

Terms and Conditions

MyProHelper®

Terms of Service

Effective Date: January 4, 2023

Version: 1.0

These Terms of Use ("Terms") govern your use of the and services provided by Benchmark Computing, Inc ("We," "Us," or "Our") (collectively, the "Services").

Please review these Terms carefully before using the Services. We may change these Terms or modify any features of the Services at any time and your continued use of the Services is your consent to the Terms as is then. These Terms of Use ("Terms") govern your use of the and services provided by Benchmark Computing, Inc ("We," "Us," or "Our") (collectively, the "Services").

You accept the Terms by using the Services, and you accept any changes to the Terms by continuing to use the Services after We post the changes.

In the event a dispute arising between you and Us, you and us agree that the dispute shall be referred to United States Arbitration & Mediation for arbitration in accordance with United States Arbitration & Mediation Rules of Arbitration. The arbitrator's decision shall be final and binding and judgment may be entered thereon. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with arbitrator's award, the other party is entitled of costs of suit including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

I. Privacy

By using the Services, you consent to Our processing your information consistent with Our Privacy Policy posted at [\[HYPERLINK\]](#).

II. Important Information about Your Use of the Services

THE SERVICES AND THE CONTENT YOU ACCESS THROUGH THE SERVICES ARE PROVIDED FOR YOUR OWN (AND ANY AUTHORIZED USER'S) INTERNAL USE ONLY. DO NOT SHARE THE CONTENT OR INFORMATION WITH ANYONE ELSE. BY ACCESSING THE SERVICES, YOU AGREE THAT YOU WILL NOT SHARE ANY INFORMATION OR CONTENT PROVIDED THROUGH THE SERVICES WITH ANYONE EXCEPT AUTHORIZED USERS, EXCEPT AS REQUIRED BY LAW. IN THE EVENT THAT WE DISCOVER YOU HAVE SHARED INFORMATION OR CONTENT IN VIOLATION OF THIS AGREEMENT, YOU GRANT US THE RIGHT TO CHARGE ANY PAYMENT METHOD ON FILE FOR THE COST OF THE ADDITIONAL SUBSCRIPTIONS THAT WOULD HAVE BEEN NEEDED FOR THE PERSONS YOU SHARED THE CONTENT OR INFORMATION WITH.

III. Account Enrollment

To access the Services, you may be required to first establish a user account ("Account") by providing certain information. You agree that you will not create more than one Account or create an Account for anyone other than yourself or another Authorized User whom has given you permission to create an account on their behalf. You agree to provide true, accurate, current, and complete information on the Account enrollment form and to keep this information current and updated as needed and to not use or access another person's account. "Authorized User" shall mean any person who has a paid-up, non-expired Subscription.

You represent and warrant that you are at least 18 years of age, located in a location in which we are offering the Services and possess the legal right and ability to agree to these Terms.

IV. Prohibited Conduct

intellectual property rights of any party, including third parties, or use the Services in a manner that violates any laws including copyright laws. For example, and without limitation, you may not You may not access or use, or attempt to access or use, the Services to take any action that could harm Us or any third party, interfere with the operation of the Services, violate the

a) transmit any message or information under a false name or otherwise misrepresent your affiliation or the origin of materials you transmit;

b) provide information that is untrue, inaccurate, not current, not owned by you or incomplete;

c) engage in unauthorized spidering, "scraping," or harvesting of content or personal information, or use any other unauthorized automated means to compile information or content provided through the Services;

d) take any action that imposes an unreasonable or disproportionately large load on Our network or infrastructure;

e) use any device, software, or routine to interfere or attempt to interfere with the proper working of the Services or any activity conducted on the Services or attempt to probe, scan, test the vulnerability of,

or breach the security of any system or network;

f) attempt to modify, translate, decipher, decompile, disassemble, reverse-engineer, or create derivative works of any of the content or information provided through the Services; or

g) disclose information regarding other users of the Services in any way;

h) engage in any other conduct that restricts or inhibits any person from using or enjoying the Services, or that, in Our sole judgment,

exposes Us or any of Our users, affiliates, or any other third party to any liability, damages, or detriment of any type.

Violations of system or network security may result in civil or criminal liability. We may investigate and work with law enforcement authorities and third parties to prosecute users who violate the Terms.

We may suspend or terminate your access to the Services for any or no reason at any time without notice.

V. Payment Authorization

By providing a credit card or other payment method accepted by Us ("Payment Method"), you are expressly agreeing that We are authorized to charge to the Payment Method any fees for your use of the Services, together with any applicable taxes.

You agree that the authorization to charge your Payment Method will remain in effect until you cancel it in writing, and you agree to notify Us immediately of any changes to your Payment Method.

You certify that you are an authorized user of the Payment Method and will not dispute charges for the Services. You acknowledge that the origination of ACH transactions to your account must comply with applicable provisions of U.S. law. In the case of an ACH transaction rejected for insufficient funds, We may attempt to process the charge again at any time within thirty (30) days.

VI. Subscriptions; Refund Policy

We strive to give you the best Services possible, but cannot guarantee the Services will always be available and do not represent that they will be. In the event that the Services are not available for more than thirty percent (30%) of any calendar month, we will extend your subscription by one (1) month.

Unless otherwise stated on our website, subscriptions to the Services ("Subscription") are monthly and automatically renew at the end of the Subscription for the then current rate; which may be higher than the rate when you initially paid for the Services. You will be notified no later than thirty (30) days before any rate increase. Annual Subscription packages are for a period of one year and renew at the end of the Subscription. There are no refunds for unused or early-cancelled Subscriptions. You authorize Us to charge any payment methods on file for your initial Subscription term and at the end of a Subscription for the next upcoming Subscription term only at the then standard rate, which may be higher than your original rate. We may remove your access to the Services in our sole discretion, if we do remove your access for any reason, including your violation of these Terms, there shall be no refund.

VII. Intellectual Property Rights

Any content provided to you through the Services is and shall remain Our sole-property. We only grant you, for the term of your Subscription, a paid-up, revocable, non-assignable, non-transferrable limited license to use the Services and the content provided through the Services for your own internal purposes only.

The Services may be protected under the copyright laws of the United States and other countries. All copyrights in the Services are owned by Us or Our third-party licensors to the full extent > permitted under the United States Copyright Act and all international copyright laws. You may not publish, reproduce, distribute, display, perform, edit, adapt, modify, or otherwise exploit any part > of the Services without Our written consent.

All rights in the product names, company names, trade names, logos, service marks, trade dress, slogans, product packaging, and designs of the Services, whether or not appearing in large print or with the trademark symbol, belong exclusively to Us or Our licensors and are protected from reproduction, imitation, dilution, or confusing or misleading uses under national and international trademark and copyright laws. The use or misuse of these trademarks or any materials, except as authorized herein, is expressly prohibited, and nothing stated or implied on the Services confers on you any license or right under any patent or trademark of Ours, Our affiliates, or any third party.

VIII. Data Access; Data Security

We may need to access your data and internal systems to provide the Services. We recognize that, as between you and us, you own all right, title, and interest, including all intellectual property rights, in and to your data and internal systems we access. We will keep your data confidential subject to limitations and exclusions set out by any pertinent agreement between us or by applicable law. In general, we may use your data solely to provide the services to you. In addition, you hereby grant us an express, non-exclusive, royalty-free, worldwide license to reproduce, use, and display your data in aggregated and anonymous form only, as well as any results, output, or derivative works of such data, for purposes of training, product development and fulfilling our obligations under any agreement between us, but only for such purposes.

We maintain industry standard administrative, physical and technical safeguards designed to protect both the data you give to use as well as your data we may come in contact with when providing the Services.

Notwithstanding the foregoing, no safeguard is full proof and we make no representations or warranties as to the adequacy of these safeguards. It is your responsibility to protect and backup any of your data.

We shall not be liable for any loss of, or damage to, data or programs to the extent that such loss or damage do not arise from our willful misconduct or gross negligence.

In most cases, we will process your information which is either in anonymous or aggregated form, thus not constituting personally identifiable information (PII) or personal data under applicable laws.

However, where information submitted to us may constitute personal PII or personal data, we will treat those data accordingly.

In general, we may not and will not require that anyone provide any PII / personal data to us. However, certain PII / personal data, such as account setup details, membership information, events and announcements may be crucial for the Services. If we don't get that information, we may be unable to provide the Services. Thus, it is your responsibility to have all the information necessary for provision of the Services provided to us timely, fully, accurately, and in compliance with all laws and contracts.

IX. Website and Third-Party Content

The Services may provide links to third-party content. You acknowledge and agree that We are not responsible for the availability of such third-party content, and We do not control, endorse, sponsor, recommend, or otherwise accept responsibility for such content. Use of any linked third-party content is at the user's own risk.

X. Disclaimer of Warranties; Limitation of Liability

Your use of the Services is at your own risk. The Services are provided "as is" without warranties of any kind, either express or implied, including without limitation warranties of title, merchantability, fitness for a particular purpose, non-infringement, or other violation of rights. We do not warrant the adequacy, currency, accuracy, likely results, or completeness of the Services or any third-party sites linked to or from the Services, or that the functions provided will be uninterrupted, virus-free, or error-free. We expressly disclaim any liability for any errors or omissions in the content included in the Services or any third-party sites linked to or from the Services. Some jurisdictions may not allow the exclusion of implied warranties, so some of the above exclusions may not apply to you.

In no event will We, or Our parents, subsidiaries, affiliates, licensors, suppliers and their directors, officers, affiliates, subcontractors, employees, agents, and assigns be liable for any direct or indirect, special, incidental, consequential or punitive damages, lost profits, or other damages whatsoever arising in connection with the use of the Services, any interruption in availability of the Services, delay in operation or transmission, computer virus, loss of data, loss of data privacy, or use, misuse, reliance, review, manipulation, or other utilization in any manner whatsoever of the Services or the data collected through the Services, even if one or more of them has been advised of the possibility of such damages or loss. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, OUR LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

You agree that your sole remedy for any claim arising out of or connected with the Services will be to cease using the Services.

XI. Indemnification

You agree to indemnify, defend and hold Us and Our parents, subsidiaries, affiliates, licensors, suppliers and their directors, officers, affiliates, subcontractors, employees, agents, and assigns harmless from and against any and all loss, costs, expenses (including reasonable attorneys' fees and expenses), claims, damages and liabilities related to or associated with your use of the Services and any alleged violation by you of these Terms, including, without limitation, your sharing of the information or content provided through the Services with anyone except an Authorized User or as required by Law. We reserve the right to assume the exclusive defense of any claim for which We are entitled to indemnification under this section. In such event, you shall provide us with such cooperation as We reasonably request.

XII. Choice of Law and Forum

You agree that your access to and use of the Services will be governed by and will be construed in accordance with the laws of Tennessee without regard to principles of conflicts of laws. You agree that any claim or dispute against Us arising out of or relating to the Services must be resolved by a federal district court located in Tennessee unless agreed upon by all parties.

XIII. Miscellaneous

These Terms constitute the entire agreement between you and Us, superseding any prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and Us.

In the event any provision of these Terms is held unenforceable, it will not affect the validity or enforceability of the remaining provisions and will be replaced by an enforceable provision that reflects, to the maximum extent possible by law, the intention underlying the unenforceable provision. You agree that no joint venture, partnership, employment, or agency relationship exists between you and Us as a result of these Terms or your access to and use of the Services.

Our failure to enforce any provisions of these Terms or respond to a violation by any party does not waive Our right to subsequently enforce any terms or conditions of the Terms or respond to any violations.

Nothing contained in these Terms is in derogation of Our right to comply with governmental, court, and law enforcement requests or requirements relating to your use of the Services or information provided to or gathered by Us with respect to such use.

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