

**Quantum Simulations, Inc.**  
**AFFILIATE PARTNER PROGRAM AGREEMENT**  
**TERMS AND CONDITIONS OF SERVICE**

Quantum owns a proprietary computer software system known as “Quantum Intelligent Tutoring Engines” and/or “Quantum Intelligent Tutors” and/or “Quantum Tutors”, referred to as “Products”, and the Affiliate Partner desires to promote, market and sell subscriptions to the Products in accordance with the terms and conditions set forth in this Agreement.

This Affiliate Partner Program Service Agreement, referred to as the "Agreement", is made by and agreed to between Quantum Simulations, Inc., referred to as “Quantum” and the organization, entity or individual applying to the Program, referred to as “Affiliate Partner”. This Agreement, effective as of the date Quantum approves and accepts the Affiliate Partner application, referred to as “Effective Date”, contains the complete terms and conditions that apply to any organization, entity or individual participating in the Quantum Affiliate Partner Program, referred to as the "Program".

**1) Program Enrollment**

To become a Quantum Affiliate Partner, the Affiliate Partner shall enroll by completing and submitting an online Program application located at [www.quantumsimulations.com/business\\_partner.html](http://www.quantumsimulations.com/business_partner.html), which shall be reviewed within five (5) business days by Quantum. At Quantum’s sole discretion, Quantum reserves the right to reject the application if Quantum determines the Affiliate Partner or its website to be unsuitable for the Program. Unsuitable websites include, but are not limited to, those that:

- (a) Promote sexually explicit material(s);
- (b) Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;
- (c) Contain or promote: libelous, defamatory, abusive, bigoted, hate-oriented, illegal, cracking, hacking or warez;
- (d) Promote violence, illegal activities, offer any illegal good or service, or link to a website(s) that do so;
- (e) Violate intellectual property rights;
- (f) Engage in unsolicited commercial e-mail, "spamming", or indiscriminate advertising;
- (g) Or those sites linking to sites, pages or resources containing any of the aforementioned items.

UPON WRITTEN APPROVAL TO THE AFFILIATE PARTNER BY QUANTUM OF THE AFFILIATE PARTNER APPLICATION, THIS AGREEMENT SHALL BE IN FULL FORCE AND EFFECT.

An account shall be established for the Affiliate Partner and unique Promotional Code(s) shall be issued. The Promotion Code(s) must be used in accordance with Quantum guidelines and are used for tracking and awarding Affiliate Partner sales commissions. If at anytime it is determined that a website or other previously approved resource is unsuitable for the Program, Quantum

reserves the right, at its sole discretion, to terminate the Agreement and deactivate Promotion Code(s) in accordance with Section 9.

## **2) Linking to Quantum Website**

During the entire term of the Agreement, the Affiliate Partner shall link to the Quantum website and Quantum shall provide the Affiliate Partner with properly formatted Promotional Code(s) for use when linking to the Quantum website. It is the Affiliate Partner's responsibility to ensure that the links are used in the format provided and conform to Quantum guidelines. All links must be placed by the Affiliate Partner in such a manner that it is unlikely to mislead a visitor. The Affiliate Partner shall not in any manner cause a sale to be made that is not in good faith. The Affiliate Partner shall not place links to the Quantum website:

- (a) In any unsolicited e-mail or spam;
- (b) On any banner exchanges or banner networks, link pages, search engines or index services.

## **3) Promotion, Marketing and Advertising**

The Affiliate Partner agrees to prominently promote, market and advertise the Products to students and instructors, referred to as "Customers", during the entire term of this Agreement.

The Affiliate Partner earns commissions, in accordance with Section 6, by generating sales of subscriptions to the Products by encouraging Customers to visit the Affiliate Partner and Quantum websites. The Affiliate Partner may advertise Products via:

- (a) Text links or endorsements on Affiliate Partner website(s);
- (b) Graphical banners and buttons on Affiliate Partner website(s);
- (c) Text links or endorsements in solicited emails;
- (d) Word of mouth, including social media.

Any materials including, but not limited to, graphics, messaging, promotions, emails and web listings which reference Quantum must be consistent with the messaging and branding on the Quantum web site. All Affiliate partner marketing materials shall be reviewed and approved by Quantum prior to release. Such approval shall not be unreasonably withheld. At no time shall the Affiliate Partner represent itself as Quantum or release materials that are not clearly marked identifying the materials as coming from the Affiliate Partner.

## **4) Tracking and Reporting**

The unique Promotional Code(s) provided to the Affiliate Partner shall be the sole source for tracking sales and providing credit for the sale to the Affiliate Partner. The Promotional Code(s) may be automatically entered in the box provided on Quantum's website ordering page through a hyperlink posted on the Affiliate Partner website. In the event the Promotional Code(s) are not linked for automatic entry, the Affiliate Partner shall instruct Customers to manually enter the Promotional Code(s) in order to receive credit for the sale.

Quantum shall provide sales reports to the Affiliate Partner within fifteen (15) days of the end of each calendar month, which will include the purchaser's name and purchase amount, along with payment in accordance with Section 8.

## **5) Order Processing**

Affiliate shall ensure that Customers order the Quantum product(s) by registering at the Quantum ordering website, selecting the Product and pay using a credit card through PayPal. In the event a purchase order, check or money order is necessary, the Affiliate Partner shall contact Quantum in advance to make the necessary arrangements. Quantum shall be responsible for all aspects of order processing and fulfillment, including but not limited to processing payments, cancellations and returns, and handling all customer training, technical support and service issues. Quantum reserves the right to reject Customer subscriptions that do not comply with any requirements that Quantum may establish.

## **6) Commission Rate**

After Quantum review and approval of Customer purchases, the Affiliate Partner shall be paid a base commission of twenty-five percent (25%) of the Product subscriptions, in accordance with Section 7, that used the Affiliate Partner unique Promotional Code. At the end of each calendar year, total subscription units credited to the Affiliate Partner shall be calculated and an adjusted commission payment may be issued within thirty (30) days after the end of the calendar year and according to the following schedule:

<b>NUMBER OF SUBSCRIPTIONS PER YEAR</b>	<b>COMMISSION</b>
1 - 1,499	25%
1,500 - 10,000	30%
10,001 - 20,000	33%
20,001 - 30,000	35%
30,001 - 50,000	40%

Orders refunded at the request of the purchaser or orders charged-back due to credit card fraud do not qualify for commission.

## **7) Quantum Product Pricing**

Quantum reserves the right, at its sole discretion, to determine product pricing and Affiliate Partner discounts. As of the Effective Date of this Agreement, product pricing is based on the current retail price listed on the Quantum web site.

Upon acceptance of the Affiliate Partner application, Quantum shall provide the Affiliate Partner with the partner discount, which provides incentive for Customers to purchase through the Affiliate Partner. At no time shall the Affiliate Partner offer alternative pricing or discounts without the express written consent of Quantum.

## **8) Commission Payment Information**

Fifteen (15) days following the end of each calendar month, the Affiliate Partner shall be paid by company check, which shall accompany the monthly sales report. All commissions and compensations due shall be paid in U.S. dollars. If the Affiliate Partner earns less than \$25.00 in commissions during the calendar month, Quantum shall withhold payment until the total amount due is at least \$25.00 or this Agreement is terminated.

## **9) Term of the Agreement**

The term of this Agreement will begin on the Effective Date and shall continue until either party terminates the Agreement. Either party may terminate the Agreement at any time, with or without cause, by giving the other party thirty (30) days written notice of termination. This Agreement may be terminated by Quantum if:

- (a) Any portion of sections 1a through 1g, and/or 2.1a through 2.1b is violated;
- (b) The Affiliate Partner is not earning commissions for six (6) months;
- (c) The Affiliate Partner is found breaching the licensing provisions of this Agreement and said breach is not cured within thirty (30) days of notice;
- (d) For any reason, Quantum, at its sole discretion, determines that the affiliate relationship is not in Quantum's best interest.

Upon termination of the Agreement for any reason, the Affiliate Partner shall immediately cease use of, and remove from Affiliate Partner website, all links to the Quantum website and immediately return promotional materials that Quantum may have provided. Commissions earned through the date of termination shall remain payable only if the related orders are not canceled or returned. Quantum shall withhold final payment for a reasonable time to ensure all Quantum materials have been either removed or returned, and accurate accounting of commissions has been completed.

## **10) Modification**

Quantum may modify terms and conditions contained in this Agreement, at any time and at Quantum's sole discretion, by posting a change notice or a new agreement on the Quantum website. Modifications may include, but are not limited to, changes in the scope of commission fees, payment schedules or procedures and Program rules. IF ANY MODIFICATION IS UNACCEPTABLE TO THE AFFILIATE PARTNER, THE AFFILIATE PARTNER MAY TERMINATE THIS AGREEMENT IN ACCORDANCE WITH SECTION 9. CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING POSTED CHANGE NOTICES OR NEW AGREEMENTS SHALL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE OR NEW AGREEMENT BY THE AFFILIATE PARTNER.

## **11) Relationship of Parties**

The Affiliate Partner and Quantum are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. The Affiliate Partner shall have no authority to make or accept any offers or representations on behalf of Quantum. The Affiliate Partner shall not make any statement, whether on the Affiliate Partner website or otherwise, that reasonably would contradict anything in this Section.

## **12) Privacy and Confidentiality**

During the term of the Agreement, Quantum or the Affiliate Partner, may provide the other with information that is confidential and/or proprietary to that party or a third party, as is designated by the disclosing party to be "Confidential Information". The receiving party agrees to make

commercially reasonable efforts, but in no case no less effort than it uses to protect its own Confidential Information, to maintain the confidentiality in order to protect any proprietary interests of the disclosing party. Confidential Information shall not include information that is or becomes part of the public domain through no act or omission of the receiving party, or is lawfully received by the receiving party from a third party without restriction on use or disclosure and without breach of this Agreement or any other agreement without knowledge by the receiving party of any breach of fiduciary duty, or that the receiving party had in its possession prior to the date of this Agreement.

### **13) Independent Investigation**

THE AFFILIATE PARTNER UNDERSTANDS THAT QUANTUM MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMERS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEBSITES THAT ARE SIMILAR TO OR COMPETE WITH THE AFFILIATE PARTNER WEBSITE. IN ANY EVENT WHERE CUSTOMERS HAVE BEEN DIRECTLY CONTACTED BY QUANTUM PRIOR TO CONTACT BY THE AFFILIATE PARTNER, THE AFFILIATE PARTNER SHALL NOT RECEIVE CREDIT FOR THAT SALE.

### **14) Disclaimer of Warranties**

TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, BOTH PARTIES DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO;

- (a) MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE;
- (b) THAT THERE ARE NO VIRUSES OR OTHER HARMFUL COMPONENTS;
- (c) THAT A PARTY'S SECURITY METHODS EMPLOYED SHALL BE SUFFICIENT;
- (d) REGARDING CORRECTNESS, ACCURACY OR RELIABILITY, OR;
- (e) AGAINST INTERFERENCE WITH ENJOYMENT OF A PARTY'S INFORMATION OR WEBSITE ALL INFORMATION AND/OR PRODUCTS PROVIDED IN THE COURSE OF THIS AGREEMENT ARE PROVIDED WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH THE USER.

### **15) Limitation of Liability**

THE AFFILIATE PARTNER AGREES THE MAXIMUM LIABILITY ASSUMED BY QUANTUM UNDER THIS AGREEMENT, REGARDLESS OF THE CLAIM OR THE FORM OF ACTION OR SUIT, WHETHER IN CONTRACT, NEGLIGENCE, OR TORT, SHALL BE LIMITED TO CORRECTION OR REPLACEMENT COSTS, OR FIVE HUNDRED DOLLARS (\$500), WHICHEVER IS LESS. IN NO EVENT SHALL QUANTUM BE LIABLE FOR CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, EVEN IF QUANTUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AFFILIATE PARTNER AGREES TO INDEMNIFY OR OTHERWISE HOLD QUANTUM HARMLESS FROM ALL CLAIMS OF THIRD PARTIES THAT MAY ARISE FROM THE AFFILIATE PARTNER'S USE OF THE ITEMS DELIVERED UNDER THIS AGREEMENT. THE AFFILIATE PARTNER'S REMEDIES IN THIS AGREEMENT ARE EXCLUSIVE.

## **16) Authority and Compliance with Laws**

Each party is responsible for compliance with the applicable local laws in the jurisdiction from which it operates and represents and warrants such compliance. Each party represents and warrants that the party shall have all appropriate authority and rights to grant the licenses hereunder, and that to the party's knowledge the licenses do not infringe a third party's (or the other party's) intellectual property rights.

### **16.1) Indemnification**

Each party shall defend, indemnify and hold the other party harmless against all claims, suits, costs, damages and judgments incurred, claimed or sustained by third parties, for the indemnitor's breach of this Agreement and for claims of Product liability and/or malpractice or misfeasance in the performance of services, referred to as "Claims". Should any Claim give rise to a duty of indemnification under the provisions of this Agreement, then the indemnitee shall promptly notify the indemnitor, and the indemnitee shall be entitled, at its own expense, and upon reasonable notice to the indemnitor, to participate in, control the defense, compromise and to defend such Claim. The indemnitor may not settle any claim without the consent of the indemnitee, except upon terms and conditions offered or consented to by the indemnitee, which consent shall not be unreasonably withheld. Neither participation nor control in the defense shall waive or reduce any obligations to indemnify or hold harmless.

### **16.2) Choice of Law/Attorneys Fees**

This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions contained therein), except as to patent, copyright and trademark matters, which may be governed by U.S. law. Any dispute arising out of or incident to this Agreement shall be submitted to arbitration under the Commercial Rules of the American Arbitration Association ("Rules"). Such arbitration shall be conducted before one arbitrator in Pittsburgh, Pennsylvania. In preparation for said arbitration there shall be no discovery other than document exchange as set forth in said Rules. The arbitration will be conducted in a two-day arbitration within 90 days of a demand by either party for such arbitration. Should either party be required to seek the services of an attorney to enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney fees, legal costs, and other collection fees and costs incurred by that party in connection with the suit, including but not limited to all costs and arbitrator fees associated with the arbitration.

### **16.3) Force Majeure**

Neither party shall be liable for reason of any failure or delay in the performance of its obligations hereunder for any cause beyond the reasonable control of such party, including but not limited to electrical outages, failure of Internet service providers, riots, insurrection, war (or similar), fires, flood, earthquakes, explosions, etc.

### **16.4) Assignment and Acknowledgement**

Neither party may assign this Agreement without the prior express written permission of the other party.

THE AFFILIATE PARTNER HAS INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE PROGRAM AND IS NOT RELYING ON ANY REPRESENTATION, GUARANTEE OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT. THE AFFILIATE PARTNER USE OF THE QUANTUM SERVICE IS ACKNOWLEDGEMENT BY THE AFFILIATE PARTNER THAT THE AFFILIATE PARTNER HAS READ, UNDERSTOOD AND AGREED TO EACH AND EVERY TERM, CONDITION AND PROVISION OF THIS AGREEMENT.