

## APIIRO – End User License Agreement

PLEASE READ CAREFULLY THESE TERMS of END USER LICENSE AGREEMENT (THE “**TERMS**”) BEFORE INSTALLING, ACCESSING, OR USING THE SOLUTION (AS DEFINED BELOW), PROVIDED TO YOU (“**USER**”, “**YOU**”) BY APIIRO (AS DEFINED BELOW) DIRECTLY IN ACCORDANCE WITH THE PURCHASE ORDER TO WHICH THESE TERMS ARE ATTACHED, (THE “**PURCHASE ORDER**”) OR INDIRECTLY THROUGH A DISTRIBUTOR, RESELLER OR LICENSEE AUTHORIZED BY APIIRO (THE “**DISTRIBUTOR**”) PURSUANT TO AN ENGAGEMENT BETWEEN DISTRIBUTOR AND YOU (THE “**DISTRIBUTOR ENGAGEMENT**”). BY ONBOARDING, INSTALLING, HAVING INSTALLED, CONTROLLING, ACCESSING OR OTHERWISE USING THE SOLUTION IN ANY MANNER, YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY ALL THE TERMS AND CONDITIONS HEREOF AND REPRESENTING THAT YOU HAVE FULL RIGHT, POWER, AND AUTHORITY TO ENTER INTO AND PERFORM HEREUNDER. **YOU MAY NOT ONBOARD, INSTALL, DEPLOY, CONTROL, ACCESS OR USE THE SOLUTION IN ANY MANNER UNTIL YOU HAVE ACCEPTED THESE TERMS.** FURTHERMORE, YOU HEREBY WAIVE ANY RIGHTS OR REQUIREMENTS UNDER ANY LAWS OR REGULATIONS IN ANY JURISDICTION WHICH REQUIRE AN ORIGINAL (NON-ELECTRONIC) SIGNATURE OR DELIVERY OR RETENTION OF NON-ELECTRONIC RECORDS, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.

THESE TERMS ARE MADE BETWEEN YOU AND APIIRO LTD. AND ITS AFFILIATES (“**APIIRO**”), WITH RESPECT TO THE SOLUTION, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN ANY OTHER DOCUMENT, AGREEMENT OR ARRANGEMENT BETWEEN YOU AND ANY THIRD PARTY INCLUDING DISTRIBUTOR OR ANYONE ON ITS BEHALF.

YOU ASSUME ALL RESPONSIBILITY FOR THE SELECTION OF THE SOLUTION, FOR YOUR RELIANCE ON THE RESULTS OF USE OF THE SOLUTION AND FOR ANY USE OF THE SOLUTION NOT IN ACCORDANCE WITH THE TERMS HEREOF OR AS CONTEMPLATED HEREUNDER.

### 1 DEFINITIONS

1.1 “**Affiliate**” means any entity which controls, is controlled or is under common control with either of the parties. Any entity shall be deemed to “control” another entity if it owns directly or indirectly more than 50% of the outstanding voting securities or capital of another entity or other comparable equity with respect to an entity other than a company.

1.2 “**Documentation**” means the standard written materials regarding the Solution issued and generally provided by Apiiro to its customers.

1.3 “**Third Party Components**” shall mean collectively any devices and products, whether hardware or software, which are licensed by 3rd parties and that are integrated into or are distributed together with the Solution.

1.4 “**Solution**” shall mean Apiiro’s code risk platform, including all software therein.

### 2 LICENSE RIGHTS; RESTRICTIONS

2.1 Apiiro grants you, subject to full compliance with the terms and conditions set forth herein, a limited, non-exclusive, non-transferable, non-sublicensable, revocable (unless otherwise expressly stated under the Distributor Engagement) right to:

2.1.1 use, access, and operate the Solution as provided, deployed, installed and configured by Apiiro, solely for your internal use and not for any further commercialization or provision of services which are essentially provision of the Solution benefits to any third party all strictly in accordance with the technical instructions set forth in the Documentation; and

2.1.2 access, use and make verbatim copies of the Documentation provided to you by Apiiro or Distributor, solely in connection with your use of the Solution as permitted hereunder, and provided that all copyright notices are included and maintained therein.

#### 2.2 Use Restrictions.

2.2.1 Unless otherwise expressly provided herein, you agree that you will not, nor will you authorize any third party to: (a) distribute, license, sublicense, or sell the Solution to any third party; (b) modify, alter, copy, transfer, emulate or create any derivative works of the Solution or of any part thereof; (c) reverse engineer, decompile, decode, decrypt, disassemble, or in any way attempt to derive source code, know-how or designs from the Solution or any part thereof; (d) remove, alter or obscure any copyright, trademark or other proprietary rights notice, on or in, the Solution and/or the Documentation; (e) bundle, integrate, or attempt to integrate with the Solution, any third-party software technology other than as expressly permitted in writing by Apiiro (including through the Documentation); (f) use the Solution for any benchmarking or for competing development activities, or (g) publish or disclose to any third party any technical features, quality, performance

or benchmark test, or comparative analyses relating to the Solution and/or any Pre-Release Features (as defined below), except for your internal use or as expressly permitted by Apiiro in writing.

2.2.2 Without derogating from the foregoing, you shall take commercially reasonable precautions to prevent any unauthorized access and/or unauthorized usage of the Solution. You shall be responsible and liable for any act or omission by any of your Affiliates, your personnel or your Affiliates' personnel, as if performed by you.

2.3 **Use by Hosting Service Providers.** Unless explicitly Apiiro provides you with a separate express authorization, Apiiro strictly prohibits You from making the Solution available to any third party, whether as hosting service provider, or on a rental, service bureau, cloud service, hosted service, or other similar basis. If Apiiro expressly permits you to make the Solution available to your customers pursuant to this Section 2.3, You are and shall remain liable for any acts or omissions in breach of the provisions of Sections 2.1, 2.2 and 5 of this Agreement by such customers.

2.4 **Pre-Release Features.** In addition to the Solution, and pursuant to Apiiro's express consent and/or request, Apiiro may make available to you beta or pre-release features of the Solution ("**Pre-Release Features**"). You acknowledge that the Pre-Release Features (i) are not at the level of performance or compatibility of final, generally available products; (ii) may not operate correctly, (iii) may be modified prior to being made generally available; (iv) may not be made for general release, and (v) should not be used in a production environment.

2.5 **Feedback.** You may provide Apiiro with feedback regarding the use, operation, performance, and functionality of the Solution and any Pre-Release Features, including identifying potential errors and improvements ("**Feedback**"). You hereby grant Apiiro a perpetual, irrevocable, worldwide, unlimited, sublicensable, fully paid-up and royalty-free right to use the Feedback in any manner.

2.6 **Marks and Use of Name.** These Terms do not grant you any rights to Apiiro's trademarks or service marks.

2.7 **Third Party Software.** BY ACCEPTING THESE TERMS YOU CONFIRM AND ACKNOWLEDGE THE UTILIZATION OF THIRD PARTY SOFTWARE COMPONENTS IN THE SOLUTION INCLUDING WITHOUT LIMITATION COMPONENTS LICENSED UNDER FREE OR OPEN SOURCE LICENSES, AND YOU HERBY CONSENT TO AND ACKNOWLEDGE USE OF SUCH THIRD PARTY COMPONENTS AND THAT USE OF SUCH THIRD PARTY COMPONENTS MAY BE SUBJECT TO SEPARATE TERMS, LICENSES AND NOTICES WHICH ARE AVAILABLE TO YOU HERE [add link to open source file]. WITHOUT DEROGATING FROM APIIRO'S LIMITED WARRANTY PROVIDED IN SECTION 3 BELOW, SUCH THIRD PARTY COMPONENTS ARE UTILIZED ON AN "AS IS" BASIS WITHOUT ANY WARRANTY WHATSOEVER.

2.8 **Export Restrictions.** You acknowledge that the Solution may be subject to United States' export jurisdiction and to any other applicable laws and regulation concerning the transfer of the Solution or any part thereof across international borders. You will comply with all applicable national and international laws that apply to your use of the Solution, including United States Export Administration Regulations, as well as end user, end use and destination restrictions which may be issued by the United States and other governments from time to time.

2.9 **Support.** If provided for in the Purchase Order, You will be entitled to industry standard maintenance & support as offered by Apiiro in accordance with Apiiro's SLA.

### 3 LIMITED WARRANTY; DISCLAIMERS

3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SOLUTION, IS PROVIDED BY APIIRO "AS IS" AND APIIRO MAKES NO REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, REGARDING THE SOLUTION, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, QUALITY OF INFORMATION, QUIET ENJOYMENT OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INTERFERENCE. YOU ACKNOWLEDGE THAT YOU HAVE NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION NOT EXPRESSLY CONTAINED IN THESE TERMS.

### 4 DATA

4.1 **Privacy.** All materials, software, data, or other information that you provide to Apiiro through the Solution ("**Your Data**") is and will remain your property. You hereby grant Apiiro a worldwide, limited, revocable, non-exclusive right and license to access, use and reproduce Your Data during the Term and solely for the purposes of providing you with the Services, Support and analysis pursuant to this Agreement. Apiiro will provide you with the Services in compliance with the Apiiro Data Protection Addendum attached hereto as **Exhibit A**, and will maintain and enforce physical and logical security procedures with respect to its access and maintenance of the Apiiro Services and any of Your data stored for the provision of the Services.

4.2 **Usage Data.** You acknowledge that pursuant to your express consent you provide by accepting these Terms, the Solution may store certain data and diagnostic information in connection with the routine operation of the Solution, including, performance, capacity usage, data reduction ratios, configuration data and hardware faults ("**Usage Data**"), which may be used by Apiiro for the sole purpose of Apiiro's internal use. No data identifying a User is accessed, transmitted or provided to Apiiro or any third party as part of this process, and no interruption of service is required to gather such Usage Data.

## 5 PROPRIETARY RIGHTS

5.1 You agree and acknowledge that, as between you and Apiiro, Apiiro is and shall remain the sole and exclusive owner of any and all Intellectual Property rights in or pertaining to the Solution and any part thereof, including any modifications, enhancements, improvements, updates and upgrades, and derivative works, thereof. "**Intellectual Property**" shall mean all inventions, ideas, concepts, analyses, (whether patented, or patentable, or not), methods, methodologies, designs, processes, patents, patent applications, rights associated with works of authorship, including copyrights, copyrights applications, copyrights restrictions, moral rights, any information, ancillary materials, devices, results, know-how, and all rights relating to the protection of trade secrets and confidential information; design rights and industrial property rights; mask works, software, all code including source code, object code, firmware, Usage Data; and any other proprietary rights relating to intangible property. Other than as explicitly stated hereunder, no license, express or implied, in or to the Solution, Services and Intellectual Property of Apiiro, is granted to you under these terms.

6 **INDEMNIFICATION.** Apiiro shall indemnify and hold you and your respective officers, directors, employees and successors and permitted assigns ("**Indemnified Parties**") harmless from and against any costs and damages actually awarded against the Indemnified Parties by a competent court in a final judgment, as a result of, and defend the Indemnified Parties against, any third party claim that the Solution, or any portion thereof, directly infringes such third party's Intellectual Property rights. Such obligation is subject to: (i) the Indemnified Parties promptly notifying Apiiro in writing of any such claim; (ii) Apiiro having the ability to assume sole control of the defense and/or settlement of such claim; (iii) the Indemnified Parties furnishing to Apiiro, on request, all reasonable information available to the Indemnified Parties for such defense; and (iv) the Indemnified Parties not admitting fault with respect to any such claim and/or making any payments or concessions with respect to such claim without the prior written consent of Apiiro. Apiiro shall (i) keep the Indemnified Parties duly informed in connection with the litigation and/or settlement negotiations, and (ii) not execute any settlement covenant that imposes any liability or obligations on the Indemnified Parties without the prior written consent from the relevant Indemnified Parties.

6.1 Should the Solution, or any part thereof, become, or in Apiiro's opinion be likely to become, the subject of any infringement claim as specified above, then Apiiro will, at its own option and expense either: (i) procure the right to continue using the Solution without infringement; (ii) replace or modify the Solution without non-negligibly reducing its functionality, so that it becomes non-infringing; or (iii) if (i) or (ii) cannot be achieved with by using reasonable commercial efforts, Apiiro shall be entitled to terminate your license to use the Solution immediately upon written notice.

6.2 Notwithstanding the foregoing, Apiiro shall have no liability for any claim of infringement which results from (a) the use of the Solution in violation of any provision of these Terms, (b) your failure to install changes, revisions or new releases as instructed or provided by Apiiro at no cost, (c) use of a combination of the Solution or any part thereof with other products, equipment, or software not provided or approved in writing for such use under the Documentation or by Apiiro, or (d) modifications of the Solution not made by Apiiro, on Apiiro's behalf or without Apiiro's prior written consent.

6.3 This section 6 states the exclusive remedy of the Indemnified Parties and the entire liability of Apiiro with respect to infringement claims involving the Solution or any part or use thereof.

7 **LIMITATION OF LIABILITY.** IN NO EVENT WILL APIIRO, NOR ITS AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, SHAREHOLDER, AND EMPLOYEES' ("**APIIRO'S PARTIES**") AGGREGATE LIABILITY TO YOU, EXCEED THE AMOUNTS PAID BY YOU TO APIIRO IN RESPECT OF THE SOLUTION. IN NO EVENT WILL APIIRO OR APIIRO PARTIES, HAVE ANY LIABILITY TO YOU FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA OR BUSINESS INFORMATION ARISING FROM THE INSTALLATION, OPERATION, USE OF OR INABILITY TO USE THE SOLUTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR RELATING TO THESE TERMS MAY BE BROUGHT AGAINST APIIRO MORE THAN TWELVE (12) MONTHS AFTER THE TERMINATION OR EXPIRATION OF THESE TERMS.

**8 TERM AND TERMINATION.** You will have the rights set forth herein for the period prescribed in the Order Form, unless extended at the Parties mutual consent, and so long as you comply with these Terms and any material non-conflicting terms of the applicable Distributor Engagement. These Terms and all rights and licenses granted hereunder shall automatically terminate if you breach the terms hereof and such breach is not cured within fourteen (14) days of written notice of such breach. Sections 1, 2.2, 2.3, 2.5, 2.6, 3, 5, 7, 8 and 9, will survive any termination or expiration of these Terms.

#### **GENERAL**

**9.1 Severability.** In the event any provision or part of these Terms is held to be invalid or unenforceable by any court of competent jurisdiction, it shall be amended to the extent required to render it valid, legal and enforceable, or deleted if no such amendment is feasible, and such amendment or deletion shall not affect the enforceability of the other provisions hereof.

**9.2 Waiver.** No waiver of any breach of these Terms will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

**9.3 Entire Terms.** These Terms supersede all previous agreements or representations, written or oral, with respect to the subject matter hereof between you and Apiiro. These Terms may not be modified or amended except in writing signed by a duly authorized representative of each party.

**9.4 Governing Law.** The validity, interpretation, and performance of these Terms shall be controlled by and construed under the laws of the State of New York as if performed wholly within New York and without giving effect to the principles of conflicts of laws. The Parties hereby consent to the exclusive jurisdiction of the courts of New York, New York.