

# AGREEMENT ON BROKER TERMS & CONDITIONS

Valid from: 01.10.2024

**BY CLICKING ON THE “I AGREE TO THE PARTNERSHIP TERMS & CONDITIONS” BUTTON (1) YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THESE TERMS, AND (2) YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THESE TERMS, PERSONALLY AND ON BEHALF OF THE COMPANY YOU HAVE NAMED AS THE BROKER, AND TO BIND THAT COMPANY TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, OR IF YOU DO NOT HAVE SUCH AUTHORITY, YOU SHOULD NOT COMPLETE THE PARTNER REGISTRATION PROCESS.**

**THIS AGREEMENT** (the “**Agreement**”) is entered into by and between **MACHINE LEARNING SOLUTIONS S.R.L.**, having its headquarters located at 2-4 Calea Circumvalațiunii, Incubox building, office 210, Timiș County, e-mail address [legal@aqurate.ai](mailto:legal@aqurate.ai) and registered with the Trade Registry Office of Timiș Court under the number J35/4631/2018, EUID ROONRC.J35/4631/2018, having VAT number (VIES) RO40330105, represented for the purposes of this Agreement by the company’s director Vlad Marinceaș, as **SELLER** (hereinafter “**Aqurate**” or the “**Seller**”)

and

**YOU**, as **BROKER** (hereinafter the “**Broker**”), each individually referred to as a “**Party**” and collectively referred to as the “**Parties**”

## **WHEREAS:**

The **Seller** desires to sell certain services;

The **Broker** desires to act as an intermediary finder of buyers for **Seller's** services;

The **Parties** wish to conclude an agreement to regularize their business.

**THEREFORE**, in consideration of the foregoing and in order to meet the Parties’ commercial interests and to further organize their mutual collaboration, the Parties agree as follows:

## **I. DEFINITIONS AND INTERPRETATIONS**

“**Agreement**” means the agreed upon Broker Terms and Conditions which are part of the Contract.

“**Buyer**” means a company that concluded with the **Seller** an Order.

“**Charges**” means the charges payable by the **Seller** to the **Broker** in respect of each Registered Deal, including the payment amount, number, frequency and due date of instalments, and the basis on which such charges may be varied. The **Charges** are computed based on amounts actually paid by **Buyers** to the **Seller** as per the commissions stipulated herein and in the **Partners Platform**.

“**Confidential Information**” means any data and/or information and/or parts thereof, irrespective of their nature, relating to a party or any aspect of a party’s business and products (including operations, plans, market opportunities, customers), know-how (including designs, plans, diagrams, copyrighted data, rules and concepts, processes of production and technology), trade secrets, business methods, databases, and software disclosed to the other party (whether in writing, orally or by any other medium) which the issuing Party has explicitly marked as confidential, or which could be considered as relevant by any reasonable person (even if not expressly marked as confidential).

“**Contract**” means this Agreement on the Broker Terms and Conditions and any other documents set out or expressly referred to in any of those documents as forming part of this Contract.

“**Deal Registration**” means the **Broker’s** non-exclusive right to introduce a prospective buyer to the Seller in writing, by submitting a manual referral within the **Partners Platform**, or by using a referral code provided in the **Partners Platform**, with the purpose of concluding an Order.

“**Order**” means any order placed by a prospective buyer for the Seller’s SaaS Service, *which is approved by the Seller and hence, for which a sale agreement is concluded after a Registered Deal*.

“**Order Date**” means the calendar date when the Order was concluded between the **Seller** and the **Buyer**.

“**Partners Platform**” means the partner portal accessible online at <https://partners.aqurate.ai> where the Broker can access reports, see the status of current Buyers, register new potential Buyers, and see the status of owed amounts.

“**Personal Data**” means any information regarding a natural person which is identified or identifiable („data subject”); an identifiable natural person is a person which can be identified either directly or indirectly.

“**Registered Deal**” means the commercial deal between the Seller and a prospective buyer regarding which the Broker has observed the Deal Registration process.

“**SaaS Services**” or “**Services**” means the services provided by the **Seller** on a recurring subscription basis, limited, non-exclusive and non-transferable. SaaS Services may include product recommendation engines, customer segmentation engines, and analytics tools.

## II. THE SUBJECT OF THE AGREEMENT

### 1. The **Broker**

- a) uses commercially reasonable efforts and adequate business time and attention to identify interested buyers of **Services** the **Seller** wishes to make sales to;

- b) informs the Seller about buyers identified as having a serious interest in the **Services** by exercising its Deal Registration right.
2. This Agreement shall not apply to and **Broker** shall not be entitled to a Charge for any:
  - a) Buyers for which the **Broker** did not observe the Deal Registration process prior to the Order Date;
  - b) Buyers to which **Seller** has previously been introduced to by another party at any time during a period of 12 months prior to the Order Date,
  - c) Buyers with which **Seller** has concluded an Order prior to the Deal Registration,
  - d) Orders concluded later than 6 months after the Deal Registration.

### III. THE TERM OF THE AGREEMENT

1. This Agreement shall be effective starting the date of this agreement and up to one year after the last Registered Deal.

### IV. CHARGES AND PAYMENT

1. The Charges payable to the **Broker** under the Contract for Registered Deals represents a fee starting from 15%, for amounts received by the **Seller** from the Buyer within the terms specified herein.
2. The Charges shall be computed at the beginning of each month, based on reports drafted by the **Seller** indicating the sums received from the Buyers in the previous month. In case the Seller provided refunds to Buyers, those situations shall be included in the reports and compensations shall be made automatically from the Charges owed to the **Broker** for the next month.
3. Upon determination of the Charges due, the **Broker** shall issue an invoice to the **Seller** and payment shall be due within thirty (30) days from the date of the invoice. The Broker shall issue invoices for Charges due at most once every 30 days, and at least once every 90 days.
4. All amounts invoiced under the Contract represent net sums and do not include VAT or other taxes, each Party being solely responsible for the reporting and payment of such fees with the relevant fiscal authority, as well as for fulfilling any other legal obligations incumbent thereon. In cases where VAT is applicable, the **Broker** shall distinctly indicate the VAT amount in the invoice.

### V. OBLIGATIONS UNDERTAKEN BY THE SELLER

1. The **Seller** undertakes the following **contractual obligations** considered by the Parties as key/essential obligations of the Agreement:
  - a) not attempt to do business with, or otherwise solicit any **Buyers** found or otherwise referred by **Broker**, to **Seller** for the purpose of circumventing, the result of which shall be to prevent the **Broker** from realizing or recognizing a **Broker's** Charge;

- b) to inform the **Broker** about Orders arising from Registered Deals and the commercial value thereof via the **Partners Platform**, provided that the **Broker** is entitled to a Charge under this Agreement;
- c) to perform payment of undisputed invoices issued by the **Broker** within the terms stipulated therein, and in this Contract.

## VI. OBLIGATIONS UNDERTAKEN BY THE BROKER

1. The **Broker** undertakes the following **contractual obligations** considered by the Parties as key/essential obligations of the Agreement:
  - a) to arrange successful introductions to the **Seller** of buyers with a serious interest in its Services;
  - b) to provide the **Seller** with the correct and complete data required for the Seller to initiate and advance negotiations with interested buyers;
  - c) to observe the obligation of confidentiality and protection of personally identifiable information of the **Seller**, as specified under this Contract;
  - d) for Orders the execution thereof is partly or entirely dependent on the **Broker's** actions, to perform within 1 month from the Order Date such actions (including, but not limited to custom services, various implementations of the Services in Buyer's website);
  - e) to use only the brand identity elements indicated by the Seller, when and only when performing the obligations indicated herein;
  - f) to be held directly liable for its collaborators (even if the Seller has approved them), employees, directors, and shareholders.

## VII. THE TERMINATION OF THE AGREEMENT

1. Each Party can terminate the Contract for cause (by rescission) if the cause is not cured within 30 days of sending a written notification to the other Party. Such termination shall occur without carrying out any further formalities, without the intervention of a court of law and without prejudice to any other remedies the Party may have, if the other Party fails to observe any undertaking, declaration, warranty, provision or condition set forth by this Contract.
2. This Agreement can be terminated by either party without cause and without carrying out any further formalities by communicating a written notification to the other Party, that shall be effective upon the expiry of a 3-day period of the communication date.
3. In either one of the above cases, if the Broker is the terminating party, it waives all rights to further claims for Charges under the Contract for all Registered Deals.
4. This Contract is also considered terminated by the expiry of the agreed contractual term, by written agreement of both Parties or by hardship, in the conditions set forth by this Contract.

## VIII. RIGHTS AND REMEDIES

1. If the **Seller** does not pay the undisputed Charges in the due term indicated by this Contract, they shall pay to the **Broker** a penalty fee of 0,01% of the value of the owed fee for each delay day, as a conventional remunerative interest, the **Seller** being considered *de jure* in default from the moment when the period provided by the term expires. The value of the penalties cannot exceed the value of the main outstanding debt.
2. In any case of Agreement breach, except bad-faith and willful breach, provided that the conditions under which parties can be held liable are met, the Parties agree that the liability shall be limited to the payment of the total Charges stipulated under Registered Deals currently under performance and directly affected by the breach.

## IX. REPRESENTATIONS AND WARRANTIES

1. Each Party hereby represents and warrants to the other Party that the following statements are true and accurate at the date hereof and shall be true and accurate at any time during the term of this Contract:
  - a) is a private company, duly incorporated and validly existing under the legal provisions of a European Union / European Economic Area Member State / United Kingdom;
  - b) has the full legal authority and capacity to enter into this Agreement and to perform the obligations provided hereunder in compliance with the provisions hereof, having received all necessary corporate approvals for executing, delivering and performing this Agreement;
  - c) the person(s) executing this Agreement on behalf thereof is duly authorized and has the legal capacity to act in this respect;
  - d) the obligations undertaken hereunder are legal and valid obligations binding thereon and enforceable in accordance with their terms.
2. The **Broker** hereby represents and warrants to the **Seller** that the following statements are true and accurate at the date hereof and shall be true and accurate at any time during the term of this Contract and for up to 1 year after its termination:
  - a) is not developing, advertising, or selling competing Services;
  - b) is not part of any other broker agreements including competing Services.

## X. CONFIDENTIALITY

1. Both Parties acknowledge that this Agreement, the Confidential Information, as well as any other instructions, procedures, standards, and other information communicated by the Parties under this Agreement, as well as those discussed or considered for the purpose of entering into this Agreement, and any other Confidential Information marked as such by a Party, are confidential and shall not be disclosed to third parties other than pursuant to the consent of the other Party.
2. The Parties shall not be in violation for disclosure to the extent required by the law, a court, or governmental agency order. However, in this event, the Party that discloses the confidential information has to notify the other Party regarding this aspect.

3. The confidentiality shall be respected during the entire period of the Agreement and for an additional 2-year period within the termination of the Agreement, irrespective of the termination ground.

## XI. HARDSHIP. RELIEF EVENTS

1. Both Parties hereby commit the full and timely fulfilment of all obligations provided under this Agreement, even if, pursuant to a non-imputable increase in the costs of performing a Party's own obligation, a decrease in the value of the obligations assumed by the other Party, or change in other circumstances, the performance of their obligation would become more onerous than envisaged at the time of conclusion of this Agreement.
2. As soon as possible after the occurrence of a Relief Event, the Parties shall meet to discuss the possibilities and necessary/appropriate measures to mitigate the losses generated thereby. Should the events in question last longer than one month, any Party may decide the termination of this Agreement, by way of written notice given to the other Party, without requiring the fulfilment of other formalities, without the intervention of a court of law or arbitral tribunal and without being held liable for any damage caused by termination of this Agreement.

## XII. MISCELLANEOUS

1. **Governing Law; Settlement of Disputes.** This Agreement shall be governed by the Romanian law and the disputes thereunder shall be referred to the competent courts of law from Timișoara.
2. **Notices.** Except as provided otherwise herein, any notice required or permitted under this Agreement shall be given by email to the coordinates specified under the description of the Parties to this Agreement, or to such other coordinates later notified to the other Party. Any notice shall be deemed effective and received upon the earlier of (i) actual receipt or (ii) expiry of a fifteen (15) days term from delivery.
3. **Entire Agreement; Amendments; Waiver.** This Agreement is the entire agreement between the Parties with respect to the subject matter herein and supersedes all prior oral or written understandings or agreements, including confidentiality or non-disclosure agreements. Any term of this Agreement or breach thereof may be waived only in writing, signed by the Parties, and any waiver shall be of strict interpretation, so that any failure to exercise or delay in exercising by **Seller** or by the **Broker** regarding a right, a power or a privilege on the basis of this Agreement shall not be deemed a waiver thereof or of any other similar right, power or privilege and shall not be construed as proving the lack of materiality of the respective breach.
4. **Taxes.** Each Party hereto shall be responsible for and shall effectively pay its own taxes and dues entirely, incurred by itself, in connection with the rights and obligations arising under this Agreement.
5. **Validity of certain provisions.** The provisions regarding confidentiality shall remain valid after the termination or non-renewal of this Agreement.
6. **Assignment.** The **Broker** is not entitled to assign or novate any of its rights or obligations under the Contract, nor to delegate or sub-contract the performance of any of its obligations under the Contract.
7. **Marketing.** Each **Party** authorizes the other **Party** to use its name and brand identity elements (such as the logo) in marketing communications or marketing initiatives, which can include referring to the other **Party** as the **Party's** partner and a brief description of the

partnership. The **Parties** undertakes to use the name and brand identity elements in observance of the **Party's** brand identity manual if it was provided with such guidelines.

8. **Press release.** Either Party may issue a press release regarding the Agreement. Any such press release shall be issued only after notification of, and approval by the other Party, excluding however any unreasonable or unjustified hindrance of this initiative.
9. **General principles of interpretation.** For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
  - a) words denoting the singular number include the plural and vice versa, and words importing one gender include the other genders;
  - b) the index to and headings in this Agreement are for convenience only and are not to be considered in interpretation;
  - c) for the calculation of periods, both the first and last days shall be included; where the day of which or by which any act, matter or thing is to be done is not a business day, such act, matter or thing shall be done on the immediately following business day;
  - d) the term "include" or "including" shall mean without limitation by reason of enumeration.
  - e) in case of conflict between the Agreement's legal provisions and any legal provisions within other documents comprised in the Contract, the Agreement shall prevail;
10. **Data Protection.** The performance of this Agreement only entails the processing of Personal Data regarding the designated contact persons and the representatives of each Party (first name, last name, email, phone, role in the company). Each Party acts as data controller on the grounds of EU Regulation no. 679/2016 (GDPR), article 6.1.(a).