

QRS Music Technologies, Inc. (QRS) API Agreement

Effective Date: November 2022

The QRS API Agreement (“Agreement”) is made and entered into by and between QRS, Inc. (“QRS”) and you. “You” means you individually or the entity that you represent. If you are entering into this Agreement for an entity, you represent and warrant to us that you have the legal authority to bind that entity to this Agreement. Here are a few highlights:

We hope you create an application that is useful, inspiring and helps build a community for QRS artists and customers.

- You may not create an application that merely replicates or competes with QRS.
- You are responsible for your use of the QRS API and your application.
- Your use of the QRS API is subject to volume limits and other use restrictions.
- Respect QRS users and their privacy choices.
- QRS may modify or discontinue access to the QRS API.
- QRS makes no warranties and QRS is not liable for your use of the QRS API.
- QRS may collect and use data from your access of the QRS API.
- QRS may, but is under no obligation to, feature or promote your application.
- You must comply with QRS’s Branding Guidelines and use the provided QRS logos and links where you use QRS data in your application.
- Your application must comply with the QRS API Agreement, QRS Service Terms, your privacy policy and all applicable laws.
- Please read the entire QRS API Agreement below as it governs your use of the QRS API.

The QRS application programming interface, software developer kit, documentation, and any software, materials or data that QRS makes available to you, in its sole discretion, including the API Token as defined below (collectively, the “QRS API Materials”) are made available subject solely to the terms and conditions of this Agreement, which terms incorporate by reference the QRS Terms of Service, including the QRS Privacy Policy (collectively, the “Service Terms”) and QRS Branding Guidelines. By accessing or using the QRS API Materials, you acknowledge that you have read, and agree to abide by, this Agreement including the Service Terms. If you are unable to comply with the current or any future version of this Agreement, you must immediately cease all use of the QRS API Materials.

This Agreement will evolve as our business and platform expands and as creative developers dream up new applications for the QRS service and platform (“QRS Platform”), so check back often and make sure that you are familiar with the most current version of this Agreement whenever you engage in any use of the QRS API Materials. Any amendment to this Agreement will be effective upon our posting of such updated terms at this location or the successor URL that QRS may select. Your continued use of the QRS API Materials after such posting constitutes your consent to be bound by this Agreement, as updated and amended. Additionally, we may modify, remove or add portions of, or otherwise update the QRS API Materials from time to time in QRS’s sole discretion.

1. Registration

- A. Once your registration is approved, you are authorized to use the QRS API Materials to develop products, sites, applications or services that are registered with us and are designed to interact with and enhance the QRS Platform (“Developer Applications”) subject to the restrictions, conditions and limitations in this Agreement. To use the QRS API Materials you must use the approved developer key token provided by QRS (“API Token”). You may only use a single API Token for a single Developer Application.

- B. You are solely responsible for the confidentiality of your API Token and may not share your API Token with any other developer or use it for more than one application or service. You agree to keep your registration, site, application or service information accurate, complete, and current for so long as you use the QRS API Materials. You are responsible for all use that occurs under your API Token, including any activities by you or your employees, contractors or agents. If you believe an unauthorized person has gained access to your API Token we issue you, you must notify us as soon as possible.
- C. QRS may contact you from time to time about your use of the QRS API Materials and/or API Token, and you agree to be responsive to inquiries from QRS.

2. QRS API Materials: Permitted Use and Limitations

- A. QRS reserves the right at any time to modify or discontinue, temporarily or permanently the QRS API Materials, your use of the QRS API Materials, or any portion thereof with or without notice to you and without any form of compensation or consideration to you, regardless of the status of any of your Developer Applications. QRS reserves the right to create, modify and enforce controlling mechanisms such as a rate limiting structure for use of the QRS API Materials. Further, you acknowledge that QRS has no obligation to ensure that an upgrade of the QRS API Materials or the QRS Platform will be compatible with existing or planned Developer Applications.
- B. QRS reserves the right to revoke your API Token or terminate or limit any uses of the QRS API Materials if you violate this Agreement or we otherwise object to your use of the QRS API Materials, including but not limited to, uses that enable virtual performances and competitions and uses that replicate the QRS sites, services or products. If you are unsure if a certain use of the QRS API Materials is permitted or if there is a use case you would like to see covered that is not currently supported by the API or this Agreement, please contact us at developers@QRS.com to discuss your needs.
- C. You agree to comply with the QRS Branding Guidelines, including without limitation, attributing your use of QRS Data in your Developer Application by using the links and logos QRS makes available to you. The QRS Brand Guidelines are available upon request at qrservice@qrsinc.com and may be updated by us from time to time. You understand and agree that QRS has the sole discretion to determine whether you are in compliance with the QRS Brand Guidelines.
- D. QRS may use your Developer Applications and related marks and logos that you create using the QRS API Materials, for the purposes of promoting QRS and marketing and making Developer Applications available to our mutual customers. However, QRS has no obligation to use or promote any Developer Application.
- E. You, and not QRS, are responsible for providing all customer and technical support and maintenance for your Developer Applications. QRS has no obligation to provide any type of technical or other support for the QRS API Materials or any services or content related thereto, whether provided by QRS, by you, or by third parties.
- F. You agree to use commercially reasonable and appropriate administrative, technical, and physical measures, including taking account of the measures described in Article 32(1) of the General Data Protection Regulation 2016 /679 ("GDPR"), to maintain the security and integrity of (i) all data you access or collect from the QRS API Materials including but not limited to QRS user personal and activity data and QRS segment and leaderboard data (collectively "QRS Data"), and (ii) all other data you access or collect in connection with any of your Developer Applications ("Developer Application Data"). QRS Data and Developer Application Data are collectively defined as "Data." You are fully responsible for the security of Data used in connection with your Developer Applications or otherwise in your possession. You agree to comply with all applicable state and federal laws and rules in connection with your collection,

security and dissemination of any personal, financial, card, or transaction Data on your site or through the Developer Application. You must ensure that any QRS Data is encrypted and transmitted over a secure, encrypted channel (e.g., HTTPS). You must notify QRS of any security breach, including any personal data breach within the meaning of the GDPR, related to your Developer Application or QRS Data as soon as possible but no later than twenty-four hours of your discovery of any such security incident.

- G. You may not collect, use, store, aggregate or transfer any QRS Data in any manner except as expressly permitted by us for the use of your Developer Application. You agree not to transfer or disclose any Data to any third parties, except as expressly permitted by this Agreement, each Developer Application end user, your then-current privacy policy, and in full compliance with all applicable laws. You may not, directly or indirectly, disclose, market, sell, license or lease any QRS Data to any third party including but not limited to advertisers or data brokers even if your Developer Applications user consents to such use. Users of your Developer Application must be permitted to express contact preferences, via notice and opt-out, at the point of collection and in each subsequent marketing piece. If you are acquired or merge with a third party, you must give QRS notice of such transaction.
- H. Your use of the QRS API Materials may be subject to certain limitations on access, data requests, and use as set forth on the QRS API Documentation web page. If we believe that you have attempted to exceed or circumvent these limitations, your ability to use the QRS API Materials may be temporarily or permanently blocked. We may monitor your use of the QRS API Materials to improve the QRS API Materials or the QRS Platform, and to ensure compliance with this Agreement. Your use of certain endpoints may be subject to certain limitations on access as established by QRS from time to time. If you desire to implement an endpoint or scope in a manner that would exceed the limitations on access, please contact us. You may not, and may not encourage or allow any third party to interfere with, hinder, limit, or modify any notices or authorization or consent requests provided by QRS.
- I. You agree that QRS may collect certain use data and information related to your use of the QRS API Materials, and QRS Platform in connection with your Developer Application ("Usage Data"), and that QRS may use such Usage Data for any business purpose, internal or external, including, without limitation, providing enhancements to the QRS API Materials or QRS Platform, providing developer or user support, or otherwise. You agree to include a statement to this effect in your privacy policy.
- J. You may include advertisements in your Developer Application but you must not use QRS Data in any advertisements without QRS's express written consent. Your advertisements may not be displayed in any manner that suggests approval or endorsement by QRS.
- K. In general, we reserve the sole right to determine whether or not your use of the QRS API Materials is acceptable, and to revoke QRS API Materials access for any Developer Application that we determine is not providing added benefit to QRS users and/or is not in the best interests of QRS or our users. The following are some, but not all, restrictions applicable to the use of the QRS API Materials including, but not limited to, QRS Data:
 - i. You may not use QRS API Materials for any purpose other than providing the Developer Application for which you are registered to provide as a QRS API developer.
 - ii. You may not use the QRS API Materials in any manner that is competitive to QRS or the QRS Platform, including, without limitation, in connection with any application, website or other product or service that also includes, features, endorses, or otherwise supports in any way a third party that provides services competitive to QRS's products and services, as determined in our sole discretion.
 - iii. QRS users must expressly authorize your Developer Application prior to you accessing any of their data. Your Developer Application must allow the end user of your Developer Application to access such end user's data that you have collected via the QRS API Materials at the request of

such end user. Your Developer Application must provide easily accessible end user support contact information. Your Developer Application must provide clear links for users to navigate to their QRS accounts. All Data about an end user in your possession or control must be deleted by you upon such end user's request or upon such end user's termination or cancellation of the Developer Application subscriptions.

- iv. You may not process QRS Data, including in an aggregated or de-identified manner, for the purposes of, including but not limited to, analytics, analyses, customer insights generation, and products or services improvements. QRS Data may not be combined with other customer data, for these or any other purposes.
- v. You may not include or use the QRS API Materials in, or in connection with, any application, website or other product or service that includes content that is disparaging of QRS, libelous or may otherwise be perceived as detrimental or harmful to QRS and its business and reputation, in our sole discretion.
- vi. You cannot use web scraping, web harvesting, or web data extraction methods to extract data from the QRS Platform.
- vii. You may not include or use the QRS API Materials in, or in connection with, any application, website or other product or service that includes content that is defamatory, libelous, hateful, violent, obscene, pornographic, unlawful, or otherwise offensive, in our sole discretion.
- viii. You may not use the QRS API Materials to distribute any virus, spyware, adware, malware, or other harmful or malicious component.
- ix. You may not use the QRS API Materials for any purpose which or might overburden, impair or disrupt the QRS Platform or related servers or networks.
- x. You may not use the QRS API Materials to distribute unsolicited advertising or promotions, or to send messages, make comments, or initiate any other unsolicited direct communication or contact with QRS users or partners.
- xi. You may not, and may not encourage or authorize others to:
 - a. remove or alter any proprietary notices or marks on the QRS API Materials;
 - b. use or access the QRS API Materials for purposes of monitoring the availability, performance, or functionality of any of QRS's products and services or for any other benchmarking or competitive purposes;
 - c. use or access the QRS API Materials to aggregate, cache, or store geographic location information or other user information accessible via the QRS API;
 - d. frame, wrap or otherwise reproduce significant portions of the QRS Platform; or
 - e. reverse engineer, reverse assemble, decompile, modify or attempt to discover any source or object code of the QRS API Materials or any part of the QRS Platform.
- xii. You may not charge end users in any manner for access to or use of the QRS API Materials or any services or functionality included in or related to the QRS API Materials or QRS Platform. Without limiting the foregoing, you may not sell, rent, lease, sublicense, redistribute or syndicate access to the QRS API Materials, and you may not charge any kind of service, booking or similar fee in connection with any services made available via the QRS Platform. For the avoidance of doubt, the foregoing shall not prohibit you from charging for the provision of functionality not provided by the QRS Platform in your Developer Applications.

- xiii. You will at all times use the QRS API Materials and QRS Data in accordance with all applicable worldwide laws and regulations, your privacy policy and the Service Terms including but not limited to laws, regulations and directives regarding privacy, data security and the export of data, and you may not use the QRS API Materials and Data to conduct or facilitate, in any way, activity that is in violation of applicable worldwide laws or regulations or the Service Terms.
- xiv. You must not impose any terms on users of your Developer Application that are inconsistent with this Agreement or the Service Terms. Your Developer Application terms of service shall disclaim all warranties on behalf of third party service providers, including a disclaimer of implied warranties of merchantability, fitness for a particular purpose and non-infringement and exclude third party service providers from all liability for consequential, special, punitive, indirect damages.
- xv. You may not use the QRS API Materials in any way that would grant someone other than you or the applicable user the right to see any data related to that user without obtaining the prior express consent of that user.
- xvi. You cannot modify or edit any content, links or metadata when displaying QRS Data in your Application.

3. Platform Changes

- A. QRS and its third-party providers may make improvements and/or changes in the data and functionality provided by the QRS API Materials at any time without notice.
- B. Access to and use of the QRS API Materials and the QRS Platform are currently provided at no charge. QRS reserves the right to charge you for use of the QRS API Materials and access to the QRS Platform, and such updates may include such charges or updates to such charges, in the future at our discretion, including, without limitation, rated pricing and/or differentiated pricing for business users. We will provide you with notice in the event we decide to start charging for use.
- C. If you do not agree to any such charges or updates, you must cancel your access to the API within such 30-day notice period as set forth in "Cancellation" below.

4. Cancellation and Termination

- A. You may cancel your access to the QRS API Materials at any time by notifying QRS at qrsservice@QRSinc.com, or by ceasing all use of the QRS API Materials and QRS Platform, and deleting all copies of all QRS API Materials (including all QRS Data) in your possession or control. QRS may cease making the QRS API Materials available at any time as set forth in Section 2. You agree that QRS shall not be liable to you or to any third party for any access, use, modification, suspension or discontinuance of the API, Services or any portion thereof.
- B. QRS may terminate your access to the QRS API Materials immediately if you do not comply with the Service Terms or this Agreement, are you are engaged in any activity that may expose QRS to risk or liability of any kind, or if we otherwise reasonably object to your use of the QRS API Materials. You agree that QRS shall not be liable to you or any third party for any costs, liabilities, losses, expenses, or damages that may result from termination of this Agreement or your access to the QRS API Materials.
- C. The following Sections of this Agreement shall survive any termination or expiration: 4, 5, 10-16.
- D. Upon any termination of this Agreement, you will promptly cease using and permanently delete all the QRS API Materials, the QRS Platform, and QRS Data provided hereunder and so certify in writing to QRS.

5. Privacy

- A. Your Developer Application must respect the privacy settings configured by the QRS users. You may use and retain Data only so long as necessary for the purpose you originally obtained it, subject to Section 7 below. If your Developer Application does not collect the authentication credentials of a QRS user, then you are not permitted to display any data or use any functionality via the API Materials that is not available to a logged out user. If your Developer Application logs into QRS on behalf of a QRS athlete, then you are permitted to access and display data or functionality only for that QRS user, and you may not disclose such data to, or use it for, another user or any other third party without a lawful basis. Your Developer Application shall have a lawful privacy policy, including GDPR compliance, accessible with reasonably prominent hyperlinks that does not conflict with or supersede the QRS Privacy Policy and that explains how you collect, store, use, and/or transfer any Personal Data (defined below) via your Developer Applications. You also agree to comply with all privacy and data protection laws applicable to you.
- B. If your use of the QRS API Materials or Personal Data requires or will likely result in the provision of Personal Data directly to QRS, you agree to obtain all necessary consents and authorizations from the applicable users to provide such Personal Data to QRS. You will also take steps to ensure that such users are aware of this processing and disclosure in such cases, including by adding a statement to this effect in your privacy policy. QRS will treat Personal Data obtained from you through your use of the QRS API Materials in accordance with QRS's then-current Privacy Policy.
- C. Unless otherwise required by applicable law or agreement with the applicable user to retain such data, if a user revokes the authorization previously granted for your Developer Applications to access to their QRS account, you must ensure that all Personal Data pertaining to that user is deleted from your Developer Applications and related networks, systems and servers. If you stop using the QRS API Materials altogether or if your QRS API Materials access is revoked, you must delete all Personal Data in the same way.
- D. You agree to process and use Personal Data in a manner consistent with all applicable data protection and privacy laws, including as applicable the GDPR. If for any reason you are unable to comply with any privacy requirement of the Service Terms you must promptly inform QRS and take reasonable and appropriate steps to remedy any non-compliance, or cease your access to the API and use of all Personal Data.
- E. "Personal Data" means data that may be used, either alone or together with other information, to identify an individual user, including, without limitation, a user's name, address, telephone number, username, email address, city and country, geolocation, unique identifiers, picture, or other similar information and includes personal data as defined in the GDPR.

6. Security and Fraud Controls

- A. QRS is responsible for protecting the security of Personal Data in its possession and will maintain commercially reasonable and appropriate administrative, technical, and physical procedures to protect all the Personal Data regarding your customers that is stored in QRS's servers from unauthorized access and accidental loss or modification. However, QRS cannot guarantee that unauthorized third parties will never be able to defeat those measures or use such Personal Data for improper purposes. You acknowledge that if you provide Personal Data to QRS, you do so at your own risk. We recommend that you review our Privacy Policy, which will help you understand how we collect, use and safeguard the Personal Data you may provide to us.
- B. QRS may provide, suggest or mandate security procedures and controls intended to reduce the risk to you of fraud or security breaches ("Security Controls"). These Security Controls may include processes or applications that are developed by QRS or by third parties, including but not limited to providing two-

factor authentication for users logging into their QRS account. You agree to review all Security Controls and choose those that are appropriate for your business and the Developer Application to protect against unauthorized transactions and, if necessary, use other procedures and controls not provided by us.

7. Retention

Your Developer Application is encouraged to cache QRS Data to improve performance within the limits outlined in this Agreement. QRS is not liable in any way for any data you retain in your cache. No QRS Data shall remain in your cache longer than seven days. If your Developer Application checks for a resource (e.g., a segment) and that resource is no longer available from QRS, you shall remove it from your cache immediately regardless of how frequently you refresh your cache. Except for such limited caching, your Developer Application is prohibited from storing any QRS Data or providing or displaying such data or any associated service to any third party other than the QRS user using your Developer Application.

8. Uploading

Your Developer Application may include the option to upload activities or information to the QRS Platform. It is possible for those activities or information to be uploaded to other services other than the QRS Platform.

9. Use of QRS Trademarks

The rights granted in this Agreement do not include any general right to use the QRS name or any QRS trademarks, service marks or logos (the "QRS Marks") with respect to your Developer Applications. Subject to your continued compliance with this Agreement, you may use QRS Marks to comply with QRS's data attribution requirements for certain limited purposes related to your Developer Applications only as described in the QRS Branding Guidelines. These rights apply on a non-exclusive, non-transferable, worldwide, royalty-free basis, without any right to sub-license, and may be revoked by QRS at any time. If QRS updates the Branding Guidelines or any QRS Marks that you are using, you agree to update such QRS Marks to reflect the most current versions. You must not use any QRS Marks, or any confusingly similar mark, as the name or part of the name or icon of your Developer Applications, or as part of any logo or branding for your Developer Applications.

10. Press and Publicity

You may not issue any press release or other announcement regarding your Developer Applications that makes any reference to QRS without QRS's prior written consent.

11. Intellectual Property Matters

- A. You agree that QRS and its affiliates and licensors retain all worldwide right, title and interest in and to the QRS API Materials, QRS Data, QRS Marks and the QRS Platform, including, without limitation, all intellectual property rights therein. Any rights not expressly granted herein are prohibited and reserved.
- B. You understand that QRS may currently or in the future develop products and services that may be similar to or compete with your Developer Applications. Nothing in this Agreement shall in any way restrict QRS from pursuing any business activities or from entering into any agreement with any other person or company.
- C. In the event that you choose to provide QRS with feedback, suggestions or comments regarding the QRS API Materials or the QRS Platform, or your use thereof, you agree that QRS will be free to use, copy, modify, create derivative works, distribute, publicly display, publicly perform, grant sublicenses to, and otherwise exploit in any manner such feedback, suggestions or comments, for any and all purposes, with no obligation of any kind to you.
- D. To facilitate your QRS API Materials integration, QRS may make certain SDK(s) and/or libraries available to

you under a separate open source license. You agree that any QRS API integration facilitated with such open source SDK(s) and/or libraries remains subject to this Agreement.

- E. You hereby grant to QRS a paid-up, royalty-free, non-exclusive, worldwide, transferable, sublicenseable, right and license, under all applicable intellectual property rights, for QRS's marketing and promotional purposes to: (a) use, perform, make available, display to the public, reproduce your Developer Application and your integration of the QRS API Materials and (b) use your name, likeness, or brand (which includes all your trademarks, service marks, logos, brand names, or trade names) ("Your Marks") to the extent it is incorporated into your Developer Application. Following the termination of this Agreement and upon written request from you, QRS shall make commercially reasonable efforts, as determined in its sole discretion, to remove references to your Developer Application and any of Your Marks from the QRS website.

12. Confidentiality

You may be given access to certain information, data, materials, know-how, methodologies, documentation, and software relating to the QRS API Materials or the QRS Platform that is not generally known by the public ("Confidential Information"), which is confidential and proprietary to QRS. You agree to use the Confidential Information only for the purpose of using the QRS API Materials in accordance with this Agreement, and you agree to not disclose any of the Confidential Information to any third party without QRS's prior written consent. You agree to protect the Confidential Information in the same manner that you would protect your own confidential and proprietary information but in no event using less than a reasonable degree of care.

13. Representation and Warranties

A. You represent and warrant to us that:

- a. if you are a sole proprietor, you are at least 18 years of age or, if you are under 18 years of age, you've obtained and can evidence consent from your parent or legal guardian to your execution of this Agreement and use of the QRS API Materials and/or QRS Platform in the manner prescribed by QRS;
- b. you are eligible to register and use the QRS API Materials and have the right, power, and ability to enter into and perform under this Agreement;
- c. the information you submit as part of your registration is current, accurate, and complete;
- d. you will not engage in any unfair, deceptive, or abusive acts or practices when utilizing the QRS API Materials or the QRS Platform or when you market or sell the Developer Application;
- e. you will fulfill all of your obligations to each customer to which you provide the Developer Application and will resolve any customer dispute or complaint directly with your customer;
- f. you and all transactions effected via the QRS API Materials or the Developer Application will comply with all federal, state, and local laws, rules, and regulations applicable to your business, including any applicable tax laws and regulations;
- g. you will not use the QRS API Materials, QRS Platform, QRS Data, or Developer Application, directly or indirectly, for any fraudulent or illegal undertaking, or in any manner so as to interfere with the normal operation of the QRS Platform;
- h. you have all rights, including all copyright, trademark and other intellectual property rights, in the Developer Applications necessary to offer the Developer Applications to end users and to grant the license to QRS in this Agreement;
- i. you comply with and will continue to comply with all applicable privacy and data protection laws;
- j. and you have implemented and will maintain appropriate technical and organisational security measures in accordance with the Service Terms and applicable law.

- B. THE QRS API MATERIALS, QRS DATA, QRS MARKS, AND QRS PLATFORM ARE PROVIDED “AS IS” AND ON AN “AS-AVAILABLE” BASIS, WITHOUT WARRANTY OF ANY KIND, AND QRS DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.
- C. QRS MAKES NO WARRANTY (i) THAT THE QRS API MATERIALS WILL MEET YOUR OR YOUR CUSTOMERS’ REQUIREMENTS, OR THOSE OF YOUR DEVELOPER APPLICATION, (ii) THAT YOUR USE OF THE API WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, AND/OR (iii) THAT ANY ERRORS IN THE QRS API MATERIALS WILL BE CORRECTED.
- D. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE QRS API MATERIALS IS DONE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR OR OTHERS’ COMPUTER SYSTEM/NETWORK OR ANY LOSS OF DATA THAT MAY RESULT FROM THE DOWNLOAD OF ANY SUCH MATERIAL OR THE USE OF THE API.

14. Indemnity

You will indemnify, defend, and hold harmless QRS, its affiliates, and their officers, directors, employees, agents, licensors, users and partners from any and all claims, damages, losses, liabilities, actions, judgments, costs, and expenses (including, without limitation, reasonable attorneys’ fees) brought by a third party arising out of or in connection with:

- a. your use of the QRS API Materials, QRS Data, QRS Platform, or the QRS Marks other than as expressly allowed by this Agreement;
- b. your breach or alleged breach of any of the terms, conditions and representations under this Agreement;
- c. your Developer Applications or business; or
- d. your gross negligence or willful misconduct. You will control the defense and settlement of any claim subject to indemnification by you hereunder, provided that QRS may at any time elect to take over control of the defense and settlement of any claim. You may not settle or compromise any such claim without QRS’s prior written consent.

15. Limitation of Liability

- A. IN NO EVENT WILL QRS OR ITS EMPLOYEES, AGENTS, USERS OR PARTNERS BE LIABLE TO YOU FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF THE QRS API MATERIALS, QRS MARKS, QRS DATA, OR QRS PLATFORM, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE FOREGOING LIMITATIONS WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE.
- B. QRS’S AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE GREATER OF (i) THE FEES YOU PAID TO QRS FOR USE OF THE QRS API MATERIALS IN THE LAST YEAR OR (ii) ONE HUNDRED DOLLARS (\$100).
- C. Equitable Remedies: You acknowledge that your breach of this Agreement may cause irreparable harm

to QRS. Accordingly, you agree that, in addition to any other remedies to which QRS may be legally entitled, QRS shall have the right to seek immediate injunctive relief in the event of a breach of such sections by you or any of your officers, employees, consultants or other agents.

- D. Where pursuant to Article 82(4) of the GDPR, either party is found to be liable for the entire damage arising from a breach or breaches of the GDPR relating to activities under the Service Terms, in order to ensure effective compensation of a one or more individuals, then the other party shall indemnify that party for that portion of the compensation attributable to any breaches of GDPR giving rise to the compensation for which it is responsible.

16. Miscellaneous

- A. Applicable Law, Jurisdiction and Venue

Any dispute arising out of this Agreement shall be governed by California law and controlling U.S. federal law, without regard to conflict of law provisions thereof. You hereby consent and submit to the exclusive jurisdiction and venue in the state and federal courts of San Francisco County,, California, U.S.A., for any legal proceedings related to the QRS API Materials, QRS Platform or this Agreement. If any party hereto brings any suit or action against another for relief, declaratory or otherwise, arising out of the QRS API Materials, QRS Platform or this Agreement, the prevailing party will have and recover against the other party, in addition to all court costs and disbursements, such sum as the court may adjudge to be reasonable attorneys' fees. Except to the extent prohibited by applicable law, the parties agree that any claim or cause of action arising out of or related to use of the QRS API Materials, QRS Platform or this Agreement must be filed within one year after such claim or cause of action arose or be forever barred.

- B. Assignment

You may not assign, delegate or otherwise transfer your obligations under this Agreement without the prior written consent of QRS. QRS has the right, in its sole discretion, to transfer or assign all or any part of its rights under this Agreement. Any attempted assignment in violation of this paragraph is void.

- C. English Language

This Agreement was drafted in English and the English-language version shall control in the event of a conflict with any translated version.

- D. Modifications

Except as set forth in "Changes to Services and Agreement" above, all amendments to this Agreement must be made in a writing.

- E. Entire Agreement; Headings

This Agreement constitute the entire agreement among the parties with respect to the subject matter and supersedes and merges all prior proposals, understandings and contemporaneous communications. Headings are included in this Agreement for convenience only, and will not be considered in interpreting this Agreement.

- F. Independent Contractors

This Agreement does not create or imply any partnership, agency or joint venture between the parties. For the purposes of Article 26 of the GDPR, the parties acknowledge that each party is a separate and independent controller of the personal data which it discloses or receives under this Agreement. The parties do not and will not process personal data which it discloses or receives under the Agreement as joint controllers. Each party shall be individually and separately responsible for complying with the obligations that apply to it as a controller under applicable data protection and privacy laws. It is agreed

that where either party receives a request from a data subject in respect of personal data controlled by the other party, where relevant, the party receiving such request will direct the data subject to the other party, as applicable, in order to enable the other party to respond directly to the data subject's request.

G. Waivers; Severability

No waiver by QRS of any right under this Agreement will be effective unless set forth in a writing authorized by QRS. Our delay or failure to assert any right or provision under this Agreement will not constitute a waiver of such right or provision. If any part of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, that provision will be enforced to the maximum extent permissible and the remaining provisions of this agreement will remain in full force and effect.

H. Notices; Legal Process

All notices to you in connection with this Agreement may be delivered via email at the email address provided to QRS by you. QRS may respond to and comply with any writ of attachment, lien, levy, subpoena, warrant, or other legal order ("Legal Process") that we believe to be valid. We may deliver, subject to the terms of our Privacy Policy, any information as required under such Legal Process. Where permitted, we will use reasonable efforts to provide you notice of such Legal Process by sending a copy to the email address we have on file for you. QRS is not responsible for any losses, whether direct or indirect, that you may incur as a result of our complying with Legal Process.

I. Government Use

If you are part of an agency, department or other entity of the U.S. Government, the use, duplication, reproduction, release, modification, disclosure or transfer of the QRS API Materials are restricted in accordance with the Federal Acquisition Regulations as applied to civilian agencies and the Defense Federal Acquisition Regulation Supplement as applied to military agencies. The API constitutes a "commercial item," "commercial computer software," and "commercial computer software documentation." In accordance with such provisions, any use of the API by the U.S. Government shall be governed solely by this Agreement and the Service Terms.

If you have any questions regarding this Agreement, please email qrssupport@qrsinc.com

Copyright 2022 QRS

