



Aera Evaluation Agreement

This Evaluation Agreement (“Agreement”) is entered into between Aera Technology, Inc. (“Aera”) and your organization (“Customer”) as of the Effective Date (as defined below). The individual accepting this Agreement on behalf of Customer represents that they have the authority to bind Customer to this Agreement. If the individual does not have such authority, or if the individual does not agree with the terms and conditions of this Agreement, such individual must not accept this Agreement and may not use the Service.

1. PROVISION OF THE SERVICE & DEPLOYMENT SERVICES

1.1. **Access to Service.** Aera will make the Service available to Customer pursuant to this Agreement and the applicable Order Form during the Evaluation Term, and grants to Customer a limited, non-sublicensable, non-exclusive, non-transferable right during the Evaluation Term to allow its Users to access and use the Service (including the On-Premise Components solely in object code form to collect and transmit Customer Data to the test environment of the Service) in accordance with the Documentation, solely for non-production, internal, test and evaluation purposes in the quantities and in accordance with any licensing units described in the applicable Order Form. During the applicable Evaluation Term, Aera may, in its sole discretion, provide support for the Service in accordance with Aera’s then-current support policy.

1.2. **Deployment Services.** Customer and Aera may enter into Statements of Work that describe the specific Deployment Services to be performed by Aera.

2. **FEES AND PAYMENT.** Customer will pay Aera all fees, if any, stated on each Order Form (“Fees”) in accordance with this Agreement and the Order Form. Unless otherwise set forth in a Statement of Work, Customer will pay any reasonable and actual out-of-pocket expenses incurred in connection with the Deployment Services, including, without limitation, transportation, lodging, and any incidentals associated with the Deployment Services provided to Customer, such as airfare, hotel, and meals. Aera will provide Customer with invoices and receipts for such costs. The Fees do not include taxes. Customer will pay any and all sales taxes, use taxes, goods and services taxes, and other taxes and fees imposed by any government on the amounts payable by Customer hereunder, but excluding taxes imposed on Aera’s net United States income.

3. CUSTOMER USE AND RESTRICTIONS.

3.1. **Use and Restrictions.** Subject to compliance with the terms and conditions set forth in this Agreement, the applicable Order Form, and all applicable laws, during the Evaluation Term Customer and its Users may access the Service, and use the On-Premise Components solely in object code form to collect and transmit Customer Data to the test environment of the in accordance with the Documentation solely for non-production, internal, test and evaluation purposes. Customer remains responsible for all activities conducted under its and its Users’ logins to the Service. Customer will not and will not permit any third party to: (a) copy, modify, or create derivative works of any Offerings except as expressly authorized in a Statement of Work or product specific terms; (b) decompile, disassemble, reverse engineer, or otherwise attempt to discover the underlying source code, ideas or composition of the Offerings (except to the limited extent applicable law expressly prohibits such reverse-engineering limitations); (c) permit more Users to access the Service or On-Premise Components than are authorized in an applicable Order Form, or otherwise exceed the Usage Restrictions; (d) impersonate any person or attempt to access the Service account or data of any other user; (e) rent, lease, resell, sublicense (except as expressly authorized in this Agreement with respect to Users), distribute, or otherwise transfer access to the Service or On-Premise Components, or use or allow use of the Service or On-Premise Components for service bureau or managed service purposes or in any other way for the benefit of third parties; (f) disable or circumvent any feature of the Service or On-Premise Components that provides or enhances security, restricts access, monitors use, or enforces limitations on use, or otherwise interfere with or impair the operation of the Service or On-Premise Components by any means including introduction of malware or excessive usage or network traffic; (g) provide Service or On-Premise Components passwords or other log-in information to any third party that is not an User; (h) share non-public Offerings features or content with any third party; (i) use any automated methods (including “robots” or “crawlers”) or excessive numbers of data requests to access the Service; or (j) use the Offerings for any illegal purpose or in violation of any applicable law or regulation. Customer will neither alter nor remove any copyright notice or other proprietary rights notices that may appear on any part of the Service and On-Premise Components.

3.2. **Misuse.** In the event of any suspected breach of Section 3.1 or any suspected risk to the integrity of the Service or the security of the data of any user, Aera may suspend the Service or Customer’s access to the Service, in addition to and without prejudice to any other remedies Aera may have.

- 3.3. **Unauthorized Access.** Customer will: (a) take reasonable steps to prevent unauthorized access to the Service or On-Premise Components, including without limitation by protecting its passwords and other log-in information; (b) notify Aera immediately of any known or suspected unauthorized use of the Service or On-Premise Components or breach of its security; and (c) stop and mitigate such breach. Customer shall reasonably cooperate with Aera to verify compliance with the applicable license and usage restrictions.
- 3.4. **Customer Data Limitations.** Customer will not use the Service to collect, store, process or transmit any Sensitive Personal Information or any information that is controlled under the U.S. International Traffic in Arms Regulations. Where Customer's use of the Service includes the processing of personal data (as described in the EU data protection directive 95/46/EC and which excludes Sensitive Personal Information), within the European Economic Area, the parties will enter into a separate data processing agreement (including the European Commission's Standard Contract Clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection) with Aera prior to submission of such personal data to Aera. Customer will be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data. Aera shall have no liability under this Agreement for any Customer Data, notwithstanding anything to the contrary herein and Customer shall hold Aera harmless from the same.
- 3.5. **Aera Developer.** Customer's use of any Aera Developer licenses will also be subject to the product specific terms located at: www.aeratechnology.com/terms.
4. **CONFIDENTIAL INFORMATION.** The party receiving Confidential Information ("Receiving Party") from the other party ("Disclosing Party") will not, without Disclosing Party's prior written consent (a) use Confidential Information of the Disclosing Party for any purpose other than to provide, facilitate, access or use the Offerings as allowed under, or to otherwise perform, this Agreement; or (b) disclose Confidential Information of the Disclosing Party to any third party, except as necessary to perform its obligations set forth in this Agreement or as set forth in this Section. The Receiving Party will protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but in any event, with no less than reasonable care. The Receiving Party may disclose Confidential Information to the extent such disclosure is required by applicable law, judicial process, or governmental Order Form, provided that the Receiving Party will, to the extent allowed by law, give Disclosing Party prompt notice of any such required disclosure and reasonably cooperate with Disclosing Party in any effort to seek a protective Order Form or otherwise to contest such required disclosure by lawful means, at Disclosing Party's expense. Nothing arising in or from this Agreement, or any exhibit, Order Form or Statement of Work hereto, shall prevent Aera from using, disclosing, exercising or exploiting information, knowhow, ideas and skills of a general nature developed or learned in the course of performance under this Agreement that relates generally to its business operations, provided that it does not attribute or disclose Confidential Information uniquely applicable to Customer received from Customer hereunder, notwithstanding anything else. Each party agrees that any breach or threatened breach of this Section may cause irreparable injury for which monetary relief may not provide adequate compensation, and that in addition to any other remedies available, the injured party is entitled to seek injunctive relief against such breach or threatened breach, without the necessity of proving actual damages or posting a bond or other security.
5. **TERM AND TERMINATION.** The term of this Agreement commences on the Effective Date and continues through the Evaluation Term, unless terminated earlier under this Agreement. This Agreement may be terminated effective immediately by either party for any or no reason and at any time by providing notice of termination to the other party. Upon termination, Customer will cease use and return any software or Documentation to Aera. All provisions of this Agreement will survive any termination or expiration if by its nature and context it is intended to survive. Termination of the Agreement will not entitle Customer to any refunds, credits, or exchanges.
6. **INTELLECTUAL PROPERTY.**
- 6.1. **Customer Data.** As between the parties, Customer retains all right, title and interest in the Customer Data, even when such Customer Data is processed by the Service; subject to the limited license rights granted to Aera as set forth in this Agreement. Customer grants to Aera and applicable contractors a worldwide, limited-term license to use, host, copy, transmit and display Customer Data, as reasonably necessary for Aera to provide the Offerings and/or test Skills, in accordance with this Agreement.
- 6.2. **Aera Offerings.** As between the parties, Aera retains all right, title and interest in and to the Offerings, and all improvements, modifications, and derivative works thereof, including without limitation all hardware, know-how, algorithms, logic, deliverables, processes, methods, technology and software owned, licensed, or developed by Aera and/or used to provide the Offerings hereunder, and all intellectual property rights relating to the foregoing. Customer acknowledges that Aera utilizes or relies on artificial intelligence components and other forms of machine learning, so that through Customer's use of the Service, the Offerings may be modified, improved or enhanced and that all such modifications, improvements and enhancements (excluding Customer Data) are owned exclusively by Aera. Customer hereby does and shall make all

assignments necessary to effectuate the foregoing. If Customer purchases Deployment Services for the development of Skills, Aera grants to Customer a worldwide, non-exclusive, non-transferable, non-sublicensable right to use the Skills solely for Customer's use with the Service during the applicable Evaluation Term, unless otherwise provided in the applicable Statement of Work. Aera shall be free to use, exercise and exploit during and after the term of this Agreement, for free and for any purpose, all Feedback.

- 6.3. **No Implied Licenses.** Except as expressly set forth in this Agreement, nothing in this Agreement grants any license of Intellectual Property Rights or Confidential Information of either party to the other, whether by implication, estoppel, or otherwise.
7. **NO WARRANTY.** EACH SERVICE, DEPLOYMENT SERVICE, DELIVERABLE, OFFERINGS, AND ANYTHING ELSE PROVIDED BY AERA UNDER THIS AGREEMENT, IS PROVIDED "AS IS", AND AERA MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY DISCLAIMED. AERA DOES NOT WARRANT THAT THE OFFERINGS WILL BE UNINTERRUPTED OR ERROR FREE, OR THE INFORMATION OBTAINED THROUGH THE OFFERINGS ARE ACCURATE, CURRENT, SECURE, OR RELIABLE.
8. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, RELIANCE, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOSS OF USE, LOST OR INACCURATE DATA, INTERRUPTION OF BUSINESS, COST OF DELAY, LOSS OF PROFITS, BUSINESS, INCOME, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR RIGHTS ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. AERA SHALL HAVE NO LIABILITY OF ANY TYPE WITH RESPECT TO AN EVALUATION, UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE AERA'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO AN EVALUATION IS US\$1,000.
9. **GENERAL PROVISIONS.** This Agreement is governed by the laws of the State of California without regard to conflict of law principles or the United Nations Convention on Contracts for the International Sale of Goods. With respect to all disputes arising out of or related to this Agreement, the parties consent to exclusive jurisdiction and venue in the state and Federal courts located in San Jose, California. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. Neither party may assign this Agreement without the prior written consent of the other party. Notwithstanding anything else, neither party will be liable for failure to perform any of its respective obligations hereunder if such failure is caused by an event outside its reasonable control ("**Force Majeure Event**"). This Agreement, together with the Order Form(s) and Statement(s) of Work, constitutes the entire understanding between Customer and Aera regarding Customer's use of and access to the Solution, and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to the subject matter hereof. This Agreement may not be amended other than by a written instrument executed by both parties. A party's failure to require performance of any provision shall not affect its right to require performance at any time thereafter, nor shall a waiver of any breach or default constitute a waiver of any subsequent breach or default.

10. **DEFINITIONS.**

"Confidential Information" means the disclosing party's business, technical and financial information disclosed to the other party in connection with this Agreement and (a) in the case of Customer, all Customer Data; and (b) in the case of Aera, all non-public features, pricing, discounts, functions, and implementations of the Service, product road map, business and marketing plans or opportunities, finances, vendors penetration test results and other security information, defect and support information and metrics, and third party audit reports and attestations; except that Confidential Information does not include information that: (i) is or becomes publicly known or publicly available through no fault of the receiving party including, without limitation, all publicly available open source code; (ii) is already in receiving party's possession at the time of disclosure; (iii) is independently developed without use of or reference to the other party's Confidential Information; or (iv) is provided to receiving party by a third party, without breach of any confidentiality obligations by such third party.

"Customer Data" means the data that Customer transmits or otherwise makes accessible to Aera through the Service.

"Deployment Services" means the configuration, implementation, skill-building, advisory, hypercare, and other services provided by Aera pursuant to a mutually executed Statement of Work, in connection with the Service. Deployment Services excludes Service and Aera support and maintenance services.

"Documentation" means any documentation provided or made available by Aera via the support features within Service that describes the design, functionality and operation of the Service.

“Effective Date” means the earlier of the last date this Agreement is executed by both parties or the first date of Customer’s authorized access or use of the Service or evaluation of the Service in any manner, as applicable.

“Evaluation Term” means the latter of (i) 30 days from the effective Date, or (ii) the evaluation term specified in an applicable Order Form or Statement of Work.

“Feedback” means suggestions, ideas and/or feedback, and all aggregated de-identified data, relating to the Offerings and Documentation provided by or obtained from Customer or its Users.

“Fees” means the fees set forth in an applicable Order Form or Statement of Work.

“Intellectual Property Rights” means (a) copyrights and other rights in works of authorship; (b) patents and other rights in inventions; (c) trademarks, service marks, and other rights in indicia of origin; (d) trade secrets and other rights in confidential business information; (e) mask work rights; (f) moral rights; (g) database rights; (h) all similar and analogous rights to each of the foregoing in every jurisdiction in the world; and (i) registrations of, applications for, and renewals of each of the foregoing.

“Offerings” means the Service, On-Premise Components, Deployment Services and other services described in an Order Form and SOW.

“On-Premise Components” means the software and technology provided by Aera hereunder to allow Customer to crawl and transmit Customer Data to the portion of the Service hosted by Aera.

“Order Form” means Aera’s order document governed by this Agreement that is executed by the parties and specifies the products or services purchased by Customer under this Agreement, including any product specific terms, supplements, or addenda thereto. Order Forms do not include the terms of any preprinted terms on a Customer purchase order, vendor onboarding process or web portal, or other terms on a purchase order that are additional to or inconsistent with the terms of this Agreement.

“Sensitive Personal Information” means any of the following: (a) credit, debit or other payment card data subject to the Payment Card Industry Data Security Standards (“PCI DSS”), or other financial account numbers or credentials; (b) patient, medical or other protected health information regulated by the Health Insurance Portability and Accountability Act (“HIPAA”); (c) social security numbers, driver’s license numbers or other government ID numbers; (d) any information deemed to be “special categories of data” of an EU resident (as defined in European Union Regulation 2016/679); or (e) other personal or sensitive information subject to regulation or protection under the Gramm-Leach-Bliley Act, Children’s Online Privacy Protection Act.

“Service” means the online hosted software solution subscribed to by Customer under an Order Form, together with the related On-Premise Components, as described in the Documentation. “Service” excludes Deployment Services.

“Skills” means content and logic that are developed for use with the Service to provide real-time insight, recommendations, and predictions to facilitate the execution of decisions by the applicable Customer representatives.

“Statement of Work” or “SOW” means a document that describes certain Deployment Services purchased by Customer under this Agreement and/or pursuant to an Order Form. Each Statement of Work is subject to this Agreement.

“Usage Restrictions” means the quantities of Users, developers, virtual machines, memory, data, quantity of Skills or use cases, business units, and any other limitations set forth in an applicable Order Form or Statement of Work.

“User” means any individual or service provider who is authorized by Customer to access the Service within the scope of licenses purchased by Customer in an Order Form, and provided further that such individual or entity is solely accessing the Service for the benefit of Customer. User licenses are not concurrent and may not be shared, however, upon termination or change of roles of a User then Customer may permanently replace such User.