

Brand Activation Maximizer, LLC
TERMS OF SERVICE

Effective Date: March 5, 2020

The following website Terms of Service (“**Terms**”) describe the terms and conditions on which Brand Activation Maximizer LLC, JTG Racing LLC and their affiliates (collectively, “**BAM**” or “we”) offer you access to activatebam.com, BAMLive.info, jtgdaughertyracing.com, winwithbam.com and related websites and applications in which these Terms are posted or linked (collectively, “**Services**”).

Before accessing and using the Services, please read these Terms carefully because they constitute a legal agreement between BAM and you.

BY USING THE SERVICES THAT LINK TO OR DISPLAY THESE TERMS, YOU AFFIRM THAT:

- ✓ YOU HAVE READ AND UNDERSTAND THESE TERMS;
- ✓ YOU WILL COMPLY WITH THESE TERMS; AND
- ✓ YOU ARE AT LEAST THE AGE OF LEGAL MAJORITY IN YOUR PLACE OF RESIDENCE AND OTHERWISE LEGALLY COMPETENT TO ENTER INTO CONTRACTS.

If you use the Services as an employee or agent on behalf of an organization, you represent to BAM that you have the authority to bind that organization to these Terms.

IMPORTANT NOTE: These Terms contain provisions that limit BAM’s liability to you and require you to resolve any dispute with us on an individual basis and not as part of any class or representative action. Please see “DISCLAIMER OF WARRANTIES & LIMITATIONS OF LIABILITY” (Section 8) and “GOVERNING LAW; DISPUTE RESOLUTION” (Section 10) below for more information.

1. HOW THESE TERMS APPLY

By using the Services or agreeing to other terms that incorporate these Terms, you agree to these Terms. If you do not agree with these Terms, then you are not authorized to use the Services.

Separate written agreements with BAM (“**Other Agreements**”), such as agreements with our clients, advertisers, event sponsors and sponsors of or our affiliate, JTG Daugherty Racing (the “**Race Team**”), may apply to your right to use certain Services. If you are subject to any Other Agreement to use any of the Services, then the Other Agreement, rather than these Terms, will apply to your use of the Services to which the Other Agreement applies. If the Other Agreement and these Terms conflict, then the terms and conditions in the Other Agreement control with respect to the conflict.

If you are unsure about whether your employer has entered into another Agreement that applies to you, please contact your employer.

2. CHANGES TO TERMS

The Effective Date of these Terms is set forth at the top of this webpage. As we add new features to the Services, we may modify these Terms. When we modify these Terms, we will provide you with advance written notice of our changes by posting a notice in the Services, sending a notification email or another method that we believe will notify you. We will not make changes that have a material retroactive effect on your legal rights unless we are required to do so by law or to protect the rights of other users. Your continued use of the Services after the Effective Date constitutes your acceptance of the amended Terms. The amended Terms supersede all previous versions of or agreements, notices or statements about the Terms. Any change to the dispute resolution provision will not apply to any dispute for which we have actual notice before the date the change is posted on the Services.

3. ADDITIONAL TERMS

Additional terms and conditions may apply to certain features of the Services, such as events or Promotions (defined in Section 6 below) that we conduct for our clients or our Race Team. When presented to you, you must agree to the additional terms before using the Services to which they apply. These Terms and the additional terms will apply equally unless an additional term is irrevocably inconsistent with these Terms, in which case the additional term will control but solely to the extent of the inconsistency.

4. PRIVACY

Please review our Privacy Policy <https://v1.bamlive.info/veneers/5e4dbb301359c64b5b92d51f> to learn about the information that we collect from or about you when you use the Services and how we process it.

If you are a California resident, please see our California Privacy Notice for information about the specific privacy rights available to you <https://v1.bamlive.info/veneers/5e4dbb301359c64b5b92d51f>. If you still have questions about our privacy practices, please contact data@activatebam.com.

Please use the precautions and security measures best suited for your intended use of the Services. Given the nature of the Internet, we cannot and do not guarantee the privacy or security of information provided through the Services. Please note that we reserve the right at all times to disclose any information as we deem necessary to satisfy applicable law or a government regulator's request.

5. USING THE SERVICES

Subject to these Terms, BAM grants you a personal, revocable, non-exclusive, non-transferable, limited right to access and use the Services. These Terms grant you only the limited rights described in these Terms. All use of the Services is limited to your internal non-commercial purposes.

The Services include any information, graphics, artwork, text, photographs, video, audio, trademark, logo and other content displayed and/or otherwise provided on or through the

Services. The Services are owned by BAM or its licensors and protected under both U.S. and foreign copyright, trademark and other laws. Nothing contained in these Terms grants by implication, estoppel or otherwise, any license or right in or to the trademarks, logos or service marks, patents, trade secrets or other intellectual property embodied in the Services. BAM reserves all rights that are not expressly granted in these Terms.

Your Account. Certain Services may invite or require you to create an account. If you create an account, you agree to (i) provide true, accurate, current and complete information, (ii) maintain that information as accurate, current and complete and (iii) protect the confidentiality and security of your account credentials. You are responsible for all activities that occur through your account using your account credentials. If you suspect or detect unauthorized activity through your account, please immediately notify us at data@activatebam.com.

Your Responsibilities. You are solely responsible for any and all charges, fees and other costs related to use of the Services. If you access and use the Services on your smartphone, tablet or other mobile device, you agree that you are solely responsible for all charges that you incur from your Internet or mobile service provider.

You must use the Services for lawful purposes only. You must not use the Services in any manner that could damage, disable, overburden or impair our servers or networks or interfere with any other party's use and enjoyment of the Services.

You must not attempt to gain unauthorized access to the Services or BAM's computer systems or networks through hacking, password mining or other means. Without limiting any of the foregoing, you agree that you shall not (and you agree not to encourage or allow any third party to):

- copy, modify, adapt, translate, reverse engineer, decode or otherwise attempt to derive or gain access to any portion of the Services;
- remove any copyright, trademark or other proprietary rights notice contained in the Services;
- use any robot, spider, search/retrieval application or other automated device, process or means to access, retrieve, scrape or index any portion of the Services;
- rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Services or any feature or functionality of the Services to any third party for any reason;
- reformat or frame any portion of the web pages that are part of the Services;
- collect personal information through the Services without our express prior written consent; or
- use the Services to send any unauthorized or unsolicited commercial or promotional content.

BAM reserves the right to monitor and record activity on the Services to the fullest extent permitted by applicable law and in accordance with our Privacy Policy <https://v1.bamlive.info/veneers/5e4dbb301359c64b5b92d51f>. BAM has the discretion to terminate your access to the Services (in addition to any other available remedy) without notice

if BAM has a reasonable basis to believe that you are using the Services in violation of these Terms.

Submissions. BAM may from time to time offer areas in the Services where you and other users can post or otherwise submit suggestions, feedback, ideas, notes, concepts or other information or materials to or through the Services (collectively, "**Submissions**").

By posting a Submission, you represent and warrant that:

- you own or otherwise control all of the rights to your Submission, including without implied limitation all copyrights;
- your Submission is true and accurate;
- your Submission does not violate the rights of any other person or entity, such as rights of privacy and publicity; and
- your Submission complies with applicable laws, rules and regulations.

By sending, posting or transmitting Submissions to BAM (or our designees), you grant BAM and our designees a worldwide, non-exclusive, sub-licensable (through multiple tiers), transferable, royalty-free, perpetual and irrevocable right to use, reproduce, sublicense (through multiple tiers), distribute, create derivative works of, perform and import your Submissions in any media now known or hereafter developed, for any purpose whatsoever, commercial or otherwise, without compensation to you. In other words, BAM has the right to use your Submissions -- including reproducing, disclosing, publishing or broadcasting your Submissions -- in any medium and for any purpose. Under no circumstances are you entitled to payment if BAM uses one of your Submissions. All Submissions are deemed non-confidential and non-proprietary.

You acknowledge and agree that BAM has the right (but not the obligation) to alter, remove or refuse to post or allow to be posted any Submission. BAM takes no responsibility and assumes no liability for any Submission posted by you or any third party. BAM is not responsible for information that you choose to communicate via Submissions.

Terms Applicable to Mobile Apps: BAM may from time to time offer mobile applications ("**Mobile Apps**"). Mobile Apps are part of the Services and governed by these Terms.

If you choose to use any of our Mobile Apps, then BAM grants you a limited, non-exclusive and nontransferable license to download, install and use the Mobile App for your personal, non-commercial use on a mobile device that you own or control.

You acknowledge and agree that our Mobile Apps are offered under license, not sold to you. You do not acquire any ownership interest in any of our Mobile Apps under these Terms or any other rights other than to use a Mobile App in accordance with the license granted, and subject to all terms, conditions, and restrictions, under these Terms. BAM and its suppliers reserve and retain their entire right, title and interest in and to each Mobile App, including all copyrights, trademarks and other intellectual property rights therein or relating thereto, except as expressly granted to you in these Terms.

We may from time to time develop and provide updates to a Mobile App, which may include upgrades, error corrections or new features (collectively, "**Updates**"). Updates may also modify or delete in their entirety certain features and functionality. You agree that BAM has no obligation to provide Updates or to continue to provide or enable any particular features or functionality. Based on your device settings, when your device is connected to the Internet either the Mobile App will automatically download and install all available updates or you may receive notice of or be prompted to download and install available updates. You agree to download and install all Updates and acknowledge and agree that a Mobile App may not properly operate if you do not. All Updates are deemed part of the Mobile App and subject to all terms and conditions of these Terms.

When you download a Mobile App from a third-party app platform, such as Google Play or The App Store ("**App Platform**"), you acknowledge and agree that:

- These Terms are an agreement between us and not with the App Platform. As between BAM and the App Platform, BAM is solely responsible for its Mobile Apps.
- The App Platform has no obligation to provide any maintenance and support services with respect to the Mobile Apps.
- In the event of any failure of the Mobile Apps to conform to any applicable warranty, (i) you may notify the App Platform and the App Platform may refund the purchase price for the Mobile Apps to you (if applicable), (ii) to the maximum extent permitted by applicable law, the App Platform will have no other warranty obligation whatsoever with respect to the Mobile Apps and (iii) any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty is, as between BAM and the App Platform, BAM' responsibility.
- The App Platform is not responsible for addressing any claims you have relating to the Mobile Apps or your possession and use of the Mobile Apps.
- If a third party claims that a Mobile App infringes another party's intellectual property rights, as between the App Platform and BAM, BAM is responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by these Terms.
- The App Platform and its subsidiaries are third-party beneficiaries of these Terms as it relates to your license to the Mobile Apps. Upon your acceptance of the terms and conditions of these Terms, the App Platform will have the right (and will be deemed to have accepted the right) to enforce these Terms as related to your license of the Mobile Apps against you as a third-party beneficiary thereof.
- You must also comply with all applicable third-party terms when using the Mobile Apps.

6. PROMOTIONS

From time to time, we may offer you the opportunity to participate in contests, sweepstakes or other promotions (collectively, "**Promotions**"). You may not transfer, assign, sell, trade or barter any benefit that you receive through our Promotions. Unless required by law, any Promotion-related benefit may not be combined with a benefit received in connection with any other Promotion. EXCEPT AS OTHERWISE EXPRESSLY STATED BY BAM, ANY PROMOTIONAL BENEFIT IS AWARDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OR

GUARANTEE FROM BAM, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

We reserve the right to modify, terminate or suspend the availability of Promotions and to correct errors or inconsistencies in Promotion-related materials. We may disqualify any individual who tampers with any Promotion or Promotion-related process. CAUTION: ANY ATTEMPT BY ANY INDIVIDUAL TO DELIBERATELY UNDERMINE THE LEGITIMATE OPERATION OF A PROMOTION IS A VIOLATION OF CRIMINAL AND CIVIL LAWS AND WE RESERVE THE RIGHT TO SEEK DAMAGES FROM SUCH INDIVIDUAL TO THE FULLEST EXTENT PERMITTED BY LAW.

7. LINKS TO OTHER WEBSITES AND SERVICES

The Services may contain links to third-party websites and services, including social media (collectively, “**Linked Services**”). Linked Services are not under the control of BAM and BAM is not responsible for Linked Services or for any information on or available from or through Linked Services. You access Linked Services at your own risk. The inclusion of a link does not imply endorsement by BAM of the Linked Services or any association with the operators of the Linked Services. BAM does not investigate, verify or monitor the Linked Services. BAM provides links to Linked Services for your convenience only. Please check the URL address provided in your browser to see if you are on the Services or a third-party domain.

8. DISCLAIMER OF WARRANTIES & LIMITATIONS OF LIABILITY

BAM warrants that BAM has validly entered into these Terms and has the legal power to do so. You warrant that you have validly entered into these Terms and have the legal power to do so.

EXCEPT AS EXPRESSLY PROVIDED ABOVE, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. BAM specifically disclaims all warranties and conditions of any kind, including all implied warranties and conditions of merchantability, fitness for a particular purpose, title, non-infringement, freedom from defects, uninterrupted use and all warranties implied from any course of dealing or usage of trade. BAM does not warrant that (a) the Services will meet your requirements, (b) operation of the Services will be uninterrupted or virus- or error-free or (c) errors will be corrected. Any oral or written advice provided by BAM or its authorized agents does not and will not create any warranty. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES WHICH MEANS THAT SOME OR ALL OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

Your use of the Services is at your own risk.

YOU AGREE THAT BAM IS NOT LIABLE FOR INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE, DATA OR PROFITS OR BUSINESS INTERRUPTION), HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, WHETHER ARISING IN ANY WAY IN CONNECTION WITH THESE TERMS AND WHETHER IN CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) EVEN IF BAM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. YOU ALSO AGREE THAT BAM IS NOT LIABLE FOR ANY OTHER CLAIM, DEMAND OR DAMAGES WHATSOEVER RESULTING FROM OR ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE SERVICES.

The disclaimers and limitations in this Section 8 do not purport to limit liability or alter any right that cannot be excluded under applicable law.

BAM'S MAXIMUM LIABILITY FOR ANY TYPE OF DAMAGES ARISING FROM YOUR USE OF THE SERVICES IS LIMITED TO ONE HUNDRED DOLLARS (\$100).

You acknowledge and agree that the above limitations of liability together with the other provisions in these Terms that limit liability are essential terms and that BAM would not grant you the rights set forth in these Terms but for your agreement to the above limitations of liability.

IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE YOUR RIGHTS WITH RESPECT TO CALIFORNIA CIVIL CODE SECTION 1542, WHICH SAYS "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR".

9. INDEMNIFICATION

You agree to indemnify and defend BAM and its directors, officers, employees and agents from and against all claims, liabilities, damages, expenses, costs of defense and reasonable attorneys' fees brought against BAM by any third party arising from your Submissions or use of the Services in violation of these Terms or applicable law. BAM reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification hereunder. No settlement that affects the rights or obligations of BAM may be made without BAM's prior written approval.

10. GOVERNING LAW; DISPUTE RESOLUTION

All matters related to the Services are governed by the laws of the State of North Carolina, United States, as such laws apply to agreements made and performed therein (without giving effect to the principles of conflicts of laws). You must institute any legal action or proceeding relating to your access to or use of the Services in a state or federal court in Cabarrus County, North Carolina. You and BAM agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding.

YOU AND BAM AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING.

Please Note: By agreeing to these Terms, you explicitly agree that any claims or actions that you may otherwise have against BAM under the laws of any jurisdiction outside the United States are hereby waived, including without limitation, any claims or actions under the laws of your own country, and that your sole location and applicable law for any disputes is in the United States according to the terms of this Section 10. This provision does not, however, apply if you reside in a jurisdiction that permits you to make your claim in a legally competent court of the jurisdiction where you reside or is otherwise prohibited or restricted by applicable law.

11. ELECTRONIC CONTRACTING

Your affirmative act of using the Services constitutes your electronic signature to these Terms and your consent to enter into agreements with us electronically.

12. GEOGRAPHIC RESTRICTIONS

The Services are controlled, operated and administered by BAM from its offices within the United States and our policies and procedures are based on United States law. The Services are not intended for distribution to, or use by, any person or entity in any jurisdiction or country where such distribution or use would be contrary to law. BAM does not in any manner warrant or represent that the Services, including any content contained thereon, are appropriate or available for use in any particular location. If you choose to access the Services, you do so on your own initiative and you are responsible for compliance with all applicable laws.

U.S. export control laws may apply to certain Services. You understand and agree that you shall not and shall not permit any third party to, directly or indirectly, export, re-export or release any part of the Services to, or make the Services accessible from, any jurisdiction to which export, re-export or release is prohibited by law.

13. TERMINATION

These Terms automatically terminate when you fail to comply with any term or condition of them. BAM may terminate the Services or modify your access to the Services, with or without notice to you, at any time for any reason. For example, BAM may prohibit your use of the Services if BAM believes that you are a minor.

Termination will not limit any of BAM's other rights or remedies. Sections 7, 8, 9, 13 and 14, as well as any other provision that must survive in order to give proper effect to the intent and purpose of these Terms, shall survive termination.

14. CLAIMS OF COPYRIGHT INFRINGEMENT

We respond to notices of alleged infringement as required by the U.S. Digital Millennium Copyright Act (“**DMCA**”) or any other similar applicable law, including by removing or disabling access to material claimed to be the subject of infringing activity. If you have a good faith belief that your work has been copied in a way that constitutes copyright infringement or that your intellectual property rights otherwise have been violated in or through the Services, please send your claim or notice of infringement to our copyright agent at:

By mail:

Brand Activation Maximizer, LLC
7201 Caldwell Road
Harrisburg, NC 28075
Attn: Copyright Agent

By telephone: 877-428-3226

By email: data@activatebam.com

Our copyright agent will only respond to notices and inquiries that comply with the requirements of the DMCA. Please see www.copyright.gov for more information.

Upon receipt of notification complying with the DMCA, BAM will take steps to remove or disable access to any infringing material and remove or disable access to any link to infringing material.

Notifications must include ALL of the following:

- i. a physical or electronic signature of the persons authorized to act on behalf of the owner of an exclusive copyright that is allegedly infringed;
- ii. a description of the copyrighted work that you claim has been infringed;
- iii. a description of where in the Services the material that you claim is infringing is located;
- iv. contact information reasonably sufficient to permit BAM to contact you;
- v. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and
- vi. a statement by you, made under penalty of perjury, that the information in your notification to BAM is accurate and that you are the copyright owner or authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

15. MISCELLANEOUS

These Terms (including our Privacy Policy <https://v1.bamlive.info/veneers/5e4dbb301359c64b5b92d51f>

- a. contain the entire understanding by and between BAM and you with respect to the Services and matters contained herein.
- b. These Terms inure to the benefit of and are binding on our and your successors and assigns, respectively.
- c. BAM may assign these Terms to a successor in interest (in whole or in part) but you may not assign the Terms without the prior express written consent of BAM.
- d. If any provision of these Terms is or becomes unenforceable or invalid, the remaining provisions will continue with the same effect as if such unenforceable or invalid provision was not used.
- e. If BAM fails or you fail to perform any obligation under these Terms and the other party does not enforce such obligation, the failure to enforce on any occasion will not constitute a waiver of any obligation and will not prevent enforcement on any other occasion.
- f. Nothing contained in these Terms creates a relationship or partnership, joint venture or agency between BAM and you.
- g. If BAM is or you are prevented from performing or unable to perform any obligation under these Terms due to any cause beyond the reasonable control of the party invoking this provision, the affected party's performance will be extended for the period of delay or inability to perform due to such cause.
- h. Headings and captions are for convenience only.

QUESTIONS AND FEEDBACK

If you have questions or feedback about these Terms, please contact us at:

Brand Activation Maximizer LLC

7201 Caldwell Road

Harrisburg, NC 28075

Attn: Legal

data@activatebam.com

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