

Attractor Terms Of Service

Effective Date: May 22,2018

These Terms of Service ("**Terms**") form a legal agreement between you and Quadratic Labs Inc., a company incorporated under the laws of the province of Delaware, United States, with its principal place of business at Vozdvyzhenska St., 34a, Kyiv, Ukraine, 03039 ("**Quadratic Labs**"). **Quadratic Labs** is a software-as-a-service ("SaaS") company that offers to its users through **Attractor** the ability to automatically identify data correlations and actionable within data collected by product analytics systems. Please read these Terms and our [Privacy Statement](#) carefully because they govern your access to and use of the Service. If you are from the European Economic Area, the terms of our [Data Processing Addendum](#) will also apply to your use of the Service. The Privacy Statement and Data Processing Addendum are incorporated into these Terms by reference.

YOU ACKNOWLEDGE AND AGREE THAT BY ACCEPTING THESE TERMS, OR ACCESSING OR USING THE SERVICE, YOU WILL BE BOUND BY THESE TERMS. If you are agreeing to these Terms on behalf of a company or other legal entity, you represent that you have the authority to bind such entity. You must also be at least eighteen (18) years old to agree to these Terms. If you do not have such authority, are not at least eighteen, or if you do not agree with these Terms, you may not use the Service. These Terms are effective between you and Quadratic Labs as of the Effective Date.

Quadratic Labs reserves the right, at its sole discretion, to modify, discontinue or terminate the Service or to modify these Terms, at any time. These Terms can be viewed any time at [this link](#). If we modify these Terms, we will provide you with notice of the modification. By continuing to access or use the Service after we have given notice of a modification to the Terms, you agree to be bound by the modified Terms. If the modified Terms are not acceptable to you, you agree to immediately stop using the Service.

1. Definitions:

1.1 "**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity;

1.2 "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure;

1.3 "**Plan**" means the level of Quadratic Labs service, resources and support for which you have subscribed and which are set out in the My Plan section under Account/Company/My Plan within the Service;

1.4 "**Service**" means Attractor by Quadratic Labs service;

1.5 "**Support**" means any assistance that Quadratic Labs offers related to its Service;

1.6 **"User"** means your employee, independent contractor, consultant or agent that is identified and authorized by you to use the Service; and,

1.7 **"Your Data"** any data or information that you push or pull into the Service for the purpose of data analysis.

2. Rights and Restrictions:

2.1 Subject to these Terms, you are granted a non-exclusive, non-transferable (except as permitted by Quadratic Labs or Section 10.5) license: (i) for the number of Users set out in the applicable Plan to use the Service for your business purposes. Only one User can access the Service through a specific user ID and password at a time. Your use of the Service is subject to additional terms and conditions: (i) set out in the applicable Plan, including the duration of the term of your subscription.

2.2 You may not: (i) copy, adapt, change, alter or otherwise modify or create derivative works based on the Service; (ii) decompile, disassemble, or otherwise reverse engineer the Service; (iii) sell, rent, lease, provide, disclose, sublicense, distribute, repackage, transfer, or assign the Service in whole or in part except as permitted by Quadratic Labs or Section 10.5; (iv) use the Service to provide hosting, outsourcing or subscription service; or, (v) use the Service to access, transmit, receive or store any information for which you either do not have the right or permission to access, transmit, receive or store or which is derogatory, defamatory, obscene or offensive.

2.3 You will take appropriate steps, both before and while using the Service, to copy or backup and protect Your Data in case it is lost, altered or destroyed by using the Service. You will be responsible for replacement, repair or recreation of Your Data in the event of a hardware, software, or Service failure. Quadratic Labs will not, under any circumstances, be responsible for any of these types of losses or damages.

2.4 Quadratic Labs does not restrict or monitor Your Data. You represent and warrant that you have all the rights and permissions necessary to use Your Data in conjunction with the Service. The Service permits you to share Your Data and you acknowledge and agree that you are responsible for ensuring that you have all the rights and permissions to share Your Data should you chose to do so using the Service.

2.5 Your Data belongs to you. You grant Quadratic Labs a non-exclusive, royalty-free, worldwide sub-licenseable right and license to access and use Your Data in order to provide the Service as contemplated by these Terms, as well as to send you personalized suggestions based on Your Data. Quadratic Labs will use Your Data to not only provide the Service as it exists today, but also to allow Quadratic Labs to provide you with innovative features and services that it may develop in the future. Quadratic Labs collects this information directly, but it also uses third party software for this purpose as further described in its [Privacy Statement](#). You agree that Quadratic Labs: (i) may create aggregate and/or de-identified information from Your Data ("**Aggregate Data**"); (ii) may offer you personalized suggestions based on your Aggregate Data; (iii) may combine such aggregate and/or de-identified information with that of other Users; and, (iv) has the exclusive ownership of any Aggregate Data and the exclusive right to use Aggregate Data for any purpose as long as Quadratic Labs does not use or distribute any Aggregate data in a way which identifies you, your Users or Your Data.

2.6 Quadratic Labs compiles, analyzes and runs analytics on how Users use the Service, as well the performance of the Service itself. Quadratic Labs collects this information directly, but it also uses third party software for this purpose as further described in its [Privacy Statement](#). This usage and performance data is referred to as “**Usage Data**”. Quadratic Labs uses Usage Data to build features and improve the functionality and feature set of the Service. You agree that Quadratic Labs: (i) may offer you personalized suggestions based on your Usage Data; (ii) may create aggregate and/or de-identified information from your Usage Data; (iii) may combine such aggregate and/or de-identified information with that of other Users; and, (iv) has the exclusive ownership of any Usage Data and the exclusive right to use Usage Data for any purpose as long as Quadratic Labs does not use or distribute any Usage Data in a way which identifies you, your Users or Your Data.

2.7 Quadratic Labs shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Service any suggestions, enhancement requests, recommendations or other feedback provided by you or your Users, relating to the Service.

3. Intellectual Property: Ownership in the Service, and the software powering the Service, will at all times remain with Quadratic Labs. Quadratic Labs will retain all right, title, copyright, trade secrets, patents, trademarks, and other proprietary and intellectual property rights in the Service and the software powering the Service. You do not acquire any rights in the Service or the software powering the service, other than those specified in these Terms. You will not remove any copyright, patent, trademark, design right, trade secret or any other proprietary rights or legends from the Service, unless you are permitted to do so by subscribing to Quadratic Labs's White Label feature, an add-on available as part of your Plan.

4. Confidentiality

4.1 Your Confidential Information shall include Your Data; Quadratic Labs's Confidential Information shall include the Service, including Usage Data and Aggregate Data; and Confidential Information of each party shall include the information about your Plan, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information shall not include any information that: (i) is publicly known or readily ascertainable by the public, through no wrongful act of Receiving Party; (ii) is received from a third party without breaching an obligation owed to the Disclosing Party; (iii) is independently developed by or for the Receiving Party; or, (iv) was in its possession prior to it being furnished to the Receiving Party by the Disclosing Party.

4.2 The Receiving Party agrees that Confidential Information of the Disclosing Party: (i) will not be used for any purpose outside the scope of these Terms; (ii) will be treated with the same degree of care as similar information of the Receiving Party is treated within the Receiving Party's organization (but in no event less than reasonable care); (iii) will not be used for the benefit of a third party; and, (iv) will remain the property of the Disclosing Party. The Receiving Party will limit access to Confidential Information of the Disclosing Party except as otherwise authorized by the Disclosing Party in writing, to those of its and its Affiliates' employees, officers, directors, contractors, and agents who need such access for purposes consistent with these Terms and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Disclosure of

Confidential Information by the Disclosing Party's employees, officers, directors, contractors, agents or Affiliates is deemed to be the disclosure by the Disclosing Party.

4.3 The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

4.4 The obligations of the Receiving Party set forth in this section will remain in effect for a period of five (5) years following the date of first disclosure. Confidential information identified as a trade secret will be held in confidence indefinitely.

5. Disclaimer of Warranties:

5.1 Quadratic Labs warrants that: (i) it has validly entered into these Terms and has the legal power to do so; (ii) the Service will perform materially in accordance with the online documentation for the Service; and, (iii) the functionality of the Service will not be materially decreased during a subscription term.

5.2 THE SERVICE IS NOT COMPLIANT WITH THE REQUIREMENTS OF THE UNITED STATES HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA). EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6. Limitation of Damages:

6.1 IN NO EVENT WILL Quadratic Labs (OR ITS EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS) BE LIABLE TO YOU, OR ANY THIRD PARTY CLAIMING THROUGH YOU, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWSOEVER CAUSED (INCLUDING DAMAGES FOR LOSS OF PROFITS, LOSS OF PRODUCTION, LOSS OF INCOME, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, INCREASED COSTS OF OPERATION, LITIGATION COSTS, AND THE LIKE), WHETHER BASED UPON A CLAIM OR ACTION IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, IN CONNECTION WITH THE SUPPLY, USE, OR PERFORMANCE OF THE SERVICE, REGARDLESS OF WHETHER Quadratic Labs HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.2 Quadratic Labs' AGGREGATE LIABILITY TO YOU, WHETHER FOR NEGLIGENCE, BREACH OF CONTRACT, MISREPRESENTATION, OR OTHERWISE WILL, IN RESPECT OF A SINGLE OCCURRENCE OR A SERIES OF OCCURRENCES, BE LIMITED TO DIRECT DAMAGES AND WILL IN NO CIRCUMSTANCES EXCEED, IN THE

AGGREGATE, THE FEES PAID TO Quadratic Labs BY YOU FOR THE SERVICE IN THE YEAR PRECEDING THE CLAIM.

7. Fees:

7.1 You will pay the amount agreed to as part of Your Plan and any amendments made to Your Plan. If you have chosen to pay the fee by recurring credit card charges, the fee will be charged automatically to your credit card. If you have chosen any other payment method, the payment is due upon receipt of the invoice and shall be received by Quadratic Labs within 30 days to avoid restrictions being placed on the account.

7.2 All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and You are responsible for payment of all such taxes, levies, or duties. There will be no refunds or credits for partial periods of service or periods of inactivity.

7.3 Should you make amendments to increase your Plan or purchase additional Support or Service offerings, this will result in an immediate charge to you of a prorated amount reflecting the increase in price for the remainder of the term of your Plan. Should you make an amendment to your Plan to decrease your Plan or decrease the Support or Service offering that you are receiving, any decrease in price will be reflected at the beginning of the next term of your Plan.

8. Term and Termination:

8.1 The Terms become effective on the date you accept them or commence using the Service and continue for the subscription term and details as specified in your Plan. Your subscription term shall automatically renew for additional periods equal to the expiring term unless either party gives the other thirty days' notice of non-renewal before the end of the relevant term.

8.2 Should you cancel your subscription to the Service, this Agreement will terminate at the end of the period for which You have committed to pay fees and you agree to cease using the Service. Any fees that You have committed to paying must still be paid.

8.3 Quadratic Labs, in its reasonable discretion, has the right to suspend or terminate this Agreement and use the Service by you. Quadratic Labs will use all reasonable efforts to contact you directly via email to warn you prior to suspension or provide you with the effective date of termination.

8.4 You are solely responsible for contacting Quadratic Labs to cancel the Service or request deletion of Your account. Quadratic Labs will delete Your Data within six months of you cancelling your subscription to the Service or, if earlier, upon receipt of a written request to delete Your Data.

9. U.S. Government Restricted Rights Legend: Software distributed to or on behalf of the United States of America, its agencies or instrumentalities ("U.S. Government") is provided with Restricted Rights. Use, duplication, or disclosure of Software by the U.S. Government is subject to the restrictions in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraphs (c) (1) and (2) of the Commercial Computer Software - Restricted Rights at 48CFR52.227-19, as amended or applicable, or such other applicable rules and regulations.

10. Term and Termination:

10.1 Governing Law: These Terms will be governed by the laws of State of California. Each party agrees that the courts of the State of California will have jurisdiction. The parties agree that the terms of the United Nations Convention of Contracts for the International Sale of Goods do not apply to these Terms.

10.2 Relationship of Parties: The parties are not agents or legal representatives of each other. The parties to these Terms are independent contractors. No relationship of principal to agent, master to servant, employer to employee, or franchisor to franchisee is established hereby between the parties. Neither party has the authority to bind the other or incur any obligation on its behalf.

10.3 Survival: The provisions in Articles 3, 5, 6, and 10 and Sections 2.3, 2.4, 2.6, 2.7, 2.8, 4.4 and 8.2 will survive termination of this Agreement.

10.4 Precedence: Conflicts will be resolved as follows: Data Processing Addendum; Privacy Statement; Terms.

10.5 Assignment: You may not assign these Terms or any of your rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Quadratic Labs (not to be unreasonably withheld). Notwithstanding the foregoing, you may assign these Terms, without Quadratic Labs's consent, to your Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of your assets.

10.6 Waiver: The waiver by either party of any default or breach of these Terms will not constitute a waiver of any other or subsequent default or breach. Except for actions for breach of Quadratic Labs' proprietary rights in the Service, no action arising out of these Terms may be brought by either party more than one (1) year after the cause of action has arisen.

10.7 Entire Agreement: These Terms, together with the Data Processing Addendum, the Privacy Statement and the terms of any Plan, comprise the complete agreement between us regarding the subject matter.

10.8 Severability: If one or more provisions of these Terms are held to be unenforceable under applicable laws, those provisions will be modified to the minimum extent necessary to comply with applicable law and the intent of the parties.

10.9 Export Administration: You represent: (i) that you are not named on any U.S. Government list of persons or entities prohibited from receiving exports from the United States; (ii) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and, (iii) you shall not access or use the Service in violation of any United States export embargo, prohibition or restriction.

10.10 Legal Notices; Contacting Quadratic Labs: All legal notices to Quadratic Labs shall be sent to legal@attractor.ai. Questions regarding the Service can be directed to support@attractor.ai