

ACCERN

Terms of Use

These Terms of Use for Software (the “**Agreement**”) is between You (“**Customer**”) and Accern Corporation (“**Accern**”) and becomes effective when You download the Software, or (in the case of SaaS) accept Accern’s provision of access credentials to the Software.

1. Agreement Structure; Definitions.

This Agreement consists of the terms and conditions below, together with any policies explicitly referenced herein, and applies to one or more “**Order(s)**” for the provision of Software, to be made available by Accern “as a service” (“**SaaS**”) for remote access by Customer, or for operation by Customer on hosting infrastructure under Customer’s control (“**Licensed Software**”), all to the extent Orders are executed concurrently with or after Customer’s acceptance of this Agreement. “**Software**” means products and/or platforms specifically named in an Order (including relevant documentation), and (unless specifically distinguished) refers to both SaaS and Licensed Software.

2. Software

(a) Provision:

Upon Order execution, Accern will (i) provide to Customer the necessary access credentials and network links for remote access to SaaS Software, and use diligent efforts to make SaaS Software available during the Term at the URL(s) specified in an Order(s), except during times of emergency or scheduled maintenance; or (ii) provide Customer download links to enable installation of Licensed Software.

(b) Use Rights:

Subject to the terms, conditions and restrictions set forth in this Agreement (including payment of the Charges and any other use restrictions or conditions in an Order), Accern hereby grants to Customer the following rights, on a non-exclusive, non-transferable (except to permitted assigns), and non-sublicensable basis: (i) with respect to SaaS, the right to access and use the Software during the Term, or (ii) with respect to Licensed Software, a limited-term, revocable right and license to install, operate, and execute the Software on a self-hosted basis, in accordance with Accern’s installation instructions. The foregoing grants of rights permit Software use only by Authorized Users and for Customer’s internal business purposes.

(c) Use Restrictions:

Except as expressly permitted by this Agreement, Customer will not use the Software for any purposes beyond to its Authorized Users in this Section. Customer will not, directly or indirectly, nor permit anyone to: (i) copy, adapt, modify, or create derivative works of the Software or documentation; (ii) distribute, sublicense, lease, lend, rent, sell, transfer, publicly display,

publicly perform, transmit, publish, broadcast or stream, use for timesharing or service bureau purposes, or provide access to the Software to third parties, or otherwise commercially exploit or make available the Software or documentation other than to Customer's Authorized Users, (iii) work around any technical limitations, decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover (in whole or in part) any source code or object code, underlying ideas, algorithms, or file formats of the Software, or otherwise attempt to derive or gain access to any component of the Software, in whole or in part; (iv) perform benchmark or performance analysis of the Software for any purpose, nor publish any such analysis; (v) remove any proprietary notices from the Software or documentation (or from any permitted copies thereof); or (vi) use the Software other than in accordance with the access or use rights granted in this Agreement or the usage parameters specified in an Order, or in violation of applicable laws and regulations, including but not limited to privacy laws, and laws or regulations concerning intellectual property, consumer and child protection, obscenity or defamation. Customer may not alter any Software configuration implemented by Accern. Customer may make an archival copy of Licensed Software solely for backup purposes.

(d) Access Credentials:

Customer shall only permit the named developers, data scientists, or researchers who are assigned unique access credentials (the "**Authorized Users**") to use the Software, and use appropriate administrative controls to ensure that Authorized Users do not share access credentials with each other or any third party. Customer may at any time substitute (by written notice to Accern) individual Authorized User(s) for others, so long as Customer does not exceed the number of concurrent Authorized Users authorized by an Order. Customer agrees that the Software, as well as access credentials provided by Accern constitute Confidential Information of Accern. Customer is solely responsible for (and shall hold Accern harmless from) the acts or omissions of its Authorized Users or any third parties who obtain access to the Software through Customer. Customer will notify Accern promptly if it becomes aware of any unauthorized access or use.

(e) Data Feeds:

In addition to use rights relating to Software, Customer shall have the right to use any Accern data feeds (to which Customer subscribes under an applicable Order) in back-testing, trading, research, and analysis, and in support of the creation of Customer Derived Data. "**Customer Derived Data**" shall mean any information or data models resulting from Customer's substantial manipulation or analysis of data feeds provided by Accern.

(f) Reservation of Rights:

The Software is the proprietary intellectual property of Accern and constitutes Accern Confidential Information. The Software is licensed for limited access (as SaaS) or limited term use (as Licensed Software), and not sold to Customer. Subject to any license granted hereunder, Accern retains sole and exclusive ownership of all intellectual property rights, title, and interest in and to the Software and any other technology used to provide it. Accern reserves all rights not expressly granted to Customer in this Agreement. Any and all copies, enhancements, modifications, updates, upgrades, or corrections or derivative works that are made to the

Software, in whole or in part, are deemed to form part of the Software and will be owned exclusively by Accern.

(g) Changes to SaaS Software:

Customer acknowledges that SaaS Software is offered as-a-service, and is subject to change over time. Accern will use reasonable efforts to announce such changes to Customer through the technical support channels described in [Accern's Support and Maintenance Policy](#). If Customer believes that a change materially degrades the Software, then Customer may give written notice to Accern, and Accern will use reasonable efforts to work with Customer to find appropriate mitigation.

(h) Government Customers:

The Software and documentation covered by this Agreement are “**Commercial Item(s)**,” as that term is defined at by 48 C.F.R. §2.101, consisting of “**Commercial Computer Software**” and “**Commercial Computer Software Documentation**,” (as such terms are used in per 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable). If the Software and documentation is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (i) only as Commercial Items and (ii) with only those such rights as are granted to all other end-users pursuant to the terms and conditions of this Agreement.

3. Compliant Use and Support

(a) Customer's Responsibility for Hosting and Operating Licensed Software:

Customer acknowledges and agrees that it bears full responsibility for the selection of a hosting environment (and/or a hosting provider), installation of Licensed Software (except to the extent that Accern provides installation services), as well as for the post-installation operation of Licensed Software, including the installation of any maintenance updates. Customer takes responsibility for (and shall hold Accern harmless from liability for any damage, liabilities, losses, including any loss of data or profits), or any other consequences resulting from any technical or performance or compliance issues associated with Customer's chosen hosting platform or hosting provider. Accern bears no responsibility for network connectivity, or infrastructure performance, security, or data protection in the hosting environment for Licensed Software.

(b) Suspension of Access to SaaS:

Accern may temporarily suspend Customer's (or an Authorized User's) access to SaaS Software, if (i) Customer fails to pay any undisputed amount within fifteen (15) days of Accern's notice to Customer of overdue Charges, (ii) Customer Data, or Customer's use of the Software, or an external security threat or attack jeopardizes the security or stability of Accern's SaaS platform, (iii) Customer is in violation of any use restriction set forth in this Agreement, (iv) Customer has ceased to carry on its business in the ordinary course, made an assignment for the benefit of

creditors, or is subject to any bankruptcy or similar proceeding, or (v) a regulatory or legal authority orders Accern to do so, or if Accern is denied the use of any third-party services or products on which the SaaS platform depends. Any such temporary suspension shall only continue until Accern has reasonably determined that the triggering circumstance has been resolved, and Accern will use reasonable efforts to announce any suspension and/or resumption of access to Customer through Accern's technical support channels. Accern will have no liability for any damage, liabilities, losses (including any loss of data or profits) to Customer or any Authorized User as a result of a suspension undertaken in accordance with this Section.

(c) Ownership and Use of Customer Data:

“Customer Data” means data feeds and inputs provided by Customer to for analysis and processing to the Software, as well as the resulting Software-generated analytical outputs and any analysis based on such outputs. Customer hereby grants Accern the right, during the Term, to receive, store, and use any Customer Data, solely as part of the operation of the Software. Accern acknowledges that, as between the Parties, Customer owns and controls all right, title and interest in and to the Customer Data, and Accern will obtain no ownership rights to Customer Data. Accern will maintain appropriate administrative, technical, and physical security measures to protect Customer Data against unauthorized access, disclosure, and loss. Accern shall have the right (subject to its confidentiality obligations) to analyze Customer Data and to use such analysis for any commercial purpose.

(d) Limited Retention of Customer Data:

Customer may access Customer Data via the Software at any time during the Term, at no charge. Following the end of the Term, Accern will retain the Customer Data for a limited time, as follows: (i) for thirty days after completion of a Customer Data export request from Customer; or (ii) in the case of expiration or termination of this Agreement without such an export request, then Accern will retain the Customer Data for thirty days following the end of the Term. During the limited retention period described in this Section, Accern will (upon Customer's request) make available for export all Customer Data stored in the Software, at no charge and in Accern's standard structured data format. Following this limited retention period, Accern may destroy the Customer Data permanently. Accern will provide written confirmation of its destruction of the Customer Data upon request.

(e) Technical Support:

During the Term, Accern will provide support for the Software in accordance with [Accern's Support and Maintenance policy](#).

(f) Platform Analytics:

To the extent permissible by any applicable laws including but not limited to data privacy laws and intellectual property laws, Accern may access, obtain, and use all usage data related to Customer's use of the Software, including but not limited to metadata, platform performance and diagnostic data, and any associated analytics generated by the Software or compiled by Accern (e.g., as part of Accern monitoring of Customer's use of Software hosted by Accern)

(collectively, “**Platform Analytics**”). Customer hereby assigns all right title and interest in and to Platform Analytics to Accern. Customer will allow Accern to access and obtain Platform Analytics in the following manner (subject to confirmation or variation in an applicable Order): (i) Accern may directly access Platform Analytics by means of system-level access to Licensed Software or to a SaaS instance, or (ii) Accern will obtain, on a monthly (or other mutually agreed periodic) basis an offline archive of Platform Analytics data created by Customer (based on Accern’s instructions).

(g) Lawful Use:

Customer warrants that it will not use the Software or any Customer Data in a manner that: (i) violates any applicable laws or regulations (including without limitation laws governing export control and sanctioned countries or individuals, unfair competition, anti-discrimination, false advertising, privacy and data protection, and publicity, consumer and child protection, obscenity or defamation); (ii) infringes any confidentiality or data protection obligation which Customer may owe to a third party; (iii) introduces any viruses, malicious code, or any other items of a harmful nature; (iv) violates any third party intellectual property or proprietary right; or (v) could reasonably be expected to interfere with or disrupt the operation of the Software on Accern’s SaaS platform. Customer will indemnify and hold Accern harmless in the event of any third-party claim or regulatory action arising out of Customer’s breach (or alleged breach) of the foregoing obligations.

(h) Evaluation Use:

Accern may offer certain software titles or services or data feeds (or combinations of the foregoing) for the purpose of testing and evaluation (collectively, the “**Evaluation Materials**”). Customer agrees that Accern has sole discretion to determine the availability, duration, and the terms and conditions for Customer’s access to and use of Evaluation Materials, and whether to permit Evaluation Materials to be used in production. All terms and use restrictions applicable to Software shall also apply to Evaluation Materials, provided, however that additionally (and as an overriding provision, to the extent of any conflict): (i) Accern may (but shall be under no obligation to) provide installation or technical support or maintenance services of any kind during the Customer’s access to or use of Evaluation Materials, (ii) the provision of any such support shall not obligate Accern to continue providing any support, nor to correct or resolve any problems relating to the Evaluation Materials, (iii) EVALUATION MATERIALS ARE PROVIDED “AS-IS,” WITH ALL FAULTS, AND WITHOUT REPRESENTATIONS, WARRANTIES, INDEMNITIES OR ASSURANCES OF ANY KIND, AND CUSTOMER ASSUMES THE ENTIRE RISK OF ACCESS TO IT AND OF ITS USE, (iv) in no event shall Customer use the Evaluation Materials or any data outputs or content obtained in the course of its evaluation use for production or any other commercial purposes, and (v) following the agreed duration of access to or use of Evaluation Materials, Customer will immediately discontinue all access and use and return or destroy any instances of the Evaluation Materials and documentation in its possession.

(j) Feedback:

Customer shall, upon reasonable request, provide Accern with feedback on the use of the Software, including, without limitation, processing results, output, or Customer's proposed modifications or improvements or feature requests with regard to the Software (collectively, "**Feedback**"). Customer hereby assigns all right, title, and interest in and to such Feedback to Accern.

4. Term and Termination

4.1 Term.

The term of this Agreement commences on the Effective Date and continues for five (5) years (the "**Initial Term**"). Following the Initial Term, this Agreement shall automatically renew for successive renewal terms of one (1) year ("**Renewal Term**") unless either Party gives the other Party notice of nonrenewal at least thirty (30) days prior to the end of the Initial Term or then-current Renewal Term (as applicable). The Initial Term and each Renewal Term are collectively referenced as the "**Term.**" Each Order shall clearly provide for its own Term, and may specify its own extension or renewal provision.

4.2 Termination.

In addition to any specific grounds and procedures for termination set forth in an Order, the Parties shall have the following general termination rights:

(a) For Inactivity:

At any time that there is no Order outstanding for a period of at least thirty (30) days, this Agreement shall terminate automatically, without either Party having to provide any notice.

(b) For Cause:

Each Party may terminate this Agreement or any active Order, effective upon thirty (30) days' written notice to the other Party, in the event such other Party breaches a material term of this Agreement or such SOW or Order, and such breach remains uncured at the end of the thirty (30) day notice period.

4.3 Consequences of Termination.

(a) Termination of Agreement:

The effect of any termination of this Agreement shall be that no Orders may be executed after the effective date of such termination, but any then-current Orders shall continue to be effective in accordance with their terms, and the provisions of this Agreement shall (notwithstanding its termination) continue to apply to such Orders.

(b) Termination of Order:

Upon termination of an Order for any reason, (i) Customer will pay Accern all Charges and expenses which have been incurred or earned in connection with its performance through the effective date of such termination, (ii) Customer will (in the case of a termination for convenience) pay Accern any early termination fees which may be specified in an applicable Order, and (iii) Customer shall immediately cease all use of the Software, provide Accern with all Platform Analytics, return any and all tangible materials provided by Accern, and permanently destroy its instances of the Software and of any electronic materials provided by Accern. Customer acknowledges that the Software may contain automatic restrictions on functionality which Accern may configure and use to enforce any time limit on Customer's usage entitlement. Each Order may specify additional or alternative consequences of its termination.

5. Confidentiality

5.1 Nondisclosure Agreement.

This Section shall apply only if the Parties are not already subject to a separate confidentiality or non-disclosure agreement (an "NDA") which covers the subject matter of this Agreement and is effective as of the Effective Date. Any NDA is incorporated herein by this reference, and shall (notwithstanding any earlier expiration date therein) bind the Parties during the Term.

5.2 "Confidential Information:"

means all documents, software and documentation, reports, financial or other data, records, forms, tools, Products, services, methodologies, present and future research, technical knowledge, marketing plans, trade secrets, and other materials provided by one Party to the other Party in the course of performing under this Agreement (including the Software), whether tangible or intangible and whether or not stored, compiled, or memorialized physically, electronically, graphically, in writing, or by any means now known or later invented. Confidential Information includes without limitation records and information (i) that has been marked as proprietary or confidential; (ii) whose confidential nature has been made known by Customer or Accern; or (iii) that due to its character and nature, a reasonable person under like circumstances would treat as confidential. Notwithstanding the foregoing, Confidential Information does not include information which: (i) is already known to the recipient at the time of disclosure; (ii) is or becomes publicly known through no wrongful act or failure of recipient; (iii) is independently developed by recipient without benefit of the other Party's Confidential Information; or (iv) is received from a third party which is not under and does not thereby breach an obligation of confidentiality.

5.3 Confidentiality Covenants.

Each Party agrees to protect the other's Confidential Information at all times and in the same manner as each protects the confidentiality of its own proprietary and confidential materials, but in no event with less than a reasonable standard of care. Each Party will return to the other Party all Confidential Information and all copies thereof when the other Party requests the same or immediately upon termination of this Agreement, whichever occurs earlier, except for one copy thereof that Accern may retain for its records. Neither Party shall, except with respect to those of

its employees or authorized agents who have a need to know in order to enable such Party to perform under this Agreement, use or disclose to any person, firm or entity any Confidential Information of the other Party without such other Party's express, prior written permission; provided, however, that notwithstanding the foregoing, Accern may disclose Confidential Information to the extent that it is required to be disclosed pursuant to a statutory or regulatory provision or court order. The confidentiality restrictions and obligations imposed by this Section shall terminate three (3) years after the expiration or termination of this Agreement.

6. Limitation of Liability

The express warranties in this Agreement or in an applicable Order shall be in lieu of, and ACCERN DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE ARISING FROM A COURSE OF DEALING OR TRADE PRACTICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, COMPATIBILITY, INTEROPERABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. Accern does not warrant, and Customer acknowledges that it is not relying on any representation that (i) the operation of the Software will be uninterrupted or error-free, or that errors will be corrected, (ii) the Software will operation in combination with any application or system or data not provided by Accern, (iii) the Software will meet Customer's requirements, specifications, or expectations, or (iv) that Accern will update or upgrade the Software. Customer acknowledges that Accern does not control the transfer of data over communications facilities, including the internet, and that the Software may be subject to limitations and delays resulting from the use of such communications facilities.

IN NO EVENT SHALL ACCERN BE LIABLE TO CUSTOMER FOR DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO ACCERN 'S PERFORMANCE UNDER AN ORDER, IN EXCESS OF THE AMOUNT OF CHARGES PAID (OR PAYABLE, IF GREATER) TO ACCERN FOR THE PERFORMANCE OF THE ORDER, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY.

EXCEPT WITH RESPECT TO LIABILITY ARISING UNDER SECTIONS 2(c) OR 3(g), NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, SAVINGS, BUSINESS, OR DATA, NOR FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR INABILITY TO USE THE SOFTWARE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES WERE FORESEEABLE, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY.

7. Relationship Terms

7.1 Charges and Payment Terms.

“Charges” means the charges for Software or services under an Order. All invoiced Charges and expenses are payable in full within thirty (30) days of the invoice date, in United States Dollars, electronically to an account designated by Accern. Customer agrees to pay directly or reimburse

Accern for any taxes arising in connection with an Order, excluding taxes on Accern's net income. Any past due amount is subject to a late charge in the amount of one and a half percent (1.5%) per month or the maximum permissible by law, whichever is less.

7.2 Informal Dispute Resolution.

The executive officers of Customer and of Accern (the "**Contract Executives**") shall, within seven (7) business days of receiving notice thereof, attempt in good faith to resolve any dispute arising between the Parties. If the dispute has not been resolved by the Contract Executives within thirty (30) days after such referral (or a longer period agreed in writing by them), each Party shall have the right to take any permitted legal action. Neither Party shall be obligated to follow this provision for breaches of confidentiality, or infringement of its intellectual property rights, or for any other breach as to which injunctive relief is sought.

7.3 Independence.

The Parties are performing as independent contractors and not as employees, partners, joint venturers, fiduciaries, or agents. None of Accern's personnel shall be entitled to any compensation, benefits, or other incidents of employment from Customer. Each Party is responsible for taxes and expenses relating to its employees or independent contractors.

7.4 Non-Solicitation.

Neither Party shall, during the Term of this Agreement or for one (1) year thereafter, solicit or hire as an employee, consultant or otherwise any of the other Party's personnel who have had direct involvement with the provision of Software, without such other Party's prior written consent. The foregoing covenant shall not prohibit solicitation or hiring via advertising in media available to the public.

7.5 Publicity and References.

Neither Party shall issue any press release concerning Accern's work without the other's consent. Accern may identify Customer as a customer of Accern (using Customer's name and logo) and generally describe the nature of the relationship in Accern's promotional materials, presentations, and proposals to current and prospective customers.

7.6 Notices.

All required notices must be in writing, reference this Agreement, and will be deemed given when: (i) delivered personally; (ii) delivered by reliable electronic means with read receipt; (iii) one business day after deposit with a nationally-recognized express courier, with written receipt confirmation; or (iii) three business days after having been sent by registered or certified mail, return receipt requested, postage prepaid. All such notices to Accern must be sent to: Accern Corporation, 55 Broadway, 3rd Floor, New York, NY 10006 USA; Attention: General Counsel.

7.7 Force Majeure.

Accern shall not be liable for any delays to its performance hereunder resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, severe weather conditions, power failure, acts of God, labor dispute, war or other violence, or any law, order or requirement of any government authority, or the acts or omissions of Customer or its agents.

7.8 Assignment.

Customer may not assign or otherwise transfer any right or obligation set forth in this Agreement without Accern's prior written consent, except to an Affiliate or to a successor entity in the event of a merger, consolidation or sale of Customer's business, provided (i) the assignee agrees in writing to assume all of Customer's obligations and (ii) such assignment does not materially increase the scope of permitted use of the Software. As used in this Agreement, the term "**Affiliate**" of a Party means any other entity that directly or indirectly controls, or is under common control with, or is controlled by, the Party.

8. Validity and Interpretation

(a) Governing Law and Venue:

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws provisions thereof. The Uniform Computer Information Transactions Act (UCITA) will not apply to this Agreement. The Parties agree that all actions or proceedings arising in connection with this Agreement shall be brought exclusively in the competent State or Federal courts located in the New York, NY, metropolitan area.

(b) Integration and Conflicts:

This Agreement, including any Orders, constitutes the entire agreement of the Parties on its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions, and communications. This Agreement excludes, and no pre-printed, standard, or posted terms and conditions in an ordering instrument, PO or invoice shall add to or vary its terms. To the extent of any conflict between the terms of this Agreement and the terms of an Order, the terms of the Order shall control, but only for purposes of such Order.

(c) Modifications, Waivers, Enforcement, Survival:

This Agreement may only be modified by a written agreement executed by all Parties. No failure or delay by a Party to exercise any right, remedy, or power under this Agreement shall operate as a waiver, unless it is in writing and signed by such Party. The provisions of this Agreement will be deemed severable, and the unenforceability of any one provision shall not affect the other provisions. This Agreement is not intended to be for the benefit of enforcement by anyone who is not a Party to it. All obligations that accrue before termination, or which become effective with termination, or which are of a continuing nature shall survive the expiration or termination of this Agreement.