

TERMS OF SERVICE

Updated: December 2021

Preamble

The Terms of Service (also referred to as these “Terms” or this “Agreement”) govern your access to and use of the Software provided to you by The Quantic Factory (also referred to as the “Provider”). By using the Software, you are agreeing to be bound by these Terms, as updated from time to time.

The terms “you”, “your” and “Client” will refer to you or the organization on behalf of which you use the Software. In such a case, you are promising to The Quantic Factory that you have the authority to bind your organization to these terms.

For the purpose of these Terms, the Provider and the Client may also be collectively referred to as the “Parties”, or individually as a “Party”.

BY ENTERING INTO THIS AGREEMENT, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD ALL THE TERMS OF SERVICE.

Article 1 - Purpose

The Quantic Factory is a software publisher that develops proprietary solutions whose licenses are marketed to its customers in the form of software as a service (SaaS), which refers to the way in which the functionalities of a software solution are made available remotely via the Internet network.

The Quantic Factory has developed QuanticFy, a software enabling the Client to monitor its e-commerce marketing strategy by offering marketing attribution analysis and a variety of client-related metrics (also referred to as the “Software”). The Software is made accessible to the Client through a dashboard.

The purpose of these Terms is to specify the conditions under which the Provider makes the use of the Software available to the Client.

Article 2 - Definitions

- **“Agreement”**: the present Terms of Service, also referred to as these “Terms”, including Appendix A relating to the Financial conditions for the use of the Software, the Privacy Policy and the Data Processing Agreement of the Provider.
- **“Software”**: QuanticFy, a software enabling the Client to monitor its e-commerce marketing strategy by offering marketing attribution analysis and a variety of client-related metrics. The Software includes all of its components, including but without limitation the supporting documentation and its past, current and future updates, as well as all versions of the software and all developments carried out by the Provider.
- **“Client”**: any natural or legal person agreeing to the present Terms of Service for the access and use of the Software.

- **“User”**: any natural person authorized by the Client to access and use the Software by virtue of a user license contracted by the Client.

Article 3 - Use of the Software

The access to and use of the Software is subject to the submission of a valid purchase order. The Client is responsible for ensuring that all account registration information is accurate, current and complete.

The access to and use of the Software is subject to the creation of an active user account directly delivered by the Client to each User individually.

The access to and use of the Software is strictly personal to each User. The User undertakes not to disclose its identification information and password to any other third party, or generally, to let the user account available to a third party, for any reason whatsoever. If the password is lost or forgotten, the User may require a password reset from the Provider.

The Client is solely liable for the access to and the use of the Software and its own user accounts. In the event of fraudulent use of the User's login identification, the Provider may under no circumstances be held liable for direct or indirect damage of any kind suffered by the Client arising from this fraudulent use of the Software, such as but not limited to data loss or deterioration of data.

The access to and use of the Software may only be carried out through the Internet network. The Client is solely liable for the connection to the Internet network and for all associated telecommunication costs.

Article 4 - Financial conditions

In consideration for the use of the Software, the Client shall pay to the Provider a price determined in Appendix A.

Article 5 - Obligations of the Provider

The Provider commits to take the necessary care and diligence to provide a quality service, within the framework of an obligation of means.

The Client is solely liable for ensuring that the Software meets its needs and is compatible with its equipment. The Client acknowledges that it has received from the Provider all the necessary information in order to assess the suitability of the Software to its needs. Specifically, the Client acknowledges that the information provided in the context of the use of the Software are of general range and that such information may under no circumstances replace a marketing analysis.

As a consequence, the Client is solely liable for ensuring that the content available through the Software meets its needs. The Provider may under no circumstances be held liable for direct or indirect damage of any kind suffered by the Client arising from the inaccuracy or incompleteness of the data provided, posted online or processed by the Users.

Furthermore, the Client acknowledges that (i) it is technically impossible to offer the access to and use of a defect-free Software; (ii) such a defect may render the Software temporarily unavailable; (iii) the access to or the use of the Software may be affected by events or problems upon which the Provider does not have any control.

The Provider reserves the right to take all necessary measures, including a suspension of access to the Software, in order to protect its security, integrity and availability. Where practicable, The Provider will use reasonable efforts to provide the Client with prior notice of the suspension. The Provider reserves the right to monitor and audit the use of the Software by the Client and/or its Users, for any reason or no reason and without notice, in order to ensure Client's compliance with these Terms.

The Provider may under no circumstances be held liable for direct or indirect damage of any kind suffered by the Client arising from a breach of these Terms imputable to the Client, such as but not limited to (i) a misuse of the Software; (ii) the loss, disclosure or illicit use of the password; (iii) the storage of information that are illegal or contrary to the purpose and normal use of the Software; (iv) the partial or total destruction of stored information arising from a breach of these Terms imputable to the Client and/or the User.

Article 6 - Obligations of the Client

The access to and use of the Software by the Client shall be limited to the Client's own internal business use.

The Client is solely liable for the use of the Software performed by the Users that it authorized, for the content of the data and information that are transmitted or made available by the Users as well as the processing and update of such data. The Client undertakes to provide honest and accurate information.

The Client undertakes to back up its own data, and authorizes the Provider to host and access its data for the purpose of this Agreement.

The Client undertakes not to act in a way that would not be in compliance with the ordinary use of the Software. Specifically, and without limitation, the Client shall not (i) promote any content, products, services, or other information that may be illegal to sell or promote under any applicable law; (ii) transmit any viruses or other harmful, infringing, illegal, disruptive or destructive content, messages or files; (iii) distribute, publish, send, or facilitate the sending of any appropriate, inaccurate, misleading, fraudulent or otherwise illegal content or content which infringes intellectual property rights of third parties or their right to privacy.

The Client represents, warrants and covenants to the Provider that its use of the Software shall comply with all applicable laws, rules and regulations of any jurisdiction.

Article 7 - Right to use

Subject to the terms of this Agreement, the Provider grants the Client the restricted, non-exclusive and non-transferable right to use the Software for the duration of this Agreement. The Software shall be accessed to and used in SaaS mode, for the sole needs of the Client.

This user license does not grant the Client with any other intellectual property right to the Software and its updates, which remain the full and exclusive property of the Provider.

The Client is expressly prohibited from using the Software in a manner that does not comply with this Agreement. In particular, the Client shall not:

- Reproduce or represent the Software, in any form and on any type of medium whatsoever, whether free of charge or in return for payment.
- Modify or intervene on the Software, in any form and for any reason whatsoever, including for the purpose of correcting errors likely to affect the functioning of the Software, insofar as the right to correct such errors is reserved solely to the Provider.
- Modify, distribute, transfer, assign or market the Software user license, whether free of charge or in return for payment, to the benefit of unauthorized third parties.
- Copy the Software user license.
- Disassemble, decompile, reverse engineer or translate the Software, or use any of the components of the Software separately, subject to applicable legal provisions.

Article 8 - Intellectual property

The Provider is the owner of all intellectual property rights to the Software, including the supporting documentation and its past, current and future updates, as well as all versions of the software and all developments carried out by the Provider.

The Software and all of its components, including without limitation, text content, images, videos, photographs, trademarks, logos, corporate and trade names, domain names, are the full and exclusive property of the Provider or its partners. Any unauthorized reproduction or use of the Software, in part or in whole, is prohibited.

Article 9 - Warranty of non-infringement

The Provider agrees to guarantee the Client the peaceful enjoyment of the rights granted to him by the Provider under this Agreement.

The Provider agrees to guarantee the Client against any action or claim on the basis of counterfeiting tending to restrict or prohibit the use of the Software that the Provider is required to provide to the Client under this Agreement.

In the event that the prohibition of use of all or part of the Software that the Provider is required to provide to the Client under this Agreement is imposed as a result of any action, in particular for infringement, or results from a transaction signed with the plaintiff in such action, the Provider shall endeavor, at its own choice and expense, either (i) to replace or modify the Software in part or in whole, or (ii) to obtain a user license to the benefit of the Client, in order to allow the Client to use the Software.

The above provisions are subject to the following conditions:

- The Client has agreed to and fully performed its contractual obligations.
- The Client has notified in writing the Provider of the action, or of the claim or declaration that preceded the dispute, within a period of ten (10) days.
- The Provider has been able to defend, freely and at its own expense, its own interests as well as those of the Client, and that, to this end, the Client has loyally collaborated with the Provider by providing, in due time, all the elements, information and assistance reasonably necessary to carry out such defense.

Article 10 - Limitation of liability

The access to and use of the Software by the Client is left to its own discretion and responsibility.

The Provider may under no circumstances be held liable for indirect damages of any kind such as financial, commercial, customer loss, commercial disturbance, loss of profit or anticipated savings, loss of brand image, loss of data, increase in charges, cost of services necessary to implement or correct the data or results obtained, suffered by the Client arising out of or in connection to the non-performance of this Agreement. This exclusion of liability for indirect damages shall also be applied in the event of an action by a third-party.

In no event shall the aggregate liability of the Provider for direct damages arising out of or in connection to the non-performance of this Agreement exceed the total amount paid by the Client for the services giving rise to the liability in the twelve (12) months preceding the first incident out of which the liability arose. In no event shall the liability of the Provider for direct damages be sought past a two (2) month period following the occurrence of the first incident out of which the liability arose. This limitation of liability for direct damages shall also be applied in the event of an action by a third-party.

Article 11 - Disclaimer

EXCEPT TO THE PROVISIONS EXPRESSLY STATED HEREIN, THE SOFTWARE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. FURTHER, THE PROVIDER DOES NOT REPRESENT OR WARRANT THAT (A) THE ACCESS TO OR USE OF THE SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED, ERROR-FREE OR OPERATE IN

COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) ERRORS OR DEFECTS WILL BE CORRECTED, PATCHES OR WORKAROUNDS WILL BE PROVIDED OR THE PROVIDER WILL DETECT ANY BUG IN THE SOFTWARE, (C) THE SOFTWARE IS FREE OF VIRUS OR OTHER HARMFUL COMPONENTS, OR (D) THIRD-PARTY DISRUPTIONS OR SECURITY BREACHES OF THE SOFTWARE WILL BE PREVENTED.

Article 12 - Privacy and data protection

The Provider may process Client Users' personal data in connection with their use of the Software, as described in the Provider's Privacy Policy, as updated from time to time. The Client shall remain accountable for any use of the Software by its Users, and ensure that such use complies with this Agreement.

The Quantic Factory's Data Processing Agreement, as updated from time to time, shall also apply and form part of this Agreement.

Article 13 - Duration

This Agreement takes effect upon the acceptance date of these Terms of Service, for a term of twelve (12) months.

At the end of the term, the Agreement may be tacitly renewed for successive periods of twelve (12) months.

Article 14 - Termination

Either Party may terminate the Agreement for any reason or no reason, subject to respecting a period of notice of thirty (30) days. Either Party may inform the other in writing of its intention to terminate the Agreement.

At the effective date of termination of this Agreement, Client's access to and use of the Software will be interrupted. As a result, the Client will not be able to access any content, data and information of any kind that would have been previously stored in the context of the use of the Software, and such content, data and information may be deleted by the Provider. The Client ensures to keep all necessary backup copies.

All provisions which, by nature, are destined to survive the termination or expiration of these Terms shall remain in full force, including but without limitation, Articles 8, 10, 11, 12, 14, 15 and 16.

Article 15 - Applicable law & jurisdiction

This Agreement is subject to French law.

The Quantic Factory - A simplified joint stock company (SAS) with a capital of 1 000 euros - Registered offices located at 15 Rue René Goscinny 75013 Paris - Trade and Companies Register of Paris (RCS) under number 900 795 766.

Any dispute arising out of or in connection to the validity, the interpretation or the performance of this Agreement shall be subject to French law and the exclusive jurisdiction of the Courts of Paris, France.

The abovementioned provision shall be given the broadest effect and shall apply in any case, including in case of litigation relating to the pre-contractual phase or in case of emergency or protective proceedings, and notwithstanding the existence of other defendants or guarantees.

Prior to the submission of any dispute to a court, the Parties shall endeavor to settle their disputes amicably and in good faith, within thirty (30) days of notification in writing by one of them of the need for an amicable agreement.

Article 16 - General provisions

- Updates of the Terms of Service - The Quantic Factory may update these Terms of Service from time to time by providing you with prior written notice of material updates at least thirty (30) days in advance of their effective date, except for updates resulting from changes in the law or requirements from telecommunications providers. Such an effective date is indicated at the top of these Terms of Service, except as otherwise specified by The Quantic Factory. The updated version of these Terms will supersede all prior versions.

Following such notice, your continued access or use of the Software on or after the effective date of the changes to the Terms constitutes your acceptance of all updates.

- Severability - If any provision of the Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severable from the remainder of the Agreement and shall not cause the invalidity or unenforceability of the remainder of the Agreement.
- No waiver - The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach hereunder shall not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of prior or future breaches. In any case, and except as expressly stated herein, nothing in these Terms shall be considered as granting any rights to third parties.
- Force majeure - The Parties shall not be held liable for any breach of this Agreement resulting from the occurrence of a force majeure, as defined by French Law and the subsequent case law of French Courts.

For the purpose of this Agreement and by reference to Article 1218 of the French Civil Code, there is force majeure where an event beyond the control of the debtor, which could not reasonably have been foreseen at the time of the conclusion of the

Agreement and whose effects could not be avoided by appropriate measures, prevents performance of his obligation by the debtor.

If the prevention is temporary, performance of the obligation is suspended unless the delay which results justifies termination of the Agreement. If the prevention is permanent, the Agreement is terminated by operation of law and the Parties are discharged from their obligations under the conditions provided by Articles 1351 and 1351-1 of the French Civil Code. For the purpose of this Agreement, if the prevention extends more than thirty (30) days, the Agreement will be deemed terminated without any possible compensation.

- Assignment - The Client acknowledges that the Provider reserves the right to assign this Agreement, in part or in whole, to a third party. The Client shall not assign this Agreement, in part or in whole, to a third party without the prior written consent of the Provider. Any unauthorized assignment will be void and of no force or effect.
- Subcontractors - The Provider may use subcontractors and allow them to exercise the Provider's rights, but the Provider remains responsible for their compliance with this Agreement and for their overall performance under this Agreement.