



TERMS OF SERVICE – BETA SERVICES

IMPORTANT – READ CAREFULLY:

THESE TERMS OF SERVICE (“**TERMS**”) GOVERN YOUR USE OF THE BETA SERVICES (“**SERVICES**”). BY SIGNING A BETA TEST AGREEMENT THAT REFERENCES THESE TERMS OR BY OTHERWISE USING THE SERVICES, THE LICENSEE NAMED IN THE APPLICABLE SIGNATURE BLOCK OF SUCH BETA TEST AGREEMENT OR THE USER OTHERWISE ACCESSING OR USING THE SERVICES (“**LICENSEE**”, “**YOU**” OR “**YOUR**”) AND SNOW AGREE TO THESE TERMS. THESE TERMS ARE EFFECTIVE AS OF THE DATE OF LICENSEE’S SIGNATURE ON A BETA TEST AGREEMENT REFERENCING THESE TERMS, OR AS OF THE EARLIER DATE YOU OTHERWISE USE THE SERVICES (THE “**EFFECTIVE DATE**”). “**SNOW**”, “**WE**”, “**OUR**” OR “**US**” MEANS THE SNOW SOFTWARE ENTITY NAMED IN THE SIGNATURE BLOCK OF THE APPLICABLE BETA TEST AGREEMENT, OR IF NO ENTITY IS NAMED OR NO BETA TEST AGREEMENT HAS BEEN SIGNED, THEN THE DEFINED TERMS SHALL MEAN SNOW SOFTWARE AB.

THE INDIVIDUAL SIGNING THE BETA TEST AGREEMENT ON BEHALF OF LICENSEE REPRESENTS AND WARRANTS THAT SHE/HE (I) HAS FULL LEGAL AUTHORITY TO BIND LICENSEE TO THESE TERMS; (II) HAS READ AND UNDERSTANDS THESE TERMS; AND (III) AGREES TO THESE TERMS ON BEHALF OF LICENSEE.

IF YOU DO NOT AGREE TO THESE TERMS, OR YOU ARE NOT AUTHORIZED TO BIND LICENSEE, YOU MUST CEASE USING THE SERVICES IMMEDIATELY.

WE RESERVE THE RIGHT TO MODIFY OR LIMIT YOUR USE OF THE SERVICES, OR DISCONTINUE THE SERVICES, AT ANY TIME IN OUR SOLE DISCRETION, WITH OR WITHOUT NOTICE TO YOU. ANY DATA THAT YOU ENTER INTO THE SERVICES, AND ANY CONFIGURATIONS MADE BY OR FOR YOU, WILL BE PERMANENTLY LOST WHEN YOUR ACCESS TO THE SERVICES ENDS.

1. **Disclosure.** All information we discuss and/or make available to you through or contained in the Services, including, without limitation, the Services, is strictly confidential. You cannot share information regarding the Services, including that the Services exist, with any third-party.
2. **Grant.** Upon your acceptance of these Terms, we grant you a limited, non-exclusive and non-transferable license to access and use the Services for your internal testing and evaluation purposes. You shall not use or permit use of the Services for any illegal purpose or in any manner inconsistent with the provisions of these Terms.
3. **Use Restrictions.** Except as otherwise expressly permitted in these Terms, you will not: (a) reproduce, modify, adapt or create derivative works of the Services; (b) rent, lease, distribute, sell, sublicense, transfer or provide access to the Services to a third party; (c) use the Services for the benefit of any third party; (d) incorporate any Services into a product or service you provide to a third party; (e) interfere with or otherwise circumvent mechanisms in the Services intended to limit your use; (f) reverse engineer, disassemble, decompile, translate or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Services, except to the extent expressly permitted by applicable law (and then only upon advance notice to us); (g) remove or obscure any proprietary or other notices contained in any Services; (h) use the Services for competitive analysis or to build competitive products; (i) publicly disseminate information regarding the performance of the Services; or (j) encourage or assist any third party to do any of the foregoing.
4. **Future Release.** You hereby acknowledge that we have not made any representations, promises or guarantees that the Services will ever be announced or made available to anyone in the future and that we have no express or implied obligation to you to introduce the Services.
5. **Support.** We may, in our sole discretion, provide you with certain support and consultation services with respect to the Services free of charge to assist in the evaluation and testing activities under these Terms; provided, however, that we are not obligated to correct any bugs, defects, or errors in the Services or otherwise support or maintain the Services. We may discontinue any support or consulting services at any time.
6. **Eligibility to Use.** You represent and warrant that your users: (a) are of legal age (18 years of age or older or otherwise of legal age in your resident jurisdiction); and (b) are not and will not when using the Services be located in, under the control of, or a national or resident of a U.S. embargoed country or territory and are not a prohibited end user under export control laws. You acknowledge that you are not permitted to use the Services if you cannot make these representations.
7. **Disclaimer.** YOU HEREBY ACKNOWLEDGE AND AGREE THAT THE SERVICES ARE A “BETA” VERSION WE PROVIDE ON AN “AS IS” BASIS AND AS AVAILABLE, AND YOUR ACCESS TO AND/OR USE OF THE SERVICES IS AT YOUR SOLE RISK. TO THE MAXIMUM



EXTENT PERMITTED BY APPLICABLE LAW, WE EXPRESSLY DISCLAIMS ALL AND YOU RECEIVE NO WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT ANY OF THE SERVICES WILL MEET YOUR REQUIREMENTS AND/OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE, NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR THE ACCURACY OF ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICES. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR SOLE RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM AND/OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. NO INFORMATION OR ADVICE, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES AND CONDITIONS, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

8. **Your Data.** You retain all right, title and interest in and to your data in the form submitted to the Services. Subject to these Terms, and solely to the extent necessary to provide the Services to you, you grant us a worldwide, limited term license to access, use, process, copy, distribute, perform, export, and display your data. Solely to the extent that reformatting your data for display in the Services constitutes a modification or derivative work, the foregoing license also includes the right to make modifications and derivative works. We may also access your accounts and Services in order to respond to your support requests or otherwise maintain the Services.
9. **Personal Data.** You warrant that your collection and use of any personal information or data provided while using the Services complies with all applicable data protection laws, rules, and regulations. To the extent such personal information relates to natural persons established in the United Kingdom, a Member State of the European Economic Area, or Switzerland, you acknowledge that we will process such personal data in accordance with the Data Processing Addendum located at <https://www.snowsoftware.com/int/legal/dataprocessing/addendum>.
10. **Privacy Policy.** You acknowledge that except as described in these Terms, the information you provide to us or that we collect will be used and protected as described in the Privacy Policy located at <https://www.snowsoftware.com/int/seo/legal-privacy-policy>.
11. **Improving Services.** You agree that we may collect and use aggregated and deidentified data derived from your use of the Services solely to provide and improve the Services.
12. **Your Compliance.** Your use of the Services must comply at all times with these Terms and all laws. You represent and warrant that: (i) you have obtained all necessary rights, releases and permissions to submit all your data to the Services and to grant the rights granted to us in these Terms and (ii) your data and its submission and use as you authorize in these Terms will not violate (1) any laws, (2) any third-party intellectual property, privacy, publicity or other rights, or (3) any of your or third-party policies or terms governing your data. We assume no responsibility or liability for your data, and you are solely responsible for your data and the consequences of submitting and using it with the Services.
13. **Indemnification:** You will defend, indemnify, and hold us, our affiliates, officers, directors, employees, suppliers, consultants, and agents harmless from any and all third-party claims, liability, damages, and costs (including, but not limited to, attorneys' fees) arising from or related to, as applicable: (a) your access to and use of the Services; (b) your violation of these Terms; (c) infringement of any intellectual property or other right of any person or entity by you; or (d) the nature and content of all data you upload to or is processed by the Services.
14. **Our Ownership.** You agree that we own all legal right, title and interest in and to the Services, including all intellectual property rights, and except for the license provided herein, no other rights or permissions to any of the Services is granted. Nothing herein gives you a right to use any of our trade names, trademarks, service marks, logos, domain names, and other distinctive brand features.
15. **Feedback.** You acknowledge that we own any feedback you provide, and you hereby grant us, if for any reason it is further needed, a perpetual, non-revocable, royalty-free worldwide license to use and/or incorporate such feedback into any of our products or services (including the Services) at any time in our sole discretion. We will not publish feedback in a way that is attributable to you without your consent.
16. **LIMITATION ON LIABILITY.** IN NO EVENT SHALL WE BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL AND/OR INCIDENTAL LOSS, EXEMPLARY OR OTHER DAMAGES RELATED TO THESE TERMS AND/OR WHETHER DIRECT OR INDIRECT:



(i) LOSS OF DATA, (ii) LOSS OF INCOME, (iii) LOSS OF OPPORTUNITY, (iv) LOST PROFITS, AND (v) COSTS OF RECOVERY OR ANY OTHER DAMAGES, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), VIOLATION OF STATUTE, OR OTHERWISE, AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS HEREUNDER IS LIMITED TO \$50.00 USD. SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

17. **Confidentiality.** Except as otherwise set forth in these Terms, each party agrees that all code, inventions, know-how and business, technical and financial information disclosed to such party ("**Receiving Party**") by the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any of our technology and any performance information relating to the Services will be deemed our Confidential Information without any marking or further designation. Except as expressly authorized herein, the Receiving Party will (1) hold in confidence and not disclose any Confidential Information to third parties and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under these Terms. The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know, provided that they are bound to confidentiality obligations no less protective of the Disclosing Party than this Section and that the Receiving Party remains responsible for compliance by them with the terms of this Section. The Receiving Party's confidentiality obligations will not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may also disclose Confidential Information if so required pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.
18. **Governing Law.** These Terms will be governed by and construed in accordance with the applicable laws of the State of Texas, USA, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding arising out of or related to these Terms must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the State or Federal court in Austin, Texas, USA, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the courts in Austin, Texas, USA, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party. The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to these Terms. The Uniform Computer Information Transactions Act (UCITA) will not apply to these Terms regardless of when or where adopted.
19. **Updates.** WE MAY REVISE THESE TERMS FROM TIME TO TIME. WE WILL POST THE REVISED TERMS ON THE SERVICES WEBSITE WITH A "LAST UPDATED" DATE. PLEASE REVIEW THE SERVICES WEBSITE ON A REGULAR BASIS TO OBTAIN TIMELY NOTICE OF ANY REVISIONS. IF YOU CONTINUE TO USE THE SERVICES AFTER THE REVISIONS TAKE EFFECT, YOU AGREE TO BE BOUND BY THE REVISED TERMS.
20. **Miscellaneous.** If any provision of these Terms is held unenforceable, that provision will be enforced to the extent permissible by law and the remaining provisions will remain in full force. All your notices required under these Terms must be in writing and are considered effective 5 days after mailing, when sent certified mail, return receipt requested, and postage prepaid to: 1801 East 6th Street, Suite 350, Attention: Legal Department. By providing your email address to us, you agree to receive all required notices from us electronically to that email address. Such notices are effective upon being sent to the email address. You may not assign these Terms without our prior written consent. We may assign these Terms without your consent. No provision of these Terms will be deemed waived unless the waiver is in writing and signed by us. These Terms sets forth the entire understanding and agreement between you and us with regard to the subject matter herein and supersedes any prior oral or written agreements or understandings with regard to the subject matter herein. Except as otherwise provided in these Terms, these Terms may only be modified or amended with our express written consent. The parties are independent contractors. These Terms will not be construed as constituting either party as a partner of the other or to create any other form of legal association that would give either party the express or implied right, power or authority to create any duty or obligation of the other party.