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## License Terms And Rules For Use Of qikk.ly Software

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### 1 INTRODUCTORY PROVISIONS

- 1.1 These license terms and rules of use of the qikk.ly software (the “Terms of Use”) provided by Instarea, s.r.o., with its registered office at 29. augusta 36/A, 811 09 Bratislava, Slovak Republic, Identification No.: 43 866 239, registered in the Commercial Register of the District Court Bratislava I, section: Sro, insert No.: 49904/B (“Instarea”), provide for the mutual rights and obligations associated with the provision of a work in copyright and/or other intellectual property, computing services and database services upon the User’s accession to these Terms of Use, which at the same time shall constitute the Agreement concluded between these Parties.
- 1.2 These Terms of Use shall solely provide for the regulation of use of the qikk.ly software during the implementation of the temporally limited testing phase. Once the testing phase has ended, the rights of Users under these Terms of Use shall expire.
- 1.3 Any legal relationships not provided for by these Terms of Use shall be governed by the applicable laws of the Slovak Republic, unless stipulated otherwise.

### 2 INTERPRETATION

- 2.1 Data means, for example, information, records, images, data, communications or any other information provided or stored within the Software.
- 2.2 Software means, in particular, the computer program named qikk.ly that represents the data concerned, their structured datasets and the individual software computing functions designed to process that data, including individual, even separate, modules or components, particularly referred to here: <https://docs.qikk.ly/>.
- 2.3 Account means the user interface of the Website. At the same time, the Account allows access to certain functions associated with the Software, facilitating communication with the Provider and sending comments on the course of the testing phase.
- 2.4 Provider means Instarea. The Provider is the owner and/or sole holder of all rights to the work in copyright or other intellectual property rights, in particular to the Data and the Software.
- 2.5 User means the natural person or a person acting on behalf of the legal person that is a Party and uses the Software.
- 2.6 Website means the websites <https://qikk.ly/> and <https://tellstory.cloud/>.
- 2.7 Agreement means the agreement in electronic form, which takes the form of accession to these Terms of Use, and any related legal documents, information and instructions for use of the Software, as amended at the time of their use.
- 2.8 Party means the Provider and the User who have concluded the Agreement; a Party also means the legal person whose agent has concluded the Agreement under these Terms of Use if it is obvious that it is using the Software for activities related to the business activities of that legal person, but in accordance with these Terms of Use.

### 3 SUBJECT-MATTER OF THE AGREEMENT

- 3.1 The subject-matter of the Agreement shall be the provision of the Software in the form of obtaining access to and use of its computing functions and data. The subject-matter of the Agreement shall also include the rights and obligations of both Parties and other relevant facts stipulated by the Agreement.
- 3.2 The Agreement shall be concluded at the moment of approval of the User's request to create the Account and gaining access to the Software upon the Provider's approval. The request pursuant to the previous sentence shall take the form of registration of the User's e-mail address by means of the function dedicated therefor on the Website.
- 3.3 The Agreement shall be entered into for an indefinite period of time. By concluding the Agreement, the User agrees that the moment of its termination will be unilaterally determined by the Provider. The termination of the testing phase by the Provider gives rise to legal effects within the meaning of clause 3.6. of these Terms of Use.
- 3.4 The Provider shall make the Software available during the testing phase free of charge. At the same time, the User declares that by providing any data, information, communication, feedback or reviews of the Software, the User will not claim any financial or any other form consideration against the Provider or any legal successor of the Provider or a third party.
- 3.5 The User shall be entitled to use the Software solely to the extent set forth in these Terms of Use or the Provider's instructions, and only for the purposes of its testing, without any commercial use. The Software may be used during the testing phase solely for the purpose of learning about the functions of the Software and providing feedback and opinions on the operation of the Software to the Provider. The User shall not be entitled to use the Software for commercial purposes and for its own or third party's business purposes. The User shall not be entitled to use the Software in a way that would result in the creation of any financial, proprietary, intellectual or property assets.
- 3.6 The Provider may interrupt or terminate the testing phase of the Software at any time, even without giving any reason therefor. Upon termination of the testing phase, the User shall cease to be entitled to any use or retention of the Software or any part thereof. The use of the Software during the testing phase shall not afford the User any legal entitlements for its continuous use, and the Provider shall be not liable for any loss of User's data or for any obligations assumed by the User against third parties that the User can no longer honour due to the termination of access to the use of the Software by the Provider.
- 3.7 Within the testing phase, the Software is provided in electronic form by making available its functions and database, which the User acquires by downloading then to the User's terminal. The Software is or will be available to the User on the Website for the purpose of its downloading.
- 3.8 Upon the registration of the User's e-mail pursuant to clause 3.2 and upon successful approval of the User's request for access to the Software, the Agreement shall be entered into and the Account shall be created.
- 3.9 If the Software is used in breach of these Terms of Use, including any form of its misuse or breach by the User of its contractual obligations, the Provider shall become entitled to terminate the Agreement; this shall be without prejudice to the Provider's right to damages and other claims under these Terms of Use.
- 3.10 The User shall properly protect the login data for the Account from being disclosed and provided to a person other than a Party.
- 3.11 For the purpose of checking the fulfilment of the Terms of Use and protection of rights to the Software, the Provider reserves the right to audit the User. The User shall tolerate the performance of the audit, even without giving a reason by the Provider, immediately after receiving a written request from the Provider. The written notice shall be delivered by e-mail sent to the User's address.
- 3.12 In connection with the provision of the Software, the User is fully aware that the Provider will be able to use, without any limitation, the information concerning the manner in which the User uses the Software as well as the information provided by the User to the Provider in connection with the use of the Software and information about the activity of the Software for testing purposes.

## 4 TERMINATION OF AGREEMENT

- 4.1 The Contract may be terminated by the Provider's withdrawal due to a breach of the Terms of Use by the User or by the expiry of its term, which the Provider may unilaterally set at any time during the term of the Contract in accordance with clause 3.3.
- 4.2 If a withdrawal takes place within the meaning of the preceding clause, by acting in breach of these Terms of Use, the User waives any financial compensation, in kind or in any other form, for the consequences associated with the termination of the provision of the Software.
- 4.3 The User may terminate the Agreement by withdrawing from it with immediate effect, at any time during its term and for convenience.
- 4.4 In the case of the procedure under clause 4.1 or clause 4.3, the User shall have the right to obtain data stored by the User in the Software for 7 calendar days after the termination of the Agreement. Any data and information produced by the User's activities, including reviews and feedback on the use of the Software, may be retained and used by the Provider for the purposes specified by the Provider.

## 5 COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS

- 5.1 The User acknowledges that the Website and the Software, including, without limitation, databases, Data, methods of calculation and acquisition of Data and source codes, functions, products, images, user interface, text content, logo, designs, manuals and other documentation materials (the "Intellectual Property") shall be protected by applicable intellectual property rights laws, including, without limitation, copyright laws, owned or held exclusively by Instarea. The User undertakes to use such Intellectual Property objects solely for the purpose of using the Software in accordance with these Terms of Use and to the extent of the provided Software.
- 5.2 The User undertakes to not copy, reproduce, modify, lend, rent, borrow, republish, sell, distribute, download the Intellectual Property objects or create any derivative works from them in any way and shall not use the Website and the Software or any parts thereof subject to intellectual property protection in any unauthorised manner, including, without limitation, an unauthorised access or congestion of the network capacity of the Website. Any use of the protected information and materials, except for the use of the Website and the Software in accordance with these Terms of Use, shall require the prior written consent of Instarea.
- 5.3 By downloading the Software, the Provider grants the User a non-exclusive territorially unlimited license, limited in time to the term of the Agreement under these Terms of Use, in accordance with these Terms of Use, in particular in accordance with clause 3 and clause 5 (the "License"). The User may not provide a sublicense to any third party or assign the rights under this License to any third party.
- 5.4 The User may not damage the operation and structure of the Website and the software by circumventing or breaching the security measures, uploading files containing viruses or harmful programs, entering user accounts of other Users or performing other unfair or unlawful acts violating the laws or infringing on the rights of the Provider.
- 5.5 The Provider shall not be liable for the content included in the Software, the information and the Data it provides within the Software.
- 5.6 The User may not use the Software for purposes related to the so-called high-risk activities, such as the use of the Software for medical activities, medical research and records, nuclear-related activities, provision of navigation services, military activities, etc.

## 6 WARRANTY CLAIM

- 6.1 Because the use of the Software during the testing phase is free of charge, the Provider shall not incur any liability to the User arising from liability for defects and a warranty claim made.
- 6.2 However, you may address your suggestions regarding the provision of the Software to our support centre by sending an e-mail to [support@qikk.ly](mailto:support@qikk.ly) or by contacting us through the helpdesk at [support.qikk.ly](mailto:support.qikk.ly).

## **7 NO LIABILITY**

- 7.1 We strive to ensure continuous provision of our services and their uninterrupted availability on the Website and the functionality of the Software. We use the highest standards of security and serviceability to make our services available whenever you need them. However, we shall not be liable for the failures that we cannot influence in cases of objective and unavoidable technical obstacles or other facts that make it impossible for us to perform. However, we use our best efforts to promptly resolve any existing obstacles.
- 7.2 We also reserve the right to be not liable for any damage or harm suffered as a result of the use of the Software or any interruption or termination of the use of the Software.
- 7.3 The Provider reserves the right to terminate its business, the provision of the Software and operation of the Website or its part at any time and to not enter into new Agreements with additional Users.
- 7.4 The User shall bear full responsibility for the data and information stored by it in the Software, including the fact that it has the data and information legally in its possession.
- 7.5 The Provider shall not be liable for violating the integrity of the User's data, leaking or disclosing it to unauthorised persons, in case of a breach of security measures in the User's terminals or as a result of the User acting in a way that could lead to a breach of data protection, including the omission of customary precautions by the User.
- 7.6 Any information associated with the use of the Software shall be subject to trade secrecy protection. The User undertakes to maintain confidentiality in relation to this information and to protect it against publication or disclosure to a third party.
- 7.7 The Provider reserves the right to modify the data stored by the User in the Software during the performance of tasks associated with the service of the provision of the Software. The Provider shall not be liable for any damage or injury caused by this action.
- 7.8 The Provider reserves the right to provide the data stored by the User in the Software to a third party, in particular a public authority acting in accordance with the law for the purpose of exercising its powers.
- 7.9 The Provider is not obliged to ensure the storage of data stored by the User in the Software.
- 7.10 The Provider shall in no way be responsible for compliance with the so-called lawfulness of processing of data within the meaning of Article 6 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), provided by the User, which may be in the nature of personal data, as well as for the fulfilment of any legal obligations imposed on the controller of personal data by the legislation governing the protection of personal data. For the purposes of the Agreement, the use of the Software in a manner that would lead to the processing of personal data, including the processing of personal data in which the Provider acts as a so-called processor of personal data within the meaning of Article 28 of the GDPR, shall be prohibited. Upon its accession to the Agreement, the User declares that it will bear all possible sanctions that may be imposed on the Provider as a result of a breach of this provision.

## **8 SANCTIONS FOR BREACHES OF TERMS OF USE**

- 8.1 The Provider shall be entitled to a contractual penalty of EUR 500 000 (in words: five hundred thousand euro) if the User breaches these Terms of Use.
- 8.2 If the User breaches these Terms of Use, the Provider shall also be entitled to compensation of damage (including lost profits) directly or indirectly incurred by the Provider in connection with their breach, and the Provider shall be entitled to full compensation, even in excess of the contractual penalty.

## **9 COMMUNICATION, NOTICES AND DELIVERY**

9.1 The Parties agree that in case of delivery of mutual correspondence, delivery under these Terms of Use means delivery of a written content to the e-mail address [support@gikk.ly](mailto:support@gikk.ly) or by registered mail or courier to: Instarea, s.r.o., with its registered office at 29. augusta 36/A, 811 09 Bratislava, Slovak Republic. The date of delivery also means the date on which a Party refuses to accept the document being delivered or the day of return of the parcel containing the words "*the addressee has not taken over the delivery within the take-over deadline*", "*the addressee has moved*", "*the addressee is unknown*" or any other note of similar meaning. In case of electronic delivery of documents by e-mail, a document shall be deemed to have been delivered on the day following the day on which it was dispatched. For the purposes of delivery by post, the addresses of the Parties known to the Parties or, in case of a Party –entrepreneur, the registered office address registered in the commercial, trade or special register shall be used.

## **10 RESOLUTION OF DISPUTES AND JURISDICTION OF COURTS**

10.1 The Parties agree that any disputes arising in connection with the fulfilment of obligations under the Agreement will be preferably resolved out of court by negotiation or by mutual agreement. Should the Parties fail to resolve their disputes out of court, the Parties may resolve such disputes through the courts in accordance with the applicable laws of the Slovak Republic. The local jurisdiction of the court is given in accordance with Act No. 160/2015 Coll., the Code of Civil Contentious Procedure, as amended.

## **11 CHANGE OF TERMS OF USE**

11.1 The Provider reserves the right to change these Terms of Use at any time during the term of the Agreement or the use of the Software. The Provider will announce the change to the Terms of Use through the Website or a notice via electronic communication. The Parties shall always be bound by the provisions of the Terms of Use valid at the time of validity of the Agreement.

11.2 If any provision of the Terms of Use becomes invalid, ineffective or unenforceable to a specified extent, the remaining provisions unaffected by this shall remain fully valid. In such a case, the Provider will replace the provision with a valid, effective and enforceable provision that will differ to the smallest possible degree from the principles agreed in these Terms of Use, while preserving the economic and legal purpose and meaning of the provision being replaced.

Place: Bratislava, Slovak Republic  
Date: 23 October 2019