

# TERMS OF USE

(Effective as of September 3rd, 2022)

Welcome to QiQ, an application (the “App”) provided by Qi Analytics LLC (the “Company”).

The following Terms of Use (“Terms”) apply when you use the App.

Please review these Terms carefully. By accessing or using the App, you show you agree to these Terms. *If you don't agree to these Terms, you may not access or use the App.*

## 1. CAUTIONS

The App is a utility to perform measurements of print quality. As input the App requires digital images of physical print samples (“scans”), obtained for example by use of a flatbed scanner. The App outputs quantitative assessments of various print quality attributes (“measurement results”).

The App may not be free from defects (“bugs”) and such defects could cause it to malfunction. For example, measurement results could be inaccurate or even wrong, or the App could entirely fail to function.

The accuracy and consistency of measurement results depend to a great degree on the use of an Opto-Electronic Conversion Function (“OECF”) that accurately represents the process by which a scan is obtained from a physical print. It is the responsibility of the user to ensure that an adequate OECF is used for the App.

## 2. ABOUT THE APP

The App includes a set of PDF files (“QiQ test charts”) that the user can print, scan, and analyze with the App. Furthermore, the user can create customized setups (“scripts”) in order to analyze custom test charts. Furthermore, the App can generate images with various degrees of artificial image defects (“simulated images”). For more information about the App, you can visit <https://www.qiquality.com> (the “Website”).

The services provided by the App are called the “Services.”

### 2.1 Free and Paid services

The app is free to download. Without purchases users have access to only limited functionality.

The functionality provided free of charge includes: Analysis of simulated images that were generated by the App; analysis of included tutorial images. This allows the user to thoroughly test the App, and allows the user to create and test customized scripts.

### 2.2 QiQ Token consumables

Except as explained above, each measurement performed with the App requires payment in the form of “QiQ Tokens”. QiQ Tokens can be purchased in the App via in-app purchases. QiQ Tokens are a consumable, and will be consumed as you perform measurements. The price of measurements in terms of QiQ Tokens is explained on the Website ([https://www.qiquality.com/documents/qiq\\_prices.pdf](https://www.qiquality.com/documents/qiq_prices.pdf))

[documents/qiq\\_prices.pdf](#)).

## **2.3 Subscriptions**

Users can purchase subscriptions that provide certain benefits. Subscriptions are available at different “levels” (e.g. “silver” and “gold”) and for different durations (3 months, 6 months, 1 year). When measurements are performed while a subscription is active, fewer QiQ Tokens will be charged than otherwise; that is, an active subscription offers measurements at a discounted rate. The details of subscription benefits are explained at the Website ([https://www.qiquality.com/documents/qiq\\_prices.pdf](https://www.qiquality.com/documents/qiq_prices.pdf)).

## **2.4 Terms of subscriptions**

Payment for a subscription will be charged to the iTunes Account when you confirm the purchase. A subscription automatically renews unless auto-renew is turned off at least 24-hours before the end of the current period. The iTunes Account will be charged within 24-hours prior to the end of the current period at the price specified for current subscription. Subscriptions may be managed by the user and auto-renewal may be turned off by going to the user's Account Settings after purchase. You will be able to use the app on multiple devices, as allowed by Apple's in-app purchase policy.

## **3. CONSENT TO COLLECTION OF DATA**

You agree that Company may collect and use technical data and related information—including but not limited to technical information about your device, system and application software, and peripherals—that is gathered periodically to facilitate the provision of software updates, product support, and other services to you (if any) related to the App. Company may use this information, as long as it is in a form that does not personally identify you, to improve its products or to provide services or technologies to you.

## **4. USE RESTRICTIONS**

Your permission to use the App is conditioned upon the following restrictions and conditions.

You agree not to, and you will not permit others to:

- modify, make derivative works of, disassemble, decrypt, reverse compile or reverse engineer any part of the App;
- remove, alter or obscure any proprietary notice (including any notice of copyright or trademark) of Qi Analytics LLC or its affiliates, partners, suppliers or the licensors of the App.

## **5. INTELLECTUAL PROPERTY**

You acknowledge and agree that the Company and its licensors retain ownership of all intellectual property rights of any kind related to the App, including applicable copyrights, trademarks, and other proprietary rights. The Company reserves all rights that are not expressly granted to you under these Terms.

## **6. FEEDBACK**

We welcome and encourage you to provide feedback, comments, and suggestions for improvements of the App (“Feedback”). You may submit Feedback by emailing us using contact information provided in the App. You acknowledge and agree that if you submit any Feedback to us, you hereby grant to us a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sub-licensable (through several tiers) and transferable license under any and all intellectual property rights that you own or control in relation to the Feedback to use, reproduce, view, communicate to the public by any means, print, copy (whether onto hard disk or other media), edit, translate, perform and display (publicly or otherwise), distribute, redistribute, modify, adapt, make, sell, offer to sell, transmit, license, transfer, stream, broadcast, create derivative works from, and otherwise use and exploit the Feedback for any purpose.

By giving us reviews or feedback via the App Store or in emails, you give us permission to quote you (without using your full name) in our marketing materials.

## **7. INDEMNIFICATION**

You agree to indemnify, defend, and hold harmless the Company from any and all claims, liabilities, expenses, and damages, including reasonable attorneys' fees and costs, made by any third party related to: (a) your use or attempted use of the App in violation of these Terms; and (b) your violation of any law or rights of any third party.

## **8. ONLINE CONTENT DISCLAIMER**

The Company does not guarantee the accuracy, completeness, or usefulness of any information on the App or the associated Website and neither does the Company adopt nor endorse, nor is the Company responsible for, the accuracy or reliability of any opinion, advice, or statement made by parties other than the Company.

## **9. USER CONSENT TO RECEIVE COMMUNICATIONS IN ELECTRONIC FORM**

The Company may use your email address to respond to email messages from you where you request information or support.

## **10. WARRANTY DISCLAIMER**

THE APP AND SERVICE ARE PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, THE COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING THE APP AND SERVICE INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SECURITY, ACCURACY AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, THE COMPANY MAKES NO WARRANTY OR REPRESENTATION THAT ACCESS TO OR OPERATION OF THE APP WILL BE UNINTERRUPTED OR ERROR FREE. YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM YOUR UPLOADING, DOWNLOADING, AND/OR USE OF FILES, INFORMATION, CONTENT OR OTHER MATERIAL SENT TO OR OBTAINED FROM THE APP. SOME JURISDICTIONS LIMIT OR DO NOT PERMIT DISCLAIMERS OF WARRANTY, SO THIS PROVISION MAY NOT APPLY TO YOU.

## **11. LIMITATION OF DAMAGES; RELEASE**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE COMPANY, ITS AFFILIATES, DIRECTORS, OR EMPLOYEES, OR ITS LICENSORS OR PARTNERS, BE LIABLE TO YOU FOR ANY LOSS OF PROFITS, USE, OR DATA, OR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, HOWEVER ARISING, THAT RESULT FROM (A) YOUR USE OR INABILITY TO USE THE APP; (B) THE APP GENERALLY OR THE SOFTWARE OR SYSTEMS THAT MAKE THE APP AND SERVICE AVAILABLE; OR (C) ANY OTHER INTERACTIONS WITH THE COMPANY OR ANY OTHER USER OF THE APP, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), FRAUD, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. **IN NO EVENT WILL COMPANY'S LIABILITY TO YOU EXCEED \$10.** SOME JURISDICTIONS LIMIT OR DO NOT PERMIT DISCLAIMERS OF LIABILITY, SO THIS PROVISION MAY NOT APPLY TO YOU.

## **12. MODIFICATION OF TERMS OF USE**

The Company can amend these Terms at any time. It's your responsibility to check the App from time to time to view any such changes. If you continue to use the App, you show your agreement to our revisions to these Terms. Any changes to these Terms (other than as set forth in this paragraph) or waiver of the Company's rights hereunder shall not be valid or effective except in a written agreement bearing the physical signature of an officer of the Company. No purported waiver or modification of these Terms by the Company via telephonic or email communications shall be valid.

## **13. PRIVACY POLICY**

The Company respects the privacy of its users. Please refer to our Privacy Policy (found at [https://www.qiquality.com/documents/qiq\\_privacy.pdf](https://www.qiquality.com/documents/qiq_privacy.pdf)), which explains how we collect, use, and disclose information that pertains to your privacy. When you access or use the App, you show that you agree to this Privacy Policy.

## **14. GENERAL TERMS**

If any part of these Terms is held invalid or unenforceable, that portion of the Terms will be construed consistent with applicable law. The remaining portions will remain in full force and effect. Any failure on the part of the Company to enforce any provision of these Terms will not be considered a waiver of our right to enforce such provision. Our rights under these Terms will survive any termination of these Terms.

You agree that any legal action related to or arising out of your relationship with the Company must commence within ONE year after the cause of action accrues. Otherwise, such cause of action is permanently barred.

These Terms and your use of the App and Service are governed by the federal laws of the United States of America and the laws of the State of New York, without regard to conflict of law provisions.

You agree to resolve any claims relating to these Terms or the App through final and binding arbitration. Any arbitration will be conducted by the American Arbitration Association (AAA) under its commercial arbitration rules. The arbitration will be held in Rochester, NY.

ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR THE COMPANY MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER USERS, OR LITIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

If you attempt to bring any legal action against the Company based in any way on the App you agree that, in the event you do not prevail or the Company does prevail, you will reimburse the Company for any costs and attorneys' fees associated with its defense of the action.

The Company may assign or delegate these Terms and/or the Company's Privacy Policy, in whole or in part, to any person or entity at any time with or without your consent. You may not assign or delegate any rights or obligations under the Terms or Privacy Policy without the Company's prior written consent, and any unauthorized assignment and delegation by you is void.

## **15. QIQ MAC APP END USER LICENSE AGREEMENT**

**15.1 PARTIES.** The Terms is between you and Company only, and not with Apple, Inc. ("Apple"). Company, not Apple, is solely responsible for the App and its contents.

**15.2 SCOPE OF LICENSE.** Company grants you a limited, non-exclusive, non-transferable, license to use the App. You may only use the App on Apple-branded products that you own or control and as permitted by the Usage Rules set forth in the App Store Terms of Service, except that the App may be accessed and used by other accounts associated with the purchaser via Family Sharing or volume purchasing.

**15.3 MAINTENANCE AND SUPPORT.** To the extent that any maintenance or support service is required by law, Qi Analytics, not Apple, shall be obligated to furnish any such maintenance or support service with respect to the App.

**15.4 WARRANTY.** To the extent any warranty exists under law that cannot be disclaimed, Company, not Apple, shall be solely responsible for such warranty. In the event of any failure of the App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App to you; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App.

**15.5 PRODUCT CLAIMS.** To the extent you have any claim arising from or relating to your use of the App, Company, not Apple, is responsible for addressing any such claims, which may include, but are not limited to: (i) any product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) any claim arising under consumer protection, privacy, or similar legislation. Nothing in these Terms shall be deemed an admission that you may have such claims.

**15.6 INTELLECTUAL PROPERTY RIGHTS.** To the extent Company is required to provide indemnification by applicable law, Company, not Apple, shall be solely responsible for the investigation, defense, settlement and discharge of any claim that the App or your use of the App infringes any third party intellectual property right.

**15.7 LEGAL COMPLIANCE.** You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S.

Government as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

**15.8 CONTACT INFORMATION.** Should you have any questions, complaints, or claims relating to the App, please contact us at support@qianalytics.com, or by mail to Qi Analytics LLC, 30 Muirfield Ct, Pittsford, NY 14534, USA.

**15.9 THIRD PARTY BENEFICIARY.** Apple, and Apple’s subsidiaries, are third party beneficiaries of the Terms, and, upon your acceptance of the terms and conditions of the Terms, Apple will have the right (and will be deemed to have accepted to right) to enforce the Terms against you as a third-party beneficiary thereof.

## **16. YOUR AGREEMENT**

**YOU ACKNOWLEDGE THAT YOU HAVE READ THESE TERMS, UNDERSTAND THE TERMS, AND WILL BE BOUND BY THESE TERMS. YOU FURTHER ACKNOWLEDGE THAT THESE TERMS TOGETHER WITH THE PRIVACY POLICY REPRESENT THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US AND THAT IT SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN US RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.**