

# **Appraisal Assistant<sup>TM</sup> Beta** End User License Agreement

This Agreement relates to all pre-release versions of the Software Quality Institute product known as "Appraisal Assistant<sup>TM</sup>", which may include software and related documentation and information (collectively the "**Product**"). The Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Product is licensed, not sold.

**ACKNOWLEDGEMENT:** By downloading the Product or clicking on the "I agree" button at the end of these terms and conditions, you agree to the terms and conditions of this Agreement and to abide by Australian and international intellectual property laws. You further agree to take all necessary steps to ensure that the terms and conditions of this Agreement are not violated by any person or entity under your control or in your service.

**GRANT OF LICENCE:** The Software Quality Institute of Griffith University ("**SQL**") grants to you a personal, limited, non-exclusive, non-transferable, non-assignable, royalty-free licence to use the Product for testing and evaluation purposes only on the terms and conditions of this Agreement. You do not obtain any interest in or rights to the Product other than as set out in this Agreement. The Product contains pre-release code that is not at the level of performance and compatibility of a final, generally available, product offering. You must not use the Product in a live operating environment or in any other environment where it may be relied upon to perform in the same manner as a commercially released product or with data that has not been sufficiently backed up. Due to the nature of the Product, SQL is not obliged to correct any specific errors or discrepancies in the Product. You expressly acknowledge and agree that the Product may change substantially prior to any commercial release of the Product.

**FEEDBACK:** You agree to provide to SQL reasonable suggestions, comments and feedback regarding the Product, including but not limited to usability, bug reports and test results (collectively, "**Feedback**"). You hereby grant to SQL a worldwide, non-exclusive, perpetual, irrevocable, royalty free, fully paid up licence to: (1) make, use, copy, modify, and create derivative works of the Feedback as part of any SQL product, technology, service, specification or other documentation, (2) publicly perform or display, import, broadcast, transmit, distribute, license, offer to sell, and sell, rent, lease or lend copies of the Feedback (and derivative works thereof) as part of any SQL Product, and (3) sublicense to third parties the foregoing rights. Further, you warrant that you own and are otherwise authorised to provide the Feedback to SQL, and that use of the Feedback is not subject to any licence or other third party restrictions. Due to the nature of the development work, SQL provides no assurance that any specific errors or discrepancies in the Product will be corrected

**PRODUCT MAINTENANCE/UPDATES:** SQL is not obligated to provide maintenance, technical support or updates to you for the Product. However, SQL may, in its sole discretion, make available further pre-release versions, technical support, updates and/or supplements of the Product and/or related information ("**Updates**") for downloading, and SQL may notify you of the availability of those Updates from time to time in its discretion. All Updates will be deemed to be included in the "Product" and therefore governed by this Agreement, unless other terms of use are provided by SQL with those Updates. It is a condition of downloading any Updates that you provide Feedback to SQL regarding the previous pre-release versions of the Product that you have downloaded. SQL may refuse to make any Updates available to you if you do not comply with this condition. In no event will SQL be obliged to provide you with a copy of the commercial release version of the Product in connection with your participation in the testing program. SQL is not obligated to make the Product commercially available.

**OWNERSHIP OF SOFTWARE:** SQL and/or its affiliated entities own certain rights in the Product that may exist from time to time in Australia or any other jurisdiction, under patent law, copyright law, publicity rights law, moral rights law, trade secret law, trademark law, unfair competition law or other similar protections, regardless of whether or not such rights or protections are registered or perfected ("**Intellectual Property Rights**"). All Intellectual Property Rights in the Product are and will remain with SQL.

## **RESTRICTIONS:**

- (a) Except as otherwise specified in this Agreement, you are expressly prohibited from selling, leasing, redistributing, assigning, transmitting over networks or transferring, in any manner, the Product or any part of the Product.
- (b) You may install a copy of the Product on more than one central processing unit ("CPU"), provided that each user of the Product:

- (i) is a member of a team under your direction;
- (ii) is made aware of and uses the Product subject to the terms of this Agreement; and
- (iii) is encouraged to register as a licensee of the Product in their own right.

This clause does not permit you to transmit the Product over a network, including, without limitation, the Internet.

- (c) You may make a single copy of the Product only as required for backup purposes.
- (d) You must not reverse engineer, decompile, translate, disassemble, decipher, decrypt or otherwise attempt to discover the source code of the Product. You may not otherwise copy, modify, alter, adapt, port, or merge the Product.
- (e) You may not remove, alter, deface, overprint or otherwise obscure any patent, trade mark, service mark or copyright notices of SQL in respect of the Product.
- (f) You may not publish or distribute in any form of electronic or printed communication the materials within or otherwise related to the Product, including but not limited to the object code, documentation, help files, examples, and benchmarks.

**TERM:** The term of this Agreement will commence on downloading of the Product by you and will continue until terminated in accordance with this Agreement. SQL may terminate this Agreement at any time, with or without cause, by notice in writing to you or by publishing a notice terminating this Agreement on the SQL website or such other website from which the Product may be downloaded. You may terminate this Agreement at any time by uninstalling the Product and destroying all copies of the Product in your possession or control. On termination of this Agreement, you must stop using the Product immediately. Within seven days of termination of this Agreement, you agree to uninstall the Product and return or destroy all copies of the Product in your possession or control, including any accompanying documentation and associated materials.

**WARRANTIES AND DISCLAIMER:** To the extent permitted by law, the Product is provided as is without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability or fitness for a particular purpose, or the warranty of non-infringement of Intellectual Property Rights. Without limiting the foregoing, SQL does not warrant that:

- (i) the Product will meet your requirements,
- (ii) the use of the Product will be uninterrupted, timely, secure, or error-free,
- (iii) the results that may be obtained from the use of the Product will be accurate or reliable,
- (iv) the quality of the Product will meet your expectations,
- (v) any errors in the Product will be corrected, and/or
- (vi) you may use, practise, execute, or access the Product without violating the Intellectual Property Rights of others.

To the extent that any term, condition or warranty implied by law cannot be excluded, SQL's liability in respect of such term, condition or warranty is limited to, at SQL's option:

- (i) in the case of goods, repairing or replacing those goods or paying the cost of repairing or replacing those goods; and
- (ii) in the case of services, resupplying those services or paying the cost of resupplying those services.

SQL's liability under this Agreement is limited in aggregate to resupplying the Product to you. In no event will SQL or its affiliated entities be liable to you or any third party for any special, incidental, indirect or consequential damages of any kind, or for loss of use, data or profits or other categories of economic loss, whether or not SQL had been advised of the possibility of such damages, and whether arising in contract, tort or otherwise, arising out of or in connection with the use of the Product. Some jurisdictions prohibit the exclusion or limitation of liability for consequential or incidental damages, so the above limitations may not apply to you. These limitations will apply notwithstanding any failure of the essential purpose of any limited remedy.

**GST:** If any goods and services tax or other consumption tax ("GST") is payable in respect of any supply made to you pursuant to this Agreement, you must pay to SQL the amount of any GST payable in respect of that supply.

**GOVERNING LAW:** This Agreement is governed by the laws of Australia. The parties submit to the exclusive jurisdiction of the courts of Queensland, Australia and the courts of appeal from them, and waive any rights that they may otherwise have had to challenge the convenience of that forum.

**SEVERANCE:** If any term of this Agreement is illegal or otherwise unenforceable, it will be deemed to be severed from this Agreement, and all other terms of this Agreement will remain in full force and effect.