

End User License Addendum

Terms and Conditions Regarding Use of Microsoft Software

This End User Addendum (this "Addendum") relates to your use of certain Microsoft software, as described below and made available by Terremark North America LLC and its affiliates (hereinafter referred to as "Services Provider").

This Addendum governs your use of Microsoft software, which may include associated media, updates, supplements, printed materials, and "online" or electronic documentation (individually and collectively, "Products") provided by Services Provider.

BY USING THE PRODUCTS, YOU ACCEPT THESE TERMS. IF YOU DO NOT ACCEPT THEM, DO NOT USE THE PRODUCTS.

1. Definitions.

"Client Software" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

"Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," server or other electronic device.

"Server Software" means software that provides services or functionality on a computer acting as a server.

"Software Documentation" means any end user document included with server software.

"Software Services" means a service provided to you by Services Provider that make available, display, run, access, or otherwise interact directly or indirectly with the Products. Software Services exclude any services involving installation of a Product directly on any end user device to permit an end user to interact with the Product.

"Redistribution Software" means the software described in Paragraph 4 (Use of Redistribution Software) below.

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3. Use of CLIENT SOFTWARE. You may use the Client Software installed on your Devices only in accordance with the instructions, and only in connection with the services provided to you by Services Provider. **YOU ARE NOT PERMITTED TO USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY CLIENT SOFTWARE UNLESS YOU COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR"), WHICH IS AVAILABLE TO YOU FROM SERVICES PROVIDER.** The terms of this Addendum permanently and irrevocably supersede the terms of any Microsoft End User License Addendum that may be presented in electronic form during your use of the Client Software.

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9. No Warranties, LIABILITIES OR REMEDIES BY MICROSOFT. ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY SERVICES PROVIDER AND NOT BY MICROSOFT, ITS AFFILIATES OR SUBSIDIARIES. To the extent permitted by applicable law, you agree to such disclaimers and limitations by Microsoft and any liability by Microsoft or its suppliers for any damages, whether direct, indirect, or consequential, arising from the Software Services.

10. TECHNICAL SUPPORT. Any support for the Products is provided to you by Services Provider, or a third party nominated by Services Provider and providing support on Services Provider's behalf, and is not provided by Microsoft, its affiliates or subsidiaries.

11. NO HIGH RISK USE. THE PRODUCTS CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED, INTENDED OR APPROPRIATE FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE (HEREINAFTER REFERRED TO AS "HIGH RISK USE."). HIGH RISK USE DOES NOT INCLUDE UTILIZATION OF PRODUCT(S) FOR ADMINISTRATIVE PURPOSES, TO STORE CONFIGURATION DATA, ENGINEERING AND/OR CONFIGURATION TOOLS, OR OTHER NON-CONTROL APPLICATIONS, THE FAILURE OF WHICH WOULD NOT RESULT IN DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

12. EXPORT RESTRICTIONS. The Products are subject to U.S. export jurisdiction. You must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.

13. LIABILITY FOR BREACH. In addition to any liability you may have to Services Provider, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

14. DISCLOSURE OF INFORMATION. Your confidential information disclosed to Services Provider shall be treated as Services Provider's confidential information; however, Services Provider may need to disclose it according to the following:

(i) License consumption reporting: Services Provider may need to disclose your name and address to Microsoft and/or a Microsoft authorized reseller. If you are a commercial customer, by your participation, you consent to such disclosure, unless you specifically object to Services Provider's disclosure of your name and address to Microsoft and/or a Microsoft authorized reseller in your written agreement with Services Provider. If you withhold your consent, Services Provider shall identify you only by an anonymous identifier and your country. Your usage data will be submitted in Services Provider's periodic reporting required by Microsoft. Any information provided by Services Provider to Microsoft and/or a Microsoft authorized reseller is considered Services Provider's confidential information.

(ii) Verifying compliance: In the event Microsoft needs to verify licensing compliance, Services Provider may be required to disclose your name and address to an independent auditor, subject to applicable confidentiality obligations. By your participation, you consent to such disclosure.