

NUMENTA, INC.

SOFTWARE LICENSE AGREEMENT v3.2

THE TERMS AND CONDITIONS OF THIS SOFTWARE LICENSE AGREEMENT (“AGREEMENT”) ARE SUPPLEMENTAL TO ANY OPEN SOURCE LICENSES GRANTED BY NUMENTA WITH RESPECT TO THE SOFTWARE DESCRIBED IN APPENDIX A ATTACHED HERETO AND ANY ACCOMPANYING DOCUMENTATION (COLLECTIVELY, THE “SOFTWARE”). NOTHING IN THIS AGREEMENT WILL LIMIT YOUR RIGHTS UNDER ANY OPEN SOURCE LICENSES GRANTED BY NUMENTA. INSTEAD, THIS AGREEMENT PROVIDES, FOR A FEE, ADDITIONAL PERMISSIONS REGARDING YOUR USE OF THE SOFTWARE AND RELIEVES YOU OF CERTAIN CONDITIONS SET FORTH IN THE OPEN SOURCE LICENSES. IN OTHER WORDS, YOU CAN EXERCISE ALL OF THE RIGHTS SET FORTH IN THE OPEN SOURCE LICENSES, AND IF YOU WANT TO AVOID THE COPYLEFT REQUIREMENTS YOU CAN PURCHASE THE ADDITIONAL PERMISSIONS SET FORTH IN THIS AGREEMENT.

By signing below, you have indicated that you understand this Agreement and accept all of its terms. If you are accepting the terms of this Agreement on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity to the terms of this Agreement, and, in such event, “you” and “your” will refer to that company or other legal entity.

- 1. Grant of License.** Conditioned upon your compliance with the terms and conditions of this Agreement, Numenta grants you a perpetual, revocable (in accordance with Section 11 and 15), worldwide, non-exclusive and non-transferable (except as permitted in Section 15) license, with a right to sublicense through a single tier, and only to the extent permitted herein, to use, reproduce, modify and create derivative works based upon, the Software, solely for the purpose of integrating, combining, embedding, bundling, or using the Software with your products or services (including hosted and SaaS services, consulting services, and other services) that are compatible with or that use, in any way, the Software or associated Intellectual Property (each, a “**Licensed Product or Service**”). In connection with the above license grant (only), you may use, copy, market, offer to sell, sell, distribute and provide the Software, solely as integrated into a Licensed Product or Service (and not as standalone software), and for backup and archival purposes, provided that you reproduce on each copy all copyright and other proprietary notices that are included with the original Software. Numenta reserves all rights in the Software not expressly granted to you in this Agreement.
- 2. Restrictions.** Except as expressly specified or permitted in this Agreement, you may not: (a) provide the right to any third party to further sublicense the Software; (b) distribute, sublicense, sell as a service, transfer, or otherwise make available or provide access to the Software on a standalone basis; (c) price or itemize the price of the Software separately from the price of your Licensed Product or Services; (d) use, (or allow the use of) Software to create custom semiconductors, to create application specific integrated circuits, or to port Software to any operating system, chipset, firmware, or embedded platform; (e) make

the functionality of the Software available to multiple users through any means, including but not limited to a software library, by uploading the Software to a network or file-sharing service or through any hosting, application services provider, service bureau, software-as-a-service (SaaS) or any other type of services, except as integrated into and offered as part of your Licensed Product or Service; or (f) sublicense the right to modify, extend or create derivative works of any Software except to a third party who is performing such tasks solely on behalf of or for the benefit of the Licensee (the “**Licensee Service Providers**”). Such Licensee Service Providers shall execute an agreement with Licensee that is substantially equivalent to, and no less protective of Numenta’s interests in the Software, under this Agreement. You will remain liable for the violation of the terms hereof by any Licensee Service Provider or other sublicensees who derive their license to use the Software from you.

3. **Ownership.** The Software is licensed to you by Numenta, not sold. You own the media on which the Software is recorded, but Numenta retains ownership of the Software itself, including all intellectual property rights therein. The Software is protected by various United States laws and international treaties. You will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices or markings appearing on the Software as delivered to you.
4. **License Fees.** You agree to pay Numenta fees for the Software (the “**Fees**”) as a percentage of Revenue earned by you in accordance with the pricing schedule set forth in Appendix B (the “**Pricing Schedule**”). Numenta reserves the right to increase the prices in the Pricing Schedule by providing you at least 90 days’ notice before effecting such increase, but may effect a decrease in the prices immediately upon notice to you. For the purposes of this Agreement, “**Revenue**” means the gross revenue or income received by you from the licensing or sale of your Licensed Products or Services that use, integrate, embed, or are combined or bundled with the Software.
5. **Payment Terms.** Within 30 days following the end of each calendar quarter, you will pay to Numenta the Fees due and payable by you for the Revenue collected during the said quarter, along with a detailed report listing the Revenue for all Licensed Products or Services, calculation of the Fees, and any other relevant details. All past due amounts will incur interest at a rate of 1.5% per month or the maximum rate permitted by law, whichever is less (the “**Interest**”). You will reimburse Numenta for all reasonable costs and expenses incurred (including reasonable attorneys’ fees) in collecting any overdue amounts. You will pay all amounts due under this Agreement in U.S. currency. All fees payable under this Agreement are net amounts and are payable in full, without deduction for taxes or duties of any kind. In the event that Numenta is required to collect any tax for which you are responsible, you will pay such tax directly to Numenta. If you pay any withholding taxes that are required to be paid under applicable law, you will furnish Numenta with written documentation of all such tax payments, including receipts. All Fees once paid, are non-refundable.
6. **Verification and Audit.** You agree to maintain complete, clear and accurate records of all transactions that generate or are likely to generate Revenue as contemplated by this Agreement. To ensure compliance with the payment of Fees under Section 4 and 5 of this Agreement, Numenta shall, during the Term and for two (2) years thereafter, have the right

to audit your relevant books and records no more than once a year. Such audit may be conducted either by Numenta's employees or by an independent certified public accountant, at Numenta's discretion and expense. Numenta may conduct the audits upon reasonable advance notice to you, subject to customary written confidentiality terms entered into by Numenta or its designee (and subject to any confidentiality obligations that you may have towards third parties). The audits will be conducted during regular business hours at your offices and in such a manner as not to interfere with your normal business activities. If such audit reveals any underpayment of Fees, you will promptly pay to Numenta, the deficient amount along with Interest thereon up to the date of actual payment. If such deficiencies exceed five percent (5%) of the total amount of Fees owed to Numenta for the applicable quarter, then you will reimburse Numenta for any reasonable and customary out-of-pocket audit related costs incurred by Numenta.

7. **Maintenance and Support.** Numenta may, at its discretion, create updates, upgrades, and/or error fixes to the Software (collectively, "Updates and Upgrades"). To the extent Numenta creates any such Updates and Upgrades, it shall make them available to you, during the Term, at no additional cost, provided you are in compliance with the terms of this Agreement. Numenta will use commercially reasonable efforts to respond to technical support questions and requests for service by email within two business days. Numenta reserves the right to end maintenance and support of the Software upon no less than 180 days' notice thereof.

8. **No Warranty.** THE SOFTWARE IS PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER NUMENTA NOR ANY OF ITS LICENSORS MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, IN CONNECTION WITH THE SOFTWARE. WITHOUT LIMITING THE FOREGOING, NUMENTA DISCLAIMS ANY WARRANTY THAT THE SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT IT WILL OPERATE IN THE COMBINATIONS THAT YOU MAY SELECT FOR EXECUTION, THAT THE OPERATION OF THE SOFTWARE WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ANY OR ALL ERRORS WILL BE CORRECTED. NUMENTA AND ITS LICENSORS FURTHER DISCLAIM ANY AND ALL WARRANTIES WITH RESPECT TO THE SOFTWARE, INCLUDING ANY IMPLIED WARRANTIES OF, 15 MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR AGAINST HIDDEN DEFECTS, TO THE FULLEST EXTENT PERMITTED BY LAW. NUMENTA FURTHER DISCLAIMS ANY AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM NUMENTA OR ELSEWHERE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

9. **Indemnification.**

9.1. **Indemnity.** Numenta shall, at its expense, defend, indemnify and hold you harmless against any loss, damage or costs (including reasonable attorneys' fees) resulting from any claim by a third party that the Software infringes any copyright or duly issued U.S. patent, when you exercise rights in any such Software as permitted under this Agreement ("**IP Claim**"). You will: a) promptly notify

Numenta in writing of any IP Claim; (b) grant Numenta sole control of the defense and settlement of the IP Claim; (c) provide Numenta, at Numenta's expense, with all assistance, information and authority reasonably required for the defense and settlement of such claim.

9.2. Remedies. If any of the Software becomes, or in Numenta's opinion may become, the subject of an IP Claim, Numenta may, at its option: (a) procure for you the right to continue using such Software at the same or greater level as permitted under this Agreement and free of any fees other than as provided herein; (b) replace or modify such Software such that you can exercise rights in the replacement or modified version of the Software as permitted under this Agreement without you being subject to the IP Claim or, if neither (a) nor (b) in this Section 9.2 is commercially viable or available to Numenta after making commercially reasonable efforts, (c) terminate this Agreement and the license rights granted herein and refund you the Fees paid to Numenta for such Software in the twelve months preceding such termination. Numenta will not be liable for any costs or expenses incurred by you in connection with any potential claim of infringement without its prior written authorization, provided however that such authorization will not be unreasonably withheld.

9.3. Exclusions. Notwithstanding the terms of the Section 9.1, Numenta will have no obligations to defend, indemnify and hold you harmless against an IP Claim if and to the extent that such IP Claim arises from the Software or components thereof (a) not supplied by Numenta; (b) that are modified by you or on your behalf and such claim relates to or arose as a result of, such modification; (c) that are combined with other products, processes, data or materials where the alleged infringement relates to such other product, processes, data or materials or the combination therewith; (d) after being informed of modifications that would have avoided the alleged infringement or (e) that are based on your technology.

9.4. Sole Remedy. THE PROVISIONS OF THIS SECTION 9 SET FORTH NUMENTA'S SOLE AND EXCLUSIVE OBLIGATIONS, AND YOUR SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

10. Limitation of Liability. NUMENTA'S TOTAL LIABILITY TO YOU FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY, EXCLUDING FOR INDEMNIFICATION UNDER SECTION 9, WILL BE LIMITED TO THE AMOUNTS PAID TO NUMENTA BY YOU FOR THE SOFTWARE IN THE TWELVE MONTHS PRECEDING THE CLAIM FOR LIABILITY OR, IN THE EVENT THAT NUMENTA HAS MADE THE SOFTWARE AVAILABLE TO YOU WITHOUT CHARGE, NUMENTA'S TOTAL LIABILITY WILL BE LIMITED TO ONE THOUSAND DOLLARS (\$1,000). IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF DATA, BUSINESS, PROFITS OR ABILITY TO EXECUTE OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS

ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE EXECUTION OR PERFORMANCE OF THE SOFTWARE, WHETHER SUCH DAMAGES WERE FORESEEABLE OR NOT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT NUMENTA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE FOREGOING LIMITATIONS WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

- 11. Term.** This Agreement and the licenses granted hereunder will be effective from the Effective Date until this Agreement is terminated in accordance with this Section 11 (the “**Term**”). You may terminate this Agreement at any time by providing Numenta ninety (90) days’ notice thereof. Numenta may terminate this Agreement and the licenses granted hereunder in the event of your material breach of any term or condition of this Agreement, including payment terms, if such breach remains uncured for more than thirty (30) days after notice of such breach. The provisions of Sections 3, 5, 6, 8, 9, 10, 11, 14 and 15 shall survive any termination of this Agreement.
- 12. U.S. Government End Users.** The Software and Documentation are “commercial items” as that term is defined in FAR 2.101, consisting of “commercial computer software” and “commercial computer software documentation,” respectively, as such terms are used in FAR 12.212 and DFARS 227.7202. If the Software and Documentation are being acquired by or on behalf of the U.S. Government, then, as provided in FAR 12.212 and DFARS 227.7202-1 through 227.7202-4, as applicable, the U.S. Government’s rights in the Software and Documentation will be only those specified in this Agreement.
- 13. Export Law.** You agree to comply fully with all U.S. export laws and regulations to ensure that neither the Software nor any technical data related thereto nor any direct product thereof are exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by, such laws and regulations.
- 14. Public Announcements and Confidentiality of Agreement.** Neither party may release any press release or public announcement concerning the existence of this Agreement or the relationship of the parties without the prior written approval of the other party. Notwithstanding the foregoing, both parties may reference the relationship in their respective customer development and references, investor relations, partnerships, marketing materials, including web sites and blog posts, with wording that is mutually agreed to by the parties and comply with any trademark guidelines as they are issued from time to time. Notwithstanding anything herein to the contrary, the parties specifically agree that the terms of this Agreement shall at all times be and remain confidential and this obligation of confidentiality shall survive the termination of this Agreement.
- 15. General.** This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to or application of conflict of laws rules or principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply. You may not assign or transfer this Agreement or any rights granted hereunder, without Numenta’s prior written consent, except to your successor in the event

of a merger, acquisition, or sale of all or substantially all of your assets or voting securities; provided that the successor of these transactions (or any parent or affiliate thereof) is an entity with a market capitalization of less than twenty billion U.S. dollars (\$20,000,000,000). If the successor of these transactions (or any parent or affiliate thereof) is an entity with a market capitalization of greater than twenty billion U.S. dollars (\$20,000,000,000) then the license under this Agreement will automatically terminate, but you will have the option of negotiating a custom license for use of the Software, or licensing the Software under the open source license indicated at www.numenta.org, upon notification thereof to Numenta. Any attempt by you to assign this Agreement in violation of the foregoing provision will be void. Numenta may freely assign this Agreement. Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by authorized representatives of both parties. If any provision of this Agreement is held to be unenforceable or invalid, that provision will be enforced to the maximum extent possible, and the other provisions will remain in full force and effect. This Agreement is the complete and exclusive understanding and agreement between the parties regarding its subject matter, and supersedes all proposals, understandings or communications between the parties, oral or written, regarding its subject matter, unless you and Numenta have executed a separate agreement; provided that nothing in this Agreement will limit your rights under any open source licenses granted separately by Numenta. Any terms or conditions contained in your purchase order or other ordering document that are inconsistent with or in addition to the terms and conditions of this Agreement are hereby rejected by Numenta and will be deemed null.

- 16. Contact Information.** If you have any questions regarding this Agreement, you may contact Numenta at licenses@numenta.com.

In witness whereof, the parties have caused this Agreement to be signed as of the date mentioned below, by their duly authorized representatives.

Numenta, Inc., Software License Agreement, Version 3.0

COMPANY

NUMENTA

.....
Printed name

.....
Printed name

.....

Signature

Date

.....

Signature

Date

.....
Title

.....
Title

.....
Company name and address

Numenta, Inc.
791 Middlefield Road.
Redwood City, CA 94063, USA

SAMPLE USE ONLY

Appendix A: Software

1. As used in the Agreement, Software includes source releases and binary releases with a version number under 2.0 from these repositories:
 - I. <https://github.com/numenta/nupic>
 - II. <https://github.com/numenta/nupic.core>
 - III. <https://github.com/numenta/nupic.workshop>
 - IV. <https://github.com/numenta/nupic.regression>
 - V. <https://github.com/numenta/nupic.vision>
 - VI. <https://github.com/numenta/nupic.geospatial>
 - VII. <https://github.com/numenta/nupic.cloudbrain>
 - VIII. <https://github.com/numenta/nupic.nlp-examples>
 - IX. <https://github.com/numenta/nupic.cerebro>
 - X. <https://github.com/numenta/nupic.cerebro2>
 - XI. <https://github.com/numenta/nupic.cerebro2.server>
 - XII. <https://github.com/numenta/nupic.rogue>
 - XIII. <https://github.com/numenta/numenta-apps>
 - XIV. <https://github.com/numenta/NAB>
 - XV. <https://github.com/numenta/htm.java>
 - XVI. <https://github.com/numenta/htm.java-examples>
 - XVII. <https://github.com/numenta/numenta-apps-archived-htm.it-grokcli-htmitmobile>

Appendix B: Pricing Schedule

Effective as of February 3, 2017

This Agreement requires license fees based on a percent of Revenue. Revenue means the gross revenue or income received by you from the licensing or sale of your Licensed Products or Services that use, integrate, embed, or are combined or bundled with the Software. Gross Revenue is before any deductions such as expenses associated with those revenues. Consulting services, service fees, and other ancillary revenues associated with the Licensed Products or Services are included. Hosted or SaaS services are included. All fees are payable in US Dollars. If Revenues are earned in other currencies, please indicate exchange rate used.

Fee Schedule (all figures on a quarterly basis)

Minimum = \$1250 per quarter (covers revenue up to \$25,000 per quarter)

Revenue between \$25,000 and \$250,000 per quarter = 4% of revenue

Revenue between \$250,000 and \$1,250,000 per quarter = 3% of revenue

Revenue above \$1,250,000 per quarter = 2% of revenue

Example calculations

Example 1: Company has quarterly revenue of: \$1,000,000 on Licensed Product/Services

- For first \$25,000 \$1,250
- From \$25K to \$250K 9,000 ($\$225,000 \times 4\%$)
- From \$250K to \$1,000K 22,500 ($\$750,000 \times 3\%$)
- Total \$32,750, or blended rate of 3.27%

Example 2: Company has quarterly revenue of \$15,000 on Licensed Product/Services

- Payment is the minimum of \$1,250 (= 8.3% of revenue)

Example 3: Company has quarterly revenue of \$5,000,000 on Licensed Product/Services

- For first \$25,000 \$ 1,250
- From \$25K to \$250K 9,000 ($\$225,000 \times 4\%$)
- From \$250K to \$1,250K 30,000 ($\$1,000,000 \times 3\%$)
- Above \$1,250K 75,000 ($\$3,750,000 \times 2\%$)
- Total \$115,250, or blended rate of 2.3%