

## **QUANTUM ® SIMULATIONS, INC.**

### **PRIVACY POLICY AND SUBSCRIPTION SERVICE AGREEMENT**

#### **PRIVACY POLICY**

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The following policy describes your personal identifying information, which is gathered, used and disclosed by Quantum Simulations, Inc. through its website ([www.quantumtutors.com](http://www.quantumtutors.com)). Quantum reserves the right to revise this Privacy Policy at any time without notice by posting a revised policy at this location. This Privacy Policy is incorporated into and subject to the terms of our Subscription Service Agreement.

**Quantum Protects Your Right to Privacy:** Quantum respects your privacy and below are guidelines for protecting the information you provide during your visit to our website.

**Privacy Statement:** This statement discloses the privacy practices for [www.quantumtutors.com](http://www.quantumtutors.com). We have designed [www.quantumtutors.com](http://www.quantumtutors.com) so that no personal identifying information is accessible to or shared with the general public.

**Use of Data:** For ordering, registration and operations purposes, we collect and store only the following information about you: username, password, first name, last name, email address, software access code and instructor (for students where applicable).

We do not sell your information to any third party and we do not distribute this information to any third party, except as described above, without your express written permission via e-mail communication (e.g., if you are participating in a research trial). We do not reveal your e-mail address or other personal information, except to complete transactions with our third party suppliers and as described above. For promotional offers we may collect other information to help us track the success of the promotion (i.e. how you learned about the offer).

**Use of Your E-mail Address:** We may occasionally e-mail you updates, recommendations or notices of new online services, products and prices. If you do not want to receive these e-mails, you may opt out simply by following the instructions at the bottom of the update messages. Even if you opt out, however, Quantum may e-mail essential service-related information regarding service maintenance events or modifications to the functionality or delivery of the Quantum Tutors.

**Links:** The [quantumtutors.com](http://www.quantumtutors.com) website may contain links to other websites. Please note that when you click on one of these links, you are leaving Quantum and entering another website. We encourage you to read the privacy statements of these linked sites, as their privacy policies may differ from ours.

**Log Files:** The [quantumtutors.com](http://www.quantumtutors.com) website maintains Log Files of your sessions with the Quantum Tutors, which are linked to your personal identifying information. Log Files are used to reactivate your sessions and to allow you to manage your subscription(s). The information we collect in Log Files are not sold, rented or shared with any outside parties without your express written permission via e-mail communication (e.g., participation in research trials), with the exception of your Educator(s), if applicable.

In addition, Log Files, which are **not** linked to personal identifying information are collected and used to manage traffic loads and information technology requirements in order to provide reliable service. Information collected includes IP addresses and browser types.

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become the property of Quantum, and Quantum has no obligation to compensate you for such suggestions.

## **SUBSCRIPTION SERVICE AGREEMENT**

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THIS SUBSCRIPTION SERVICE AGREEMENT (“AGREEMENT”) IS BETWEEN QUANTUM SIMULATIONS, INC., A PENNSYLVANIA CORPORATION, P.O. BOX 291, MURRYSVILLE, PENNSYLVANIA 15668 (“QUANTUM”) AND “YOU” (COLLECTIVELY, THE “PARTIES”).

BY USING THE SERVICE (DEFINED BELOW), YOU AGREE (A) THAT UNITED STATES LAW GOVERNS YOUR USE OF THE SERVICE IF YOU OBTAIN A SUBSCRIPTION TO THE SERVICE IN ANY LOCATION *OTHER THAN* THE UNITED STATES, MEXICO OR CANADA, (B) THAT PENNSYLVANIA LAW GOVERNS YOUR USE OF THE SERVICE IF YOU OBTAIN A SUBSCRIPTION TO THE SERVICE IN THE UNITED STATES, MEXICO OR CANADA, AND (C) TO THE TERMS REGARDING GOVERNING LAW AND VENUE SET FORTH IN SECTION 11 (GOVERNING LAW).

YOU AGREE THAT THIS AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY YOU. THIS AGREEMENT IS ENFORCEABLE AGAINST YOU AND ANY LEGAL ENTITY ON WHOSE BEHALF THE SERVICE IS USED: FOR EXAMPLE, YOUR SCHOOL.

YOU MAY HAVE ANOTHER WRITTEN AGREEMENT DIRECTLY WITH QUANTUM THAT SUPPLEMENTS OR SUPERSEDES ALL OR PORTIONS OF THIS AGREEMENT.

### **1. Use of Service.**

1.1 Access to Service. You acknowledge that your ability to access and use the Quantum Tutors (“Service”) may require the payment of third party fees (such as telephone toll charges, ISP or airtime charges) and that you are responsible for paying such fees. Quantum is not responsible for any equipment or third party services you may need to be able to access and use the Service.

1.2 Access Code. If your teacher, instructor or professor (“Educator(s)”) at your school, college or university has requested a site license for the Service, they will receive an Access Code from Quantum. When you use this Access Code to access the Service, you will be assigned to your Educator(s) account who will be able to view your information. If you purchase the software as recommended or required by your instructor, you will receive an individual Access Code from Quantum. Your Educator may require you to link to their Institution/Instructor account as part of your account registration process to view your information.

1.3 Log-In Information. To gain access to and use the Service, you will be required to create a user ID and password (“Log-In Information”). You are responsible for all activity occurring under your Log-In Information, and you must keep your Log-In Information confidential and not share your Log-In Information with third parties, with the exception of your Educator(s), if applicable. Quantum has no obligation or responsibility with regard to your use, distribution, disclosure or management of Log-In Information. Notwithstanding the foregoing, Quantum may require you to change your Log-In Information if such Log-In Information is inconsistent with the terms of this Agreement.

### **2. License.**

2.1 The Service. Subject to your compliance with the terms and conditions of this Agreement, Quantum grants to you a non-exclusive, non-transferable, revocable right to access and use the Service according to the terms and conditions of this Agreement.

2.2 License. You shall not modify, port, adapt or translate the Service. You shall not reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Service. You cannot

use the Service on a timeshare or service bureau basis or host, on a subscription basis or otherwise, or use the Service to utilize any functionality of the Service for a third party.

### **3. Ownership of the Service and Marks.**

You acknowledge that Quantum and its licensors own all right, title, and interest in: (a) the Service; (b) any Quantum software provided in connection with the Service; and (c) all graphics, logos, service marks, and trade names, including third-party names, product names and brand names used by Quantum in connection with the Service (the "Marks"). You shall not alter or remove any Marks or Quantum copyright notices included in the Service.

### **4. Trial Use of Service.**

This Section 4 (Trial Use of Service) applies to you solely if you have subscribed to the Service on a trial basis.

4.1 Trial Use. In addition to the other terms of this Agreement, as a trial user of the Service, your right to access and use the Service is limited as provided in the e-mail communication from Quantum acknowledging your right to use the Service, or as provided in the website describing trial use of the Service. This Trial Service might be offered by Quantum at a later time with different features, for a fee, or not at all, as determined by Quantum in its sole discretion. In order to maintain a consistent quality of service, Quantum reserves the right to temporarily suspend trial access to the Service as needed.

4.2 Termination of Trial Service. Your right to use the Service on a trial basis shall terminate immediately upon expiration of the limited time period grant at the time you subscribed to the Service on a trial basis. In addition, Quantum reserves the right, for any reason in its sole discretion without prior notice, to discontinue or suspend your trial use, and to terminate your trial account. Your rights to access information you entered such as answers to problems and/or problems from outside sources ("Content") submitted to your account and processed by the Service shall terminate immediately upon termination of your right to use the Service.

### **5. Term and Termination.**

5.1 Term. The term of this Agreement begins on the date of your Service purchase and terminates when your subscription to the service ends, as provided in the e-mail communication from Quantum confirming your purchase.

5.2 Termination.

5.2.1 By Quantum. Quantum may at any time and upon e-mail notice to you immediately terminate this Agreement and your access to the Service, or suspend or restrict your access to the Service in whole or in part, if:

(a) you breach this Agreement and do not cure such breach within five (5) business days of receiving e-mail notice of the breach from Quantum.

(b) you breach Section 2 (License) or Section 3 (Ownership of the Service and Marks) of this Agreement; or

(c) Quantum determines in its sole and exclusive judgment that terminating your access to the Service is advisable for security reasons, to protect Quantum from liability or for the continued normal and efficient operation of the Service.

5.2.2 By You. You may terminate this Agreement or your subscription to the Service at any time for any reason or no reason by contacting Quantum customer service (reference Refund Policy).

5.3 Effect of Termination: Upon termination of this Agreement, you must immediately cease using the Service. Quantum reserves the right to delete any data files associated with Content, Log-in Information or your use of the Service upon termination of the Service. The following Sections of this Agreement shall survive termination of this Agreement: 3, 5.3 and 6-12.

## **6. Content.**

6.1 Your Content. You may enter Content to the Service in connection with your use of the Service. Quantum does not verify, sponsor, endorse or claim ownership of any Content and you retain all right, title and interest in and to the Content. Your Content may be stored on Quantum's servers as necessary for Quantum to provide the Service and in accordance with Quantum's then-current storage policies. You are solely responsible for Content including making and keeping back up copies (if applicable). Notwithstanding anything to the contrary herein, Quantum has no responsibility or liability for the deletion or accuracy of Content or the failure to store, transmit or receive transmission of Content (whether or not processed by the Service).

6.2 Quantum Access to Content: You acknowledge that the Service is automated and that Quantum personnel will not access any Content, except as reasonably necessary to perform the Service, including but not limited to the following: (a) respond to support requests; (b) detect, prevent or otherwise address fraud, security or technical issues; (c) deemed necessary or advisable by Quantum in good faith to conform to legal requirements or comply with legal process; or (d) enforce this Agreement, including investigation of potential violations hereof.

## **7. Links and Online Services.**

7.1 Links. Quantum may provide links to other websites or resources as part of the Service as a convenience for you. Quantum is not responsible for the contents, products or services on any third party site and the inclusion of any link does not imply that Quantum endorses the content on such third party sites. You may visit such third party sites solely at your own risk.

### **7.2 Online Services.**

7.2.1 The Service may facilitate your access to APIs or other websites maintained by Quantum or its affiliates or third parties offering services ("Online Services"). Your access to and use of any website or online services is governed by the terms, conditions, disclaimers and notices found on such site or otherwise associated with such services. Quantum may at any time, for any reason, modify or discontinue the availability of any website and Online Services.

7.2.2 Quantum does not control, sponsor, endorse or accept responsibility for websites or Online Services offered by third parties. Any dealing between you and any third party in connection with a website or Online Services, including delivery of and payment for goods and services and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such third party.

7.2.3 EXCEPT AS EXPRESSLY AGREED BY QUANTUM OR ITS AFFILIATES OR A THIRD PARTY IN A SEPARATE AGREEMENT, YOUR USE OF WEBSITES AND ONLINE SERVICES IS AT YOUR OWN RISK UNDER THE WARRANTY AND LIABILITY LIMITATIONS OF SECTIONS 9 (DISCLAIMER OF WARRANTIES) AND 10 (LIMITATION OF LIABILITY).

## **8. Conduct.**

Use restrictions. In connection with your access or use of the Service, you agree not to:

- (a) introduce a virus, worm, Trojan horse or other harmful software code or similar files that may damage the operation of a third party's computer or property or information;

- (b) use the Service in any manner that could damage, disable, overburden or impair any Quantum server or the network(s) connected to any Quantum server or interfere with any other party's use and enjoyment of the Service;
- (c) attempt to gain unauthorized access to service, materials, other accounts, computer systems or networks connected to any Quantum server or to the Service, through hacking, password mining or any other means;
- (d) obtain or attempt to obtain any materials or information through any means not intentionally made available through the Service;
- (e) host, on a subscription, membership, or pay-per-use basis or otherwise, the Service, including any related application, (i) to permit a third party to use the Service to create, transmit or protect any content or (ii) to conduct conferences, online meeting services or training sessions for a third party;
- (f) engage in any systematic extraction of data or data fields, including with limitation e-mail addresses;
- (g) disclose, harvest or otherwise collect Log-in Information, including e-mail addresses or other private information about any third party without that party's express consent;
- (h) transmit junk mail, spam, surveys, contests, pyramid schemes, chain letters or other unsolicited e-mail or duplicative messages;
- (i) sell, resell, lend, share, lease or rent access to or use of the Service or any portion of the Service, or otherwise transfer any rights to use or access the Service (including without limitation, on a subscription membership, pay-per-use, time share computer service business or service bureau basis);
- (j) bundle or incorporate the Service with or into any other service, offering or solution for sale, resale, rent or lease to third parties;
- (k) defraud, defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others;
- (l) use the Service in a manner to promote, solicit, sponsor, endorse, or affiliate with a customer who engages in the business of pornography, gambling, weapons sales, or any unlawful activity.

## **9. DISCLAIMER OF WARRANTIES.**

THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE BASIS" "WITH ALL FAULTS" AND WITHOUT WARRANTY OF ANY KIND. TO THE FULL EXTENT PERMITTED BY LAW, QUANTUM, ITS AFFILIATES, CONTRACTORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, RESELLERS, LICENSORS AND ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING OR DELIVERING THE SERVICE DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY AND SYSTEM INTEGRATION OR COMPATABILITY. WITHOUT LIMITING THE FOREGOING QUANTUM DOES NOT WARRANT OR REPRESENT THAT THE SERVICE WILL BE CONTINUOUS, SECURE, RELIABLE, ACCESSIBLE, UNINTERRUPTED OR ERROR-FREE, OR THAT QUANTUM'S SERVERS AND SOFTWARE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT QUANTUM'S SECURITY PROCEDURES AND MECHANISMS WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO INFORMATION OR CONTENT BY THIRD PARTIES.

## **10. Limitation of Liability.**

NEITHER QUANTUM NOR ITS SUPPLIERS SHALL BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR THE INABILITY TO USE THE SERVICE OR ANY SOFTWARE OR ACCESS DATA, INFORMATION OR CONTENT, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, OR THE LIKE) ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE SERVICE AND BASED ON ANY THEORY OF LIABILITY INCLUDING STATUTE, BREACH OF CONTRACT, BREAK OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF QUANTUM OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE.

QUANTUM'S TOTAL LIABILITY TO YOU FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER WILL BE LIMITED TO THE AMOUNT PAID BY YOU FOR THE SERVICE IN THE LAST TWELVE (12) MONTHS, IF ANY. YOU AGREE THAT REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO USE OF THE SERVICE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED. QUANTUM'S SUPPLIERS SHALL HAVE NO LIABILITY TO YOU FOR ANY REASON.

## **11. Governing Law.**

By accessing and using the Service, you and Quantum agree that all matters relating to this Agreement and your access to, or use of, the Service shall be governed by and construed in accordance with the substantive laws in force in: (a) Commonwealth of Pennsylvania, if you obtained a subscription to the Service when you are in the United States, Canada or Mexico; or (b) United States, if you obtained a subscription to the Service when you are in any jurisdiction not described in Section 11 (a) herein. The respective courts of Westmoreland County, Pennsylvania and Allegheny County, Pennsylvania when Pennsylvania law applies and the competent courts of the United States when the law of the United States applies, shall each have non-exclusive jurisdiction over all disputes relating to this Agreement. This Agreement shall not be governed by the conflict of law rules of any jurisdiction, UCITA, or the United Nations Convention on Contracts for International Sale of Goods, the application of which are expressly excluded.

## **12. Export Control Laws.**

The export and re-export of certain software, Content and services are controlled by the United States export and re-export laws and regulations (including Export Administration Regulations), and such software, Content and services may not be exported or re-exported to Cuba, Iran, North Korea, Sudan, Syria or any country to which the United States embargoes goods. In addition, certain software, Content and services may not be distributed to individuals who are on the Table of Denial Orders, the Entity List or the List of Specially Designated Nationals. You warrant that you are not a national of Cuba, Iran, North Korea, Sudan, Syria or any other country to which the United States embargoes goods, and that you are not a person on the Table of Denial Orders, the Entity List or the List of Specially Designated Nationals. You further warrant that you will abide by U.S. and other applicable export control laws.

## **13. Miscellaneous.**

You are solely responsible for your familiarity and compliance with any laws that may prohibit you from participating in or using any part of the Service. You will indemnify, defend and hold Quantum and its subsidiaries and affiliates (collectively, the "Indemnitees") harmless from and against any and all claims and expenses, including reasonable attorney's fees, which may be asserted against or incurred by the Indemnitees based upon your use of this Service. If any provision of this Agreement is held to be invalid or unenforceable, then such provision shall be construed, as nearly as possible, to reflect the intentions of the Parties, and all other provisions will remain in full force and effect. Quantum'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 Quantum in writing. Your rights hereunder may not be assigned or transferred to any third party. Each party will provide the other with written notice under this Agreement by sending the other party notice as follows: (a) for you, notice will be sent to the e-mail address associated with your account, and (b) for Quantum, notice will be sent to Quantum Simulations, Inc., P.O. Box 291, Murrysville, PA 15668, Attention: General Counsel. In the event the terms of this Agreement, the Privacy Policy or the Refund Policy conflict, this Agreement shall have precedence. This Agreement, including the Privacy Policy and the Refund Policy, constitutes the entire agreement between you and Quantum and supersedes all prior agreements, representations and understanding between the Parties regarding the subject matter contained herein.