



TopQuadrant Terms of Service

1. PLEASE CAREFULLY READ THESE TERMS FOR USING ALL TOPQUADRANT RELATED WEBSITES INCLUDING WWW.TOPQUADRANT.COM AND ANY TEST OR EVALUATION WEBSITE FOR ANY TOPQUADRANT SOLUTION ("SITES")
2. BY ACCESSING, USING OR SUBSCRIBING TO THIS WEBSITE OR ANY BLOGS OR EMAIL, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THESE TERMS AND CONDITIONS AND YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE, DO NOT ACCESS, USE, OR SUBSCRIBE TO ANY SITE.
3. THESE TERMS OF SERVICE (THE "AGREEMENT") COMPRISES THE ENTIRE AGREEMENT BETWEEN YOU AND TOPQUADRANT AND SUPERSEDES ANY AND ALL PRIOR VERSIONS OF THIS AGREEMENT. THE TERM "AGREEMENT" MEANS THE VERSION OF TOPQUADRANT'S TERMS OF SERVICE POSTED MOST RECENTLY AT WWW.TOPQUADRANT.COM/LEGAL
4. The website www.topquadrant.com and any other website providing TopQuadrant solutions or services are owned and offered by TopQuadrant, Inc., a Delaware corporation ("TopQuadrant," "we," "our," or "us").
5. DESCRIPTION OF BUSINESS. TopQuadrant licenses software solutions and sells professional services. This Agreement does not apply to TopQuadrant's licensing of software or provisioning of services, all of which are provided under separate agreement.
6. USER CONDUCT. You agree to not use any Site to transmit anything in any way that (a) is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (b) harms minors in any way; (c) impersonates any person or entity, including, but not limited to, an TopQuadrant official, or falsely states or otherwise misrepresents your affiliation with a person or entity; (d) conflicts with any law or contractual or fiduciary relationships (such as inside information or proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (e) infringes any patent, trademark, trade secret, copyright or other proprietary rights; (f) transmits or uses in any way software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (g) intentionally or unintentionally violates any applicable local, state, or U.S. law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission, any rules of any national or other securities exchange, including, without limitation, the New York Stock Exchange, the American Stock Exchange or the NASDAQ, and any regulations having the force of law; and (h) interferes with or disrupts the these Sites or servers or networks connected to these Sites, or conflicts with any requirements, procedures, policies or regulations of networks connected to these Sites.
7. INDEMNITY. You agree to indemnify and hold harmless TopQuadrant, and its subsidiaries, affiliates, officers, directors, agents, and employees, from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your use of these Sites, your violation of this Agreement, or your violation of any rights of another.
8. TERMINATION. You agree that TopQuadrant, in its sole discretion, may terminate your use of these Sites at any time. Further, you agree that TopQuadrant shall not be liable to you or any third-party for any termination of your access to these Sites.
9. ADVERTISEMENTS AND PROMOTIONS. TopQuadrant may display advertisements and promotions on the Website. By using these Sites, you agree that TopQuadrant has the right to display such advertisements and promotions. You also agree that you will not attempt to block or otherwise interfere by any means with advertisements displayed by TopQuadrant. You agree that TopQuadrant shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on these Sites.
10. TOPQUADRANT PROPRIETARY RIGHTS. You acknowledge and agree that the any TopQuadrant software used in connection with these Sites contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that sponsor advertisements and information presented to you through these Sites or such advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except as expressly authorized by TopQuadrant or such advertisers, you agree not to reverse engineer, modify, rent, lease, loan, sell, distribute or create derivative works based on the software, in whole or in part.



11. 13. **DISCLAIMER OF WARRANTIES.** YOU EXPRESSLY AGREE THAT USE OF THESE SITES AT YOUR SOLE RISK. THESE SITES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TOPQUADRANT EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TOPQUADRANT MAKES NO WARRANTY THAT THESE SITES WILL MEET YOUR REQUIREMENTS, OR THAT THE SITE AVAILABILITY WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR MAKES ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THESE SITES, AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THESE SITES, OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED.
12. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THESE WEBSITES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL. TOPQUADRANT ALSO MAKES NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH THESE SITES OR ANY TRANSACTIONS ENTERED INTO THROUGH THESE SITES.
13. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.
14. **LIMITATION OF LIABILITY.** TOPQUADRANT SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, RESULTING FROM (A) THE USE OR THE INABILITY TO USE THE, (B) DELETION OF OR OTHER INABILITY TO ACCESS DATA, (C) ANY GOODS OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH THESE SITES, (D) UNAUTHORIZED ACCESS TO, ALTERATION OF OR TAKING OF ANY TRANSMISSIONS, ACCOUNT INFORMATION, DATA, OR TOPQUADRANT'S SYSTEMS, EQUIPMENT AND FACILITIES, IN ALL CASES INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, USE, ACCOUNT INFORMATION, DATA OR OTHER INTANGIBLES, EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
15. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.
16. **NOTICE.** All notices to a party shall be in writing and, if to TopQuadrant, shall be made either via email to info@topquadrant.com or conventional mail to: 1730 Varsity Drive, Suite 220, Raleigh, NC 27606 . TopQuadrant may distribute notices or messages via an email address you provide TopQuadrant to inform you of changes to this Agreement, these Sites, or other matters of importance; such distribution shall constitute notice to you.
17. **INJUNCTIVE RELIEF.** You acknowledge that a violation or attempted violation of this Agreement will cause such damage to TopQuadrant as will be irreparable, the exact amount of which would be difficult to ascertain and for which there will be no adequate remedy at law. Accordingly, you agree that TopQuadrant shall be entitled as a matter of right to an injunction issued by any court of competent jurisdiction, restraining such violation or attempted violation of these terms and conditions by you, or your affiliates, partners, or agents, as well as recovering from you any and all costs and expenses sustained or incurred by TopQuadrant in obtaining such an injunction, including, without limitation, reasonable attorneys' fees. You agree that no bond or other security shall be required in connection with such injunction.
18. **LAWS.** This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware, where TopQuadrant, Inc. is incorporated.
19. **DISPUTE RESOLUTION.** You and TopQuadrant each agree to use best efforts to amicably resolve any dispute relating to this Agreement. Any dispute that cannot be resolved that way will be settled by final binding arbitration by a single arbitrator in accordance with the rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. Any arbitration will be held in Raleigh N.C., or some other place that we all agree to. Each party will bear its own costs and expenses and an equal share of the arbitrator's expenses and the administrative fees of arbitration.
20. **YOU AND TOPQUADRANT AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND TOPQUADRANT ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.**



Further, unless both you and TopQuadrant agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void. This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Agreement.

21. GENERAL INFORMATION. If any provision(s) of this Agreement are held to be contrary to law, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect. TopQuadrant's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by TopQuadrant in writing. You and TopQuadrant agree that any cause of action arising out of or related to the Service must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred. The section titles in this Agreement are solely used for the convenience of the parties and have no legal or contractual significance.
22. VIOLATIONS. Please report any violations of this Agreement to administrators at webmaster@topquadrant.com
23. COPYRIGHT AND TRADEMARK. Website copyright notice: Copyright © 2013 TopQuadrant, Inc. All rights reserved.
24. This Website is the copyrighted property of TopQuadrant and various third party providers.
25. Product, service and company names used on this Website are registered and common law trademarks of their respective owners. Nothing contained on this Website should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of such trademarks. Unauthorized use of this Website, the materials contained on this Website and/or the Service may violate applicable copyright, trademark or other intellectual property laws or other laws.
26. 23. AMENDMENTS. TopQuadrant may change the terms and conditions of this Agreement from time to time. Changes in the terms and conditions of this Agreement will be incorporated in the Agreement posted at www.topquadrant.com/legal and take effect on the date set forth therein. Your continued use of the Website constitutes your agreement to abide and be bound by this Agreement and any modifications to this Agreement.
27. 24. NOTICE OF INFRINGEMENT. If you believe that your intellectual property right (or such a right that you are responsible for enforcing) is infringed by any material, information or links on these Sites, please write to TopQuadrant at the address shown below, giving a written statement containing (i) identification of the copyrighted work or intellectual property right that you believe to be infringed, (ii) identification of the material, information or links on this Website that you request be removed, (iii) your name, address, and daytime telephone number and e-mail address if available, (iv) a statement that you have a good faith belief that the use of the copyrighted work, information, links or the intellectual property right is not authorized by its owner, its agent, or applicable law, (v) a statement that the information in your statement is accurate and that, under penalty of perjury, the signatory is authorized to act on behalf of the owner of the right you believe to be infringed, and (vi) the signature of the owner of the right that you believe to be infringed or a person authorized to assert such infringement on behalf of the owner. Subject to TopQuadrant's investigation and review of such claim, TopQuadrant will remove any material, information or links on this Website that infringe the copyright or other intellectual property right of any person under United States law upon receipt of such a statement. Statements of infringement under this section should be emailed to info@topquadrant.com and mailed to: 1730 Varsity Drive, Suite 220, Raleigh, NC 27606