

## **Bentley Cloud Services Terms of Service**

Last Modified: July 9, 2015.

**IMPORTANT – READ CAREFULLY:** These Terms of Service (“**Terms**”) represent a legal agreement between “**you**” (either an individual or single organization) and Bentley Systems, Incorporated, including any legal entity controlled by Bentley Systems, Incorporated (“**Bentley**”).

These Terms govern your access to and use of Bentley Cloud Services, and/or Bentley Early Access Cloud Services available via Bentley’s Early Access Program (“**EAP Cloud Services**”), websites and services (collectively the “**Services**”), so please carefully read them before accessing or using the Services.

**YOU AGREE TO BE BOUND BY THESE TERMS BY ACCESSING OR USING THE SERVICES.** By accessing or using the Services, you agree that you have read, understand and agree to be bound by these Terms, as amended from time to time, as well as the Bentley Privacy Policy <http://www.bentley.com/en-US/Corporate/Privacy+Policy.htm> (<http://www.bentley.com/en-US/Corporate/Privacy+Policy.htm>), which is hereby incorporated into these Terms. If you are accessing or using the Services on behalf of an organization, you are agreeing to these Terms on behalf of that organization and undertaking that you have the authority to bind that organization to these Terms. YOUR ACCEPTANCE OF ALL OF THESE TERMS IS A CONDITION TO YOUR RIGHT TO ACCESS OR USE THE SERVICES. THESE TERMS REPRESENT THE ENTIRE SET OF TERMS AND CONDITIONS GOVERNING YOUR USE OF THE SERVICES AND SUPERSEDES ALL PRIOR OR CONTEMPORANEOUS ORAL OR WRITTEN COMMUNICATIONS, PROPOSALS AND PRESENTATIONS WITH RESPECT TO THE SERVICES. If these Terms are translated into a language other than English and there is a conflict of terms between the English and the other language, the English version will control.

### **1. Modifications**

Bentley may update or amend these Terms at any time without notice to you by posting the amended terms. The most current version will always be posted on our website terms pages, and you should check those pages regularly. By continuing to access or use the Services after revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the new Terms, you must stop using the Services. The version of these Terms in effect at the time of your access or use of the Services will apply to such use or access. Further, the Services may continue to change over time as Bentley Cloud Services evolve. Bentley will control the format, content, delivery and all other aspects of the Services, and reserves the right at any time to modify the information provided through Bentley Cloud Services, discontinue or terminate the Services, or any portion of the Services without providing you any prior notice.

### **2. Privacy**

Bentley’s use of the information, files, and folders that you submit to Bentley (together, “**your information**”) and your responsibilities in connection with protecting your privacy are described in Bentley’s Privacy Policy <http://www.bentley.com/en-US/Corporate/Privacy+Policy.htm> (<http://www.bentley.com/en-US/Corporate/Privacy+Policy.htm>). By your use of the Services, you grant Bentley permission to interact with the content of your files and folders only to the limited extent necessary to perform operations selected by you including, but not limited to, viewing, securing and, searching the content.

### 3. Acceptable Use

You are solely responsible for your conduct, the content of your files and folders, and your communications with others while using the Services, and it is your responsibility to ensure that you have the rights or permission needed to comply with these Terms.

The Services may include features that allow you to share your information with others or to make it public. Please consider carefully what information you share or make public keeping in mind that other users may copy, modify or distribute your information, and that Bentley has no responsibility for such activity.

You agree to use the Services only for lawful purposes. Specifically, **YOU HEREBY AGREE THAT YOU SHALL NOT USE THE SERVICES TO DO ANY OF THE FOLLOWING:**

- (a) Upload, post or otherwise transmit:
  - any data or content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
  - any content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under non-disclosure agreements);
  - any content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party; or
  - any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, or altered, deceptive or false source-identifying information, including "spoofing" or "phishing";
- (b) Intentionally or negligently upload, post or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any user, host, or network, computer software, hardware or telecommunications equipment, for example, overloading, flooding, spamming, or mail-bombing any part of the Services;
- (c) Intentionally or negligently interfere with or disrupt the Services or a network connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services;
- (d) Probe, scan, or test the vulnerability of any system or network, or breach or otherwise circumvent any security or authentication measures;
- (e) Access, tamper with, or use non-public areas of the Services, shared areas of the Services you have not been invited to, or impersonate or misrepresent your affiliation with any person or entity;
- (f) Access or search the Services by any means other than our publicly supported interfaces (for example, "scraping" or any other automated process or means of access);
- (g) Collect information about others without their consent; or

(h) Engage in any other conduct that restricts or inhibits anyone's use of the Services or which, as determined by Bentley, may harm Bentley or users of the Services or expose them to liability.

Any content uploaded, posted or otherwise transmitted to any publicly available portion of the Services and all responses are the sole responsibility of the person or entity submitting them and do not necessarily reflect the opinions of Bentley. You understand and acknowledge that you, not Bentley, will be fully responsible and liable for what you copy, share, upload, download or otherwise use while using the Services, including without limitation its legality, reliability or appropriateness. By uploading, posting or otherwise transmitting content to the Services, you warrant that such content is your own or in the public domain or otherwise free of proprietary or other restrictions and that you have the right to upload, post or otherwise transmit it to the Services.

Bentley reserves the right, but does not assume any responsibility, to remove any material posted to the Services which Bentley, in its sole discretion, deems inconsistent with the foregoing commitments, including any material that Bentley has been notified, or has reason to believe, constitutes a copyright infringement, and to terminate any user's access to all or part of the Services. However, Bentley can neither review all material before it is posted to the Services nor ensure prompt removal of objectionable material after it has been posted. Accordingly, Bentley assumes no liability for any action or inaction regarding transmissions, communications or content provided by third parties. Bentley reserves the right to take any action it deems necessary to protect the users of the Services and the public; however, Bentley has no liability or responsibility to anyone for performance or nonperformance of the activities described in this paragraph.

You, and not Bentley, are responsible for maintaining and protecting all of your information. Bentley will not be liable for any loss or corruption of your information, or for any costs or expenses associated with backing up or restoring any of your information.

Your failure to comply with the Acceptable Use provisions of these Terms may result in termination of your access to the Services and may expose you to civil and/or criminal liability.

#### **4. Account Security**

You are responsible for safeguarding the password that you use to access the Services and you agree not to disclose your password to any third party. You are responsible for any activity using your account, whether or not you authorized that activity. You should immediately notify Bentley of any unauthorized use of your account. You acknowledge that if you wish to protect your transmission of data or files to Bentley, it is your responsibility to use a secure encrypted connection to communicate with the Services.

You agree to keep your account information current. You must notify Bentley promptly in the event of a change in your contact information or other information related to your account.

#### **5. Software and Updates**

Some use of the Services may require you to download a client software package ("**Software**"). Bentley hereby grants you a limited, non-exclusive, non-transferable, revocable license to install and use the Software. The Software may be used only by you and solely to access the Services. The Software is licensed, not sold, to you by Bentley and is subject to these Terms. Your license to use the Software is automatically revoked if you violate these Terms in any manner. Bentley retains title to the Software and hereby reserve all rights in the Software not expressly granted in these Terms. The Services may update the Software on your device automatically when a new version is available.

## **6. Usage Data**

You hereby agree and acknowledge that Bentley will from time to time collect metrics data relating to your installation, access or use of the Services (“**Usage Data**”) and that all Usage Data shall be owned by Bentley and deemed Bentley Proprietary Information. You hereby agree not to alter or interfere with the collection by Bentley of accurate Usage Data.

## **7. Reservation of Rights**

Neither these Terms nor your use of the Services or the Software grant you any right, title, or interest therein or in the content thereof. The Services and the Software and other technology we use to provide the Services are proprietary to Bentley and its affiliates or licensors and are protected by the laws of the United States and authorities based outside of the United States regarding copyrights, trademarks, trade secrets and other proprietary rights.

You are authorized to use the Services and the Software for personal use or legitimate business purposes related to your role as a Bentley customer. You may not copy, modify, create derivative works of, publicly display or perform, republish, store, transmit or distribute any of the Services without the prior written consent of Bentley. Neither the title nor any intellectual property rights to any information or material in the Services are transferred to you, but remain with Bentley or its licensors. You may not reproduce, sell or exploit for any commercial purposes any part of the Services, access to the Services, or use of any services or materials available through the Services.

You may not reverse engineer, decompile, disassemble or otherwise reduce the Software to a human-perceivable form, nor attempt to do so, nor assist anyone else to do so. You may not modify, network, rent, lease, loan, sublicense, broadcast, distribute or otherwise use the Software for commercial purposes. You may not remove, copy, sell or distribute any of the data or other content contained in the Software or use any portion thereof independent of the Software. You may not create derivative works based upon the Software in whole or in part. You may not copy the Software, except that you may make one copy of the Software solely for backup or archival purposes.

## **8. EAP Cloud Services**

### **Ownership of Proprietary Rights and Grant**

Subject to these Terms, you are willing to use the EAP Cloud Services for the purpose of evaluating the same. Bentley hereby grants you the right to use and evaluate the EAP Cloud Services under these Terms in order to obtain user information from you about the EAP Cloud Services which may be helpful to Bentley in making any improvements, enhancements or modifications with respect thereto. This right shall terminate on the date Bentley determines in its sole discretion that Bentley no longer has a need for user information from you regarding the EAP Cloud Services; or Bentley has learned that the terms of this agreement have been breached by you. You acknowledge and agree that the EAP Cloud Services are proprietary to Bentley or its third party contributors protected under United States copyright laws, other applicable copyright laws, and international treaty provisions. You further acknowledge and agree that the entire right, title and interest in and to the EAP Cloud Services, including associated intellectual property rights, shall remain with Bentley or its third party contributors. Bentley retains all rights not expressly granted herein. Nothing in this agreement obligates Bentley to create any updates or enhancements, nor to provide technical support or maintenance services for the EAP Cloud Services. You may not copy, modify, create derivative works of, publicly display or perform, republish, store, transmit or distribute any of the EAP Cloud Services without the prior written consent of Bentley. Neither the title nor any intellectual property rights to any information or material in the EAP Cloud Services are transferred to you, but remain with Bentley

or its licensors. You may not reproduce, sell or exploit for any commercial purposes any part of the EAP Cloud Services, access to the EAP Cloud Services, or use of any services or materials available through the EAP Cloud Services.

**Evaluation and Reports.** You agree to provide Bentley with reports concerning your opinion and evaluation of the EAP Cloud Services. You agree to consult with representatives of Bentley from time-to-time concerning the performance of the EAP Cloud Services. You agree that right, title and interest to any reports, feedback or suggestions relating to the EAP Cloud Services or any inventions relating to an improvement, modification or enhancement of the EAP Cloud Services conceived in, or made as a result of, your performance of this agreement shall become the exclusive property of Bentley and that Bentley may disclose and use such information for any purposes whatsoever, entirely without obligation of any kind to you.

**Confidential and Proprietary Information and Data.** For purposes of this agreement, “**Confidential and Proprietary Information**” shall include, but not be limited to, the EAP Cloud Services, including its functionality, performance, business purpose, specifications, documentation, and the like, test results obtained by you through use of the EAP Cloud Services, any material data relating to use of the EAP Cloud Services by you, including, but not limited to, and any and all information, either written or oral, relating to the EAP Cloud Services, including plans, business and financial information, and perhaps related software which is proprietary and confidential to Bentley or its licensors, which may, from time-to-time, be disclosed by Bentley to you during the term of this agreement. It is understood by both parties that ANY information provided by Bentley during the term to you relating to the EAP Cloud Services is Bentley’s Confidential and Proprietary Information.

The release of Confidential and Proprietary Information to you does not constitute a commercialization of the EAP Cloud Services, but rather is a release for testing purposes **ONLY**. You shall not disclose to any third party the terms of this agreement nor the results of any evaluation hereunder except with the written consent of Bentley. You shall, upon Bentley’s request, certify in writing as to the return or destruction of all such information. The parties shall use Confidential and Proprietary Information only for the purposes permitted under this agreement. You shall make no other use of the Confidential and Proprietary Information, in whole or in part, without the specific prior written consent of Bentley. Accordingly, you agree not to make any commercial use of the Confidential and Proprietary Information, and you shall not translate, copy, disassemble, reverse engineer, or decompile any EAL Cloud Services, nor shall you make copies or translations of any documentation. Furthermore, you will not make any pre-release reports or give pre-release interviews concerning the EAP Cloud Services or the Confidential and Proprietary Information without Bentley’s prior written consent.

You shall maintain Bentley’s Confidential and Proprietary Information in strict confidence, shall limit internal disclosure of Bentley’s Confidential and Proprietary Information to employees having a legitimate need to know, and shall exercise the same degree of care in protecting Bentley’s Confidential and Proprietary Information as you exercise in protecting your own confidential and proprietary information.

Any other related materials supplied by Bentley, including documentation, may not be reproduced in any manner by you. The original and all copies of Bentley’s Confidential and Proprietary Information shall remain the property of Bentley and shall be returned to Bentley upon demand.

## **9. Submissions and Comments**

Neither Bentley nor any of its employees will consider unsolicited ideas, including ideas for new advertising campaigns, new promotions, new products, or technologies, processes, materials, marketing plans, or new product names. The sole purpose of this policy is to avoid potential misunderstandings or disputes in the event that Bentley's products or marketing strategies might seem similar to ideas or works you submitted. You agree not to send your unsolicited ideas or any original creative artwork, samples, demos, or other works to Bentley. All materials sent to Bentley despite the foregoing will become Bentley's property and you agree that all intellectual property rights therein are transferred to Bentley.

## **10. Copyright**

Bentley respects others' intellectual property and requests that you do too. If you believe that anything on the Services infringes your copyright or that of a third party, please [let us know](mailto:marketing@bentley.com) (mailto:marketing@bentley.com).

## **11. Third-Party Content**

The Services may contain links to third-party websites or resources. Bentley does not endorse and is not responsible or liable for the content, products, services or practices of such third-party websites or resources and does not make any representations regarding their quality, availability or accuracy. Your use of third-party websites or resources is at your own risk and subject to the terms and conditions for such third-party websites or resources, and you are solely responsible for your use thereof. If Bentley provides you with any software under an open source license, there may be provisions in those licenses that expressly conflict with these Terms, in which case the open source provisions will apply.

## **12. Termination**

You may terminate these Terms at any time by destroying the Software (and any related documentation) and discontinuing your use of the Services. Bentley reserves the right to suspend your use of the Services at any time and for any length of time, with or without cause, and with or without notice. These Terms will terminate immediately without notice from Bentley if you fail to comply with any provision of these Terms. Bentley may, but is not obligated to, provide advance notice of any suspension or termination and/or provide assistance in the retrieval of your data. All licenses to the Software and documentation granted hereunder shall automatically terminate upon termination of these Terms. Your breach of these Terms shall result in immediate termination of this agreement and the Services.

## **13. Local laws; Export Control**

The Services are subject to the export control laws, rules, regulations, restrictions and national security controls of the United States and other agencies or authorities based outside of the United States (the "**Export Controls**"). You agree, regardless of any disclosure made by you to Bentley concerning the ultimate destination of the Services or materials or information obtained through the Services, that you will not export or transfer, whether directly or indirectly, the Bentley technology, materials, information and data, or any portion thereof or any direct product thereof, outside the United States without first complying strictly and fully with all export control laws or regulations that may be imposed by the U.S. Government or any country or organization of nations within whose jurisdiction you obtain access to or use the Services. The countries subject to restriction by action of the United States Government are subject to change, and it is your responsibility to comply with the United States Government requirements, as they may be amended from time to time. You assume sole responsibility for obtaining licenses or other approvals required for export or re-export as may be required. You shall indemnify, defend, and hold Bentley harmless for any breach of your obligations pursuant to this section.

**14. Bentley Cloud Services is Available “AS-IS”**

THE SERVICES, THE SOFTWARE AND ANY RELATED DOCUMENTATION ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. BENTLEY EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. BENTLEY MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTIES AS TO THE USE, RESULTS, QUALITY, SUITABILITY, TRUTH, ACCURACY, COMPLETENESS OR HELPFULNESS OF ANY OF THE SERVICES, THE SOFTWARE OR RELATED DOCUMENTATION. BENTLEY MAKES NO WARRANTY OR REPRESENTATION THAT THE SERVICES, THE SOFTWARE OR RELATED DOCUMENTATION WILL MEET ANY OF YOUR REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED, SECURE, OR ERROR FREE. THE SERVICES ARE NOT A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF ENGINEERS IN THE DESIGN AND ENGINEERING OF BUILDINGS AND OTHER INFRASTRUCTURE. THE FEES FOR THE USE OF THE SERVICES AND THE SOFTWARE REFLECT THIS ALLOCATION OF RISK. For purposes of this paragraph, Bentley and Bentley’s licensors are collectively referred to as “Bentley.”

**15. Limitation of Liability**

BENTLEY IS NOT LIABLE FOR ANY DAMAGES SUFFERED AS A RESULT OF USING, MODIFYING, CONTRIBUTING, COPYING, DISTRIBUTING OR DOWNLOADING THE SERVICES OR THE SOFTWARE OR RELATED DOCUMENTATION, OR OTHER MATERIALS OR INFORMATION OBTAINED THROUGH THE SERVICES. BENTLEY IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA OR OTHER ECONOMIC ADVANTAGE) RESULTING FROM THE USE OR INABILITY TO USE THE SERVICES OR THE SOFTWARE, HOWEVER IT ARISES, WHETHER FOR BREACH OR IN TORT, EVEN IF BENTLEY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE TO HOLD BENTLEY HARMLESS FROM, AND YOU AGREE NOT TO SUE BENTLEY FOR, ANY CLAIMS ARISING FROM YOUR USE OF OR INABILITY TO USE THE SERVICES, THE SOFTWARE, RELATED DOCUMENTATION OR OTHER MATERIALS AND INFORMATION OBTAINED BY YOU THROUGH THE SERVICES.

IN NO EVENT SHALL BENTLEY’S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNT PAID BY YOU FOR USE OF THE SERVICES AND THE SOFTWARE. FOR PURPOSES OF THIS PARAGRAPH, BENTLEY AND BENTLEY’S LICENSORS ARE COLLECTIVELY REFERRED TO AS “**BENTLEY.**”

**16. Indemnification**

You agree to indemnify and hold harmless Bentley and its officers, directors, employees, agents, affiliates, third party information providers, licensors, contractors and others involved in delivery of the Services from and against any and all liabilities, expenses, damages and costs, including reasonable attorney’s fees, arising from any violation by you of these Terms or your use of the Services, the Software or information obtained therefrom.

**17. Government End Users**

The Services, the Software and related documentation are “Commercial Items” consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation” as such terms are defined in the Federal Acquisition Regulations (“FAR”) at 48 CFR 2.101, developed exclusively with private funds. Consistent with 48 CFR 12.212, and the comparable DFAR in the DoD FAR Supp. at 227.7202-1 through 227.7202-4, the Services and the Software are licensed to you only

as Commercial Software and only with the rights and obligations granted to public users generally as set forth above in these Terms. Notwithstanding any other FAR, DFAR or other contractual provision into which these Terms may be incorporated, any government end user acquires the rights to use the Services, the Software and related documentation only as set forth in these Terms. The Services and the Software are accessed and acquired under the specific terms and conditions set forth herein. If any portion of the Services or the Software is deemed “non-commercial,” or the following FARs or DFARs are deemed to apply, the Services and the Software are licensed under the terms hereof and under the RESTRICTED RIGHTS set forth in 48 CFR 52.227-19 and DFAR 252.227-7014 (and the government’s use, duplication and disclosure rights are restricted as set forth therein).

#### **18. Miscellaneous Legal Terms**

These Terms and your use of the Services and the Software shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, USA, exclusive of its choice of law provisions. You hereby consent to the exclusive jurisdiction and venue of the courts located in and serving Chester County, Pennsylvania and the Eastern District of Pennsylvania. Any cause of action you may have with respect to the Services must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred. These Terms create no third party beneficiary rights. Bentley’s failure to exercise any of its rights under or to enforce any provision of these Terms will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision. The provisions of these Terms shall be deemed to be separable and the invalidity of any provision hereof shall not affect the validity of the remainder of these Terms. Neither a course of dealing or conduct between you and Bentley nor any trade practice will be deemed to modify these Terms. You may not assign any of your rights set forth in these Terms, and any such attempt is void, but Bentley may assign its rights to any of its affiliates or subsidiaries, or to any successor in interest of any business associated with the Services.

#### **19. EAP Cloud Services - Consequences of Breach**

You acknowledge that, with respect to EAP Cloud Services:

- (a) Irreparable injury and damage to Bentley will result from unauthorized disclosure of the EAP Cloud Services, or Bentley’s Confidential and Proprietary Information gleaned by you through use of the EAP Cloud Services, and from uses of the EAP Cloud Services other than as contemplated herein;
- (b) Monetary damages may not be sufficient remedy for unauthorized disclosure of the EAP Cloud Services or Bentley’s Confidential and Proprietary Information;
- (c) Bentley shall be entitled, without waiving any additional rights or remedies available to it at law, in equity, or by statute, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction; and
- (d) Your breach of this agreement shall result in immediate termination of this agreement and may be cause for exclusion in other Bentley sponsored EAP programs, among other remedies available to Bentley at law.