



Brentmark Software, Inc.

Portal Terms of Use Policy

IMPORTANT – Read carefully before downloading, copying, installing or using this product. You may not access or use the software to which this Portal Terms of Use Policy applies unless you agree to all of the terms and conditions of this Portal Terms of Use Policy.

This Portal Terms of Use Policy (this “**Agreement**”) is a legal agreement between you as an individual user, the entity by whom you are employed, or whom you represent (“**Customer**” and/or “**User**”), and Brentmark Inc. & Brentmark Software, Inc. (“**Brentmark**”), regarding the use of the Brentmark software identified in a “Sales Order” (defined below) to this Agreement, and Brentmark’s provision of related services for the software.

- BY INDICATING YOUR ASSENT TO THIS AGREEMENT (FOR EXAMPLE, BY SIGNING A SALES ORDER THAT REFERENCES THIS AGREEMENT, OR BY INDICATING YOUR AGREEMENT BY CLICKING ON AN “ACCEPT”, “AGREE” OR SIMILAR BUTTON, OR CHECKING A BOX INDICATING YOUR AGREEMENT TO THESE TERMS, IN A WEB FORM OR AS PART OF YOUR DOWNLOAD OR INSTALLATION OF BRENTMARK SOFTWARE OR AN ACTIVATION KEY, YOU ARE REPRESENTING AND AGREEING THAT: (1) YOU HAVE REVIEWED, PRINTED, AND ARE IN AGREEMENT WITH THE MOST CURRENT SOFTWARE SUBSCRIPTION LICENSE AGREEMENT AVAILABLE ON THE BRENTMARK WEBSITE AT <https://www.brentmark.com/legalagreements> (2) YOU HAVE THE AUTHORITY TO BIND THE ENTITY BY WHOM YOU ARE EMPLOYED, OR WHOM YOU REPRESENT, TO THIS AGREEMENT; AND (3) THE ENTITY BY WHOM YOU ARE EMPLOYED, OR WHOM YOU REPRESENT, WILL BE BOUND BY, AND BECOMES A PARTY TO THIS AGREEMENT.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, (1) YOU MAY NOT SIGN THE SALES ORDER, OR INDICATE YOUR ASSENT IN A WEB FORM OR AS PART OF THE DOWNLOAD OR INSTALLATION PROCESS, AND (2) YOU MAY NOT INSTALL, USE, COPY OR DISTRIBUTE THE BRENTMARK SOFTWARE.
- IF YOU ALREADY HAVE POSSESSION OF THE SOFTWARE, BUT HAVE CHOSEN NOT TO AGREE TO THE TERMS OF THIS AGREEMENT, PLEASE DESTROY ALL COPIES IN YOUR POSSESSION IMMEDIATELY.

PORTAL TERMS OF USE POLICY

IMPORTANT -- READ CAREFULLY: Welcome to the Brentmark Software, Inc. ("Brentmark") Portal (referenced as the "Brentmark Portal" or the "Portal"). By clicking the "Agree" button, the Customer or User ("You") agree(s) to be bound by the terms and conditions contained in this agreement (the "Agreement") and the terms and conditions of the Brentmark's Privacy Policy, which are published at <https://www.brentmark.com/legalagreements> and which are incorporated herein by reference. The privacy notice explains how Brentmark treats your personal information, and protects your privacy, when you use the Brentmark Portal. Brentmark may change the terms of this Agreement and/or the Privacy Policy from time to time without notice to you, and you are responsible for the then current version of the policies in effect at all times. If you do not agree to be bound by these terms and conditions or privacy notice policies, you may not use the Brentmark Portal.

MODIFICATIONS

You agree that we may modify this Policy Agreement or any policy or other terms referenced in this Agreement at any time and at our sole discretion. By using the Brentmark Portal, you agree to be bound by any such modifications and should therefore periodically visit this page, the Brentmark website, and the Brentmark Portal to determine the then current terms and conditions of use to which you are bound. You will note that at the bottom of this Agreement, the date of last modification is indicated. You are encouraged to check the revision date with each use to ensure you are comfortable with the latest revisions. If you are dissatisfied with the Brentmark Portal site, its content or this Agreement as it may be revised, you agree that your sole and exclusive remedy is to discontinue using the Portal.

TERMINATION

You agree that Brentmark may terminate this Agreement, for any reason at our sole discretion, at any time, by providing you seven (7) days advance notice, and that Brentmark reserves the right to change, suspend, or discontinue all or any aspects of the Brentmark Portal, for any reason at our sole discretion, at any time, by providing you seven (7) days advance notice.

USER RESTRICTIONS

You agree to the following statements:

- You will not tamper with or otherwise interfere or attempt to interfere in any manner with the functionality or proper working of the Portal.
- You will not make illegal use of the Portal or use it for purposes which are illegal.
- You will not interfere with anyone else who is a user of the Portal in their use of the Portal.
- You will follow U.S. and international laws regarding transmitting data and you will not attempt to gain access to our computer system or any other computer systems.
- You will not reverse engineer, remove, obscure, or alter any notice of any logo, trademark, calculations, software engineering, or other intellectual property or proprietary right designation appearing on or contained within the portal.
- You will not access (or attempt to access) any product or services offered via the BRENTMARK Portal by any means other than the interface that is provided and authorized by Brentmark.

PASSWORDS

You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Brentmark Portal. Accordingly, you agree that you are solely responsible to Brentmark for all activities that occur under your account. If you become aware of any unauthorized use of your password on the Brentmark Portal or your account, you agree to notify Brentmark immediately at account@brentmark.com.

MASTER SOFTWARE LICENSE AGREEMENT

You are hereby notified that in connection with providing access to you to the Brentmark Portal and services related thereto, Brentmark may at times enter into a Software License Agreement with a third-party provider ("Third-Party") a copy of which may be posted on the Brentmark website at <https://www.brentmark.com/legalagreements>. You hereby agree that you shall thoroughly and completely review the terms of any publicized Master Software License Agreement(s), and that you shall use commercially reasonable efforts to ensure that your use of the Brentmark Portal will not cause or result in any violation of you as "Client" or Brentmark as "Customer" under the terms of any such Agreement(s).

MONITORING

We reserve the right to review, capture, log, annotate, configure, process, and otherwise examine any information stored on or passing through our networks or systems. Information on what data we collect and how it is processed can be found in further detail in Brentmark's Privacy Policy at <https://www.brentmark.com/legalagreements>.

DOWNTIME AND SERVICE SUSPENSIONS

Your access to and use of the Brentmark Portal and any related Services may be suspended for the duration of any anticipated, unanticipated, scheduled or unscheduled downtime, maintenance, system updates, malfunction, or other unavailability, of any portion, or all of the Services for any reason, including as a result of technology upgrades, power outages, system failures or other interruptions. We shall also be entitled, without any liability to you, to suspend access to any portion or all of the Portal at any time on a system-wide basis: (a) failure to process Customer or User payment for initial purchase, renewals, customer service plans, or content, one-time payment or subscription based of any kind. (b) for scheduled downtime to permit us to conduct maintenance or make modifications to any Portal; (c) in the event of a denial of service attack or other attack on the Portal or other event that we determine, in our sole discretion, may create a risk to the applicable Portal, to you or to any of our other customers if the Portal service were not suspended; or (d) in the event that we determine that any Portal service is prohibited by law or we otherwise determine that it is necessary or prudent to do so for legal or regulatory reasons.

RIGHTS TO USE BRENTMARK PORTAL

Brentmark grants you an individual, worldwide, royalty-free, non-assignable, and non-exclusive license to use the Brentmark Portal as part of the services being provided to you by Brentmark. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Brentmark Portal and Services, in the manner permitted by these terms and conditions. You may not, and you may not permit anyone else to, copy, modify, develop, sample, or create a derivative work of, reverse engineer, decompile, or otherwise attempt to extract the source code of the Brentmark Portal or any part thereof. Except as expressly provided herein, unless Brentmark has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Brentmark Portal, grant a security interest in or over your rights to use the Brentmark Portal, or otherwise transfer any part of your rights to use the Brentmark Portal. Notwithstanding the foregoing, you are granted limited administrative rights to provide access to the Brentmark Portal in your reasonable discretion to those parties who would reasonably need to access information located on the Brentmark Portal, or who could upload or input information and documents (such as tax and other financial information) onto the Brentmark Portal for you to access, that would assist you in utilizing the services provided by the Brentmark Portal in the ordinary course.

INTELLECTUAL PROPERTY

The content on the Brentmark Portal including without limitation, the branding, text, software, scripts, graphics, photos, sounds, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to Brentmark subject to copyright and other intellectual property rights under United States and foreign laws and international conventions. Content on the Brentmark Portal is provided to you AS IS for your information and individual use only and may not be sampled, used, copied, developed, simulated, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of respective owners. Brentmark reserves all rights not expressly granted in and to the Brentmark Portal and the Content. You agree to not engage in the use, copying, sampling, developing, engineering, simulating, or distribution of any of the Content other than expressly permitted herein. If you download or print a copy of the Content for individual use, you must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable, falsify, duplicate, or otherwise interfere with security-related features of the Brentmark Portal or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Brentmark Portal or the Content therein.

COPYRIGHT AND TRADEMARK POLICIES

It is Brentmark's policy to respond to notices of alleged copyright infringement that comply with applicable international intellectual property law (including, without limitation, in the United States, the Digital Millennium Copyright Act) and to terminating the accounts to initial or repeat infringers.

OTHER CONTENT

The Brentmark Portal may include hyperlinks to other websites, content, or resources that are not owned or controlled by Brentmark. Brentmark has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third-party websites or resources which are provided by companies or persons other than Brentmark. You acknowledge and agree that Brentmark is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products, or other materials on or available from such websites or resources. You acknowledge and agree that Brentmark is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy, or existence of any advertising, products, or other materials on, or available from, such websites or resources. We encourage you to be aware when you leave the Brentmark Portal and to read the terms and conditions and privacy policy of each or any other website that you visit.

WARRANTY DISCLAIMERS AND LIMITED LIABILITY

Except as specifically set forth in this Agreement, Brentmark makes no other representations or warranties, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose, with respect to the Portal. You agree that use of the Portal is at your sole risk. The Portal is provided on an "as is" and "as available" basis.

Neither Brentmark nor its partners, agents, affiliates, or designees nor each of their respective officers, directors, employees, agents, contractors, subcontractors or the like (collectively, "Associates") warrant that use of the Portal site will be uninterrupted or error-free.

Under no circumstances shall Brentmark or its Associates be liable for any direct, indirect, incidental, special, exemplary, punitive or consequential damages that result from, arise out of, or otherwise relate to your use of, or inability to use, the Brentmark Portal site, or any website linked to the Brentmark Portal site, including but not limited to reliance by you on any information obtained from the Brentmark Portal site that results in mistakes, omissions, interruptions, deletion or corruption of files, viruses, delays in operation or transmission, or any failure of performance, or any loss of profit, loss of goodwill or data, or cost of procurement of substitute goods or services or other intangible loss suffered.

The Brentmark Portal utilizes industry accepted security systems in an attempt to eliminate unauthorized access to private information. By using the Brentmark Portal, you expressly agree to not hold Brentmark or its Associates liable in the event of unauthorized access and subsequent use of your company and/or personal information. The foregoing Limitation of Liability shall apply in any action, whether in contract, tort or any other claim, even if an authorized representative of Brentmark has been advised of or should have knowledge of the possibility of such damages.

You agree to defend, indemnify and hold harmless Brentmark and any of its Associates, from and against any and all claims, damages, obligations, losses, liabilities, cost or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Brentmark Portal; (ii) your violation of any portion or term of this Agreement; or (iii) your violation of any third-party right, including without limitation any copyright, property, or privacy right. This defense and indemnification obligation will survive this Agreement and your use of the Brentmark Portal.

NOTICES

All notices by us to you shall be by one (1) single instance email to the email address listed as the Portal Administrator. All subsequent policy changes and legal notices will be available on the Brentmark website at <https://www.brentmark.com/legalagreements>.

All notices by you to Brentmark shall be by email to account@brentmark.com or in writing to:

Brentmark Software, Inc
ATTN: Legal Department
P.O. Box 3
Cooksburg, Pennsylvania 16217

ENTIRE AGREEMENT

This Agreement, along with any other relevant and publicly posted Policy or Agreements made available at <https://www.brentmark.com/legalagreements>, constitutes the entire agreement between you and us regarding the subject matter hereof and supersedes any and all prior or contemporaneous representation, understanding, agreement, or communication between you and us, whether written or oral, regarding such subject matter.

SEVERABILITY

If any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and any invalid or unenforceable portions shall be construed in a manner that most closely reflects the effect and intent of the original language. If such construction is not possible, the provision will be severed from this Agreement, and the rest of the Agreement shall remain in full force and effect.

WAIVERS

The failure by us to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision, nor in any way affect our right to enforce such provision thereafter. All waivers by us must be in writing to be effective.

SUCCESSORS OR ASSIGNS

This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns.

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Brentmark without restriction.

RELATIONSHIP

Nothing in this Agreement is intended to or does create any type of joint venture, creditor-debtor, escrow, partnership or any employer/employee or fiduciary or franchise relationship between you and Brentmark, or any Brentmark's Associates.

GOVERNING LAW

This Agreement shall be construed and enforced according to the laws of the State of Pennsylvania applicable to agreements made and to be performed wholly within the State of Pennsylvania. You agree to submit to the exclusive jurisdiction of the courts located within the State of Pennsylvania, City of Cooksburg, to resolve any legal matter arising from these terms and conditions. Notwithstanding this, you agree that Brentmark shall still be entitled to apply for any necessary injunctive remedies in any jurisdiction.

Last Revision Date

This Agreement was last revised on January 6, 2020.