not to operate as intended. In the event of Critical Problems, TruQC will, upon receipt of notice and verification of the Critical Problem, immediately assign dedicated resources until such Critical Problem is resolved.

6.3 In the event of a Serious Problem with the with the Hosted Services or TruQC App, TruQC agrees to provide a response to You within two hours of notice received during normal business hours and by 9 a.m. Central time the next day where notice is received by TruQC outside normal business hours. "**Serious Problems**" include problems that do not inhibit operations but significantly impede the regular flow of operations. In the event of Serious Problems, TruQC will, upon receipt of notice and verification of the Critical Problem, assign dedicated resources by the next business day until such Serious Problem resolved.

6.4 You may report problems to TruQC by email to: support@truqcapp.com.

7. **Confidentiality and Disclosure.**

7.1 "**Confidential and Proprietary Information**" of a party includes such party's trade secrets, pending or abandoned patent applications, invention disclosures, specifications, models, identity of customers, suppliers, distributors and licensees, marketing studies, profits, costs, pricing, processes, technology and all other materials, whether written or oral, tangible or intangible, which such party disclosed to the other party in connection with this Agreement. Confidential and Proprietary Information of TruQC shall also include the TruQC App and any related documentation. Your Confidential and Proprietary Information shall include Your Data, employee information, business practices, business objectives, and work standards including work/time relationships, work content descriptions and best practice guidelines. Confidential and Proprietary Information of a party shall not include information which is (a) publicly known or becomes publicly known through no unauthorized act of the party, (b) rightfully received from a third party, (c) independently developed by the party without reference to any Confidential and Proprietary Information, (d) already known by the party without an obligation of confidentiality, or (e) required to be disclosed pursuant to a requirement of a governmental agency or law. In the event of a disclosure required under (e), the party receiving the request to disclose will provide the other party with notice prior to such disclosure in order to afford the other party a reasonable opportunity to file objections to the disclosure with the appropriate entity requiring the disclosure or otherwise obtain a protective order.

7.2 Each party agrees (a) that it will maintain the confidentiality of the other party's Confidential and Proprietary Information; (b) that it will disclose Confidential and Proprietary information to only those employees and agents who have a need to know and will direct its employees and agents to maintain such confidentiality upon terms at least as restrictive as those contained herein; (c) that it will exercise at least the same procedures and degree of care which it uses to prevent the disclosure of its own confidential and proprietary information of like importance, but in no event less than reasonable care; (d) that it will not disclose to any third party, including but not limited to subcontractors, without written authorization from the other party, any of the other party's Confidential and Proprietary Information, and;(e) that, except for the uses permitted under this Agreement, it will not use for its benefit or the benefit of any third party any of the other party's Confidential and Proprietary Information.

8. **Warranties and Disclaimers.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NO WARRANTY IS MADE BY TRUQC WITH RESPECT TO THE TRUQC APP OR THE HOSTED SERVICES. YOU ACKNOWLEDGE AND AGREE THAT USE OF THE TRUQC APP AND THE HOSTED SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TRUQC APP AND HOSTED SERVICES PERFORMED OR PROVIDED BY TRUQC ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND APPLICATION PROVIDER HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE TRUQC APP OR THE HOSTED SERVICES NOT EXPRESSLY STATED IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. TRUQC DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE LICENSED APPLICATION, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES

PERFORMED OR PROVIDED BY, THE LICENSED APPLICATION WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE LICENSED APPLICATION OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL DEFECTS IN THE LICENSED APPLICATION OR SERVICES WILL BE CORRECTED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

9. **Limitation of Liability.** TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL TRUQC BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE TRUQC APP OR THE HOSTED SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF TRUQC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. IN NO EVENT SHALL TRUQC'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

10. **Risk Allocation.** The provisions of this Sections 8 and 9 above represent a reasonable allocation of the risks under this Agreement. TruQC's willingness to grant, and Your willingness to accept, the licenses herein granted reflects this allocation of risk and the limitations of liability specified herein.

11. **INTELLECTUAL PROPERTY INDEMNIFICATION**

11.1 TruQC agrees to indemnify, defend and hold You harmless from any damage, claim or loss including reasonable attorney fees resulting from or arising out of any third party claim of infringement of any U.S. copyright, patent or other intellectual property right in the TruQC App. TruQC's indemnification obligations are conditioned on You providing TruQC prompt written notice of such claim, TruQC directs, controls, and fully participates in the defense of or settlement of such claim, and you provide reasonable assistance necessary to defend or settle such a claim. You shall have the right to be represented by separate counsel at Your own expense.

11.2 If, as a result of any claim of infringement against any patent, U.S. copyright, or other intellectual property right, TruQC or You is enjoined from using the TruQC App, or if TruQC reasonably believes that the TruQC App is likely to become the subject of a claim of infringement, TruQC, at its option and expense, may either (i) procure the right for You to continue to use the TruQC App, (ii) replace or modify the TruQC App so that it becomes non-infringing and remains functionally equivalent, or (iii) terminate this Agreement and give You a refund of the license fee paid by You less a reasonable allowance for the period of time You used the TruQC App.

11.3 TruQC shall have no obligations under this Section 11 or otherwise if the infringement claim arises from (i) Your combination with or in addition to products, equipment, software or data not supplied or recommended in writing by TruQC, where the alleged infringement would not exist but for such combination (ii) any modification of the TruQC App by any person other than TruQC, (iii) any modifications made in whole or in part in accordance with Your specifications, (iv) any use of the TruQC App not in accordance with this Agreement or for purposes not intended by TruQC, or (v) where You continue the allegedly infringing activity after being notified thereof and provided modifications that would have avoided the alleged infringement.

11.4 This Section states the entire liability of TruQC and Your sole and exclusive remedy for infringement claims and actions.

12. **Ownership and Intellectual Property.** The TruQC App and Hosted Services are a commercially valuable product and service of TruQC, the design and development of which reflect the efforts of skilled development experts and the investment of considerable time and money. TruQC claims and reserves all Intellectual Property Rights in and to the TruQC App and Hosted Services. As used herein, "**Intellectual Property Rights**" shall mean all worldwide rights, title and interest (including, all patents, patent applications, business processes, copyright, data right, trademark, trade name, service mark, service name, trade secret, know-how or other similar right arising or enforceable under U.S. law, foreign law, or international treaty regime) in any information, system or software, including, without limitation, the TruQC App, documentation, databases, text, graphics, photographs, print, pictures, software, source and object codes, microcode, or any other form of technology or embodiment thereof, in any medium, whether currently known or developed in the future.

13. **Hosted Services Uptime.** TruQC will use all commercially reasonable efforts to maintain 99.7% Uptime Performance. Where:

“Uptime Performance” =
$$\frac{\text{Available Minutes} - (\text{Performance Failure Minutes} + \text{Downtime})}{(\text{Available Minutes} - \text{Downtime})}$$

“Downtime” = the minutes associated with scheduled downtime plus Force Majeure events.

“Available Minutes” = the total number of minutes within a calendar month between the hours of 7:00 a.m. Eastern Time and 7:00 p.m. Pacific Time, Monday through Saturday.

“Performance Failure Minutes” = means the total number of minutes when the Services are not available to users (excluding unavailability during Downtime) during the Available Minutes.

14. **Third Party Materials.** The TruQC App and Hosted Services may display, include or make available content, data, information, applications or materials from third parties (**“Third Party Materials”**) or provide links to certain third party web sites. By using the TruQC App and Hosted Services, You acknowledge and agree that the TruQC is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of such Third Party Materials or web sites. The TruQC does not warrant or endorse and does not assume and will not have any liability or responsibility to You or any other person for any third-party Services, Third Party Materials or web sites, or for any other materials, products, or services of third parties. Third Party Materials and links to other web sites are provided solely as a convenience to You.

15. **Term.** The term of this Agreement is as stated in the Purchase Order and shall continue until terminated pursuant to the Purchase Order or this Section 15. Your rights under this license will terminate automatically without notice from the TruQC if You fail to comply with any term(s) of this Agreement.

16. **Apple Specific Terms.** This Agreement is between TruQC and You, and not with Apple, Inc. Apple, Inc. will **NOT** be responsible for any claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty disclaimed hereunder. TruQC (and NOT Apple, Inc.) will be responsible for (a) any product warranties, whether express or implied by law (to the extent not effectively disclaimed); (b) any claims of You or any third party relating to the TruQC App or your possession and/or use of the TruQC App, including without limitation (i) product liability claims, (ii) any claim that the TruQC App fails to conform to any applicable legal or regulatory requirement, and (iii) claims arising under consumer protection or similar legislation; and (c) any third party claim that the TruQC App or your possession and use of the TruQC App infringes that third party’s intellectual property rights, as well as the investigation, defense, settlement, and discharge of any such intellectual property infringement claim. Other agreements or terms may govern your acquisition or installation of iPad applications. If these terms are less restrictive upon you than the terms of those other agreements or terms, the more restrictive provisions shall apply. It is also understood and agreed that Apple, Inc. has no obligation whatever to furnish any maintenance or support services in relation to the TruQC App. You represent and warrant that you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a terrorist supporting country, and that you are not listed on any U.S. government list of prohibited or restricted parties.

17. **Entire Agreement; Breach; Amendment.**

17.1 This Agreement and the documents referenced herein contain all of the understandings and agreements of the parties hereto in respect of the subject matter hereof as of the date hereof and any and all prior understandings and agreements, expressed or implied, between the parties hereto in respect of the subject matter hereof are superseded hereby. No delay in enforcing any right or remedy as a result of a breach of this Agreement shall constitute a waiver thereof.

17.2 TruQC reserves the right, at its sole discretion, to change, modify, add, or remove portions of these terms and conditions at any time. You agree to review these terms and conditions periodically for changes. Your continued use of the TruQC App and Hosted Services Site after the posting of changes constitutes your binding acceptance of such changes. If any such revision is unacceptable to you, your only remedy is to terminate your use of the TruQC App and Hosted Services. For any material changes to these terms and conditions, such amended terms will automatically be effective thirty (30) days after they are initially posted and made available via the Hosted Services.

18. **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the State of Missouri, excluding choice of law principles thereof.