

## ROW64 TERMS OF SERVICE

These Terms of Service (these "**Terms**") are entered into as of the Effective Date (as defined below) by and between Row64, Inc. ("**Row64**") and you or the organization or entity you represent ("**Customer**"), and govern Customer's access and use of the Row64 proprietary data analytics software (the "**Software**") and hosted services that Row64 makes available in connection with the Software (the "**Services**"). These Terms are effective as of the date Customer indicates acceptance (e.g., via click-through or other electronic means) (the "**Effective Date**").

**BY DOWNLOADING, ACCESSING OR USING THE SOFTWARE OR SERVICES, YOU CONFIRM THAT (A) YOU HAVE READ THESE TERMS, (B) YOU AND ANY ORGANIZATION OR ENTITY ON WHOSE BEHALF YOU ARE ENTERING IN TO THESE TERMS OR USING THE SOFTWARE OR SERVICES, ACCEPT THE TERMS AND CONDITIONS OF THESE TERMS, AND (C) IF YOU ARE AN INDIVIDUAL, THAT YOU ARE AN EMPLOYEE OR AGENT OF THE ORGANIZATION OR ENTITY ON WHOSE BEHALF YOU ARE ACTING, AND HAVE THE AUTHORITY TO ENTER INTO THESE TERMS ON BEHALF OF SUCH ORGANIZATION OR ENTITY.**

We may make changes to these Terms from time to time. If we make changes, we will provide Customer with notice of such changes, such as by sending an email or providing a notice through our website. Unless we say otherwise in our notice, the amended Terms will be effective immediately, and Customer's continued use of the Software or Services after we provide such notice will confirm Customer's acceptance of the changes. If Customer does not agree to the amended Terms, Customer must stop using the Software and the Services.

### 1. Licenses and Rights.

1.1 License. Subject to the terms and conditions of these Terms and solely during the Term (as defined below), Row64 grants Customer a non-exclusive, worldwide, non-transferable, non-sublicensable license to (a) install and run one copy of the Software in object code format only, on computers owned or controlled solely by Customer and (b) access and use the features of the Services included in Customer's selected Software and Services plan. If Customer has selected a free plan for the Software and Services, Customer may install and run the Software and access and use the features of the Services made available as part of the free plan solely for Customer's internal, non-commercial use, where "non-commercial use" means (i) educational or research use, (ii) evaluation use, or (iii) any use or activity where a fee is not charged and the purpose is not the sale of a good or service, and the use or activity is not intended to produce a profit. If Customer has selected a paid plan for the Software and Services, Customer may install and run the Software and access and use the features of the Services made available as part of such paid plan solely for Customer's internal business purposes and will pay the fees described in Section 4.

1.2 Ownership. Except for the license granted in Section 1.1 above, Row64 retains all right, title and interest in and to the Software and the Services, together with all components thereof, including all intellectual property rights related to or embodied in the foregoing. No license or other right will be created under these Terms by implication, estoppel or otherwise, except as specifically provided in these Terms. Customer acknowledges that the Software and the Services include Row64's valuable trade secrets and improper use or disclosure may cause Row64 irreparable harm. Accordingly, Customer agrees to use the Software and the Services solely as authorized in these Terms. Customer further acknowledges that the license granted pursuant to these Terms is not a sale and does not transfer to Customer title or ownership of the Software or the Services, but only a right of limited use. ALL RIGHTS NOT EXPRESSLY GRANTED HEREUNDER ARE RESERVED TO ROW64

1.3 Customer Data. Customer grants to Row64 the right to access and use the data, information, and other materials provided by Customer in connection with the Software and the Services ("**Customer Data**") for Row64 to provide, maintain, and improve the Software and the Services.

2. **Restrictions**. Except as expressly authorized by these Terms, Customer may not (a) modify, disclose, alter, translate, or create derivative works of the Software or the Services (or any components thereof), (b) license, sublicense, resell, distribute, lease, rent, lend, transfer, assign, or otherwise dispose of the Software or the Services (or any components thereof), (c) use the Software or the Services to store or transmit any viruses, software routines, or other code designed to permit unauthorized access, to disable, erase, or otherwise harm software, hardware, or data, or to perform any other harmful actions, (d) use the Software or the Services to build a competitive product or service, or copy any features or functions of the Software or the Services, (e) remove, alter, or obscure any proprietary notices in or on the Software or the Services, including copyright or trademark notices, (f) reverse engineer, decompile, disassemble, decrypt, re-engineer, reverse assemble, reverse compile or otherwise translate, create, or attempt to create the source code of the Software or the Services or their structural framework (in whole or in part), or perform any process intended to determine the source code for the Software or the Services, (g) circumvent or attempt to circumvent any technological protection measures intended to restrict access to or use of any portion of the Software or the Services or the functionality of the Software or the Services, (h) use the Software or the Services for any purpose that is illegal in any way or that advocates illegal activity, or (i) cause or permit any other individual or entity to do any of the foregoing.

### 3. Accounts and Eligibility.

3.1 Accounts. In order to access and use the Software and the Services, Customer must (a) register for an electronic account with Row64 (an "**Account**") and (b) accept these Terms. Customer will ensure that no person or entity accesses the Software or the Services on behalf of another person or entity and will not share or transfer access rights to the Software or the Services. Customer will (i) provide accurate Account information and promptly update that information if it changes, (ii) maintain the security of its Account, and (iii) notify Row64 in promptly in writing upon discovery or suspicion that someone has accessed such Account without permission. Customer is responsible for any and all acts or omissions that occur on its Account and any acts or omissions that are taken (or not taken) on Customer's Account will be deemed to have been taken (or not taken) by Customer, regardless of whether Customer took (or did not) take them. Customer will not use the Software or the Services for a number of instances, users, or other usage that exceeds the usage permissions in Customer's Account, Customer's selected Software and Services plan, or these Terms.

3.2 Eligibility. Customer represents and warrants that it is not (a) a resident of, or located in, any country subject to a United States embargo or other similar United States export restrictions, including Iran, Cuba, North Korea, the Region of Crimea, Sudan or Syria and (b) on the United States Treasury Department's list of Specifically Designated Nationals, the United States Department of Commerce's Denied Persons List or Entity List, or any other United States export control list.

#### **4. Payment Terms.**

4.1 Fees. If Customer selects a paid plan for the Software and Services, then Customer will pay the monthly or annual subscription fees for use of the Software and Services as set forth in Customer's selected plan (the "**Subscription Fees**"). Row64 (or its authorized payment processor) will charge Customer's payment card on a monthly or annual subscription basis, depending on the paid plan Customer selects. Except as set forth below, or unless Row64 states otherwise, all payments (a) must be made in U.S. dollars and (b) must be made by payment card via Row64 or its authorized payment processor. Customer authorizes Row64 (or its authorized payment processor) to charge Customer's payment card in accordance with these Terms.

4.2 Interest and Taxes. Interest on any late payments will accrue at the rate of 1.5% per month, or the highest rate permitted by law, whichever is lower, from the date such amount is due until the date such amount is paid in full. Customer will be responsible for and will pay all sales and similar taxes and fees levied upon the provision of the Software and Services excluding only taxes based solely on Row64's net income. Except as expressly set forth in these Terms, (a) Row64 will not be obligated to issue any refunds for Subscription Fees paid, and (b) Row64, at its sole discretion, may modify the Subscription Fees during the Term (as defined below), provided that modifications will only be effective as of the directly subsequent Term.

4.3 Suspension. If any Subscription Fees are 30 days or more overdue, Row64 may, without limiting its other rights or remedies, (a) suspend all access to the Software and Services until such fees are paid in full or (b) immediately terminate these Terms without any further cure period without any obligation to provide a refund of any unused but pre-paid Subscription Fees.

4.4 Subscriptions. IF CUSTOMER HAS SELECTED A PAID PLAN FOR THE SOFTWARE AND SERVICES, CUSTOMER ACKNOWLEDGES AND AGREES THAT, UNLESS THESE TERMS ARE TERMINATED OR UNLESS ROW64 SUSPENDS OR STOPS PROVIDING ACCESS TO THE SOFTWARE AND SERVICES, CUSTOMER'S SUBSCRIPTION WILL AUTOMATICALLY RENEW, AND ROW64 WILL THEREFORE AUTOMATICALLY CHARGE SUBSCRIPTION FEES TO CUSTOMER, ON A MONTHLY OR ANNUAL BASIS FOR THE ENTIRE AMOUNT PAYABLE DURING THE APPLICABLE MONTH OR YEAR.

#### **5. Term, Termination, and Effects of Termination.**

5.1 Term. These Terms commence upon the Effective Date and continue on a month-to-month or annual basis, depending on the plan Customer selects, until terminated as set forth in Section 5.2 (the "**Term**").

5.2 Termination. Row64 may terminate these Terms immediately without notice to Customer by closing Customer's Account or otherwise disabling Customer's access to the Software or the Services. Customer may terminate these Terms by closing its Account or otherwise deleting the Software from its computer and ceasing use of the Services. Additionally, either party may terminate these Terms, for cause, if the other party materially breaches these Terms and does not remedy such breach within 30 days after its receipt of written notice of such breach.

5.3 Effects of Termination. Upon any termination of these Terms, (a) all rights and licenses granted to Customer under these Terms will immediately terminate, (b) Customer will immediately cease use of the Software and delete the Software from Customer's computer, and (c) Sections 2, 4, 5.3, 6, 7, 8 and 9 will survive termination. If these Terms are terminated by Row64 for any reason other than (i) as set forth in Section 4.3(b) or (ii) for cause, Row64 will provide a refund for unused but pre-paid Subscription Fees.

6. **Representations and Warranties**. Customer represents, warrants and covenants that (a) Customer is, and will remain during the Term, in full compliance with all applicable laws, rules, and regulations, (b) Customer possesses all necessary rights and consents to grant Row64 the rights set forth in these Terms with respect to the Customer Data, (c) Customer has collected all Customer Data in accordance with all applicable laws, rules, and regulations, and (d) neither the Customer Data nor Row64's use of the Customer Data

in accordance with these Terms will (i) infringe, misappropriate, or otherwise violate any intellectual property rights or other rights of any third party or (ii) violate applicable laws, rules, or regulations.

7. **Disclaimers and Limitation of Liability.** THE SOFTWARE AND THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES, COVENANTS, OR CONDITIONS OF ANY KIND (EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE), INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. IN NO EVENT WILL ROW64 BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THESE TERMS. IN NO EVENT WILL ROW64'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS EXCEED \$100. MULTIPLE CLAIMS WILL NOT EXPAND THESE LIMITATIONS. THIS SECTION 6 WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THESE TERMS IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

8. **Indemnification.** Customer will indemnify, defend and hold harmless Row64, its affiliates, and its and their respective officers, directors, agents and employees from and against any and all claims, demands, actions, losses, liabilities, damages and expenses, including reasonable attorneys' fees and costs, resulting from, related to or arising out of any actual or alleged breach by Customer of these Terms or any other act or omission of Customer.

## 9. General Provisions.

9.1 **Entire Agreement.** These Terms are the entire agreement of the parties regarding the Software and the Services. These Terms supersede all prior or contemporaneous agreements, proposals, negotiations, conversations, discussions, and understandings, written or oral, with respect to the Software and the Services and all past dealings or industry customs.

9.2 **Governing Law and Venue.** These Terms will be governed by, and construed in accordance with, the laws of the State of Colorado, without regard for any choice of law or other rules that would cause the laws of any other jurisdiction to apply. Each party submits to the exclusive jurisdiction of any state or federal court sitting in Denver, Colorado (the "**Chosen Courts**") in any litigation arising out of or relating to these Terms, agrees that all claims in respect of any such litigation will be heard and decided only in any such Chosen Court, waives any claim of inconvenient forum or other challenge to venue in any such Chosen Court, and agrees not to bring or maintain any such litigation before any tribunal other than the Chosen Courts (except, for clarity, in any proper appeal from a Chosen Court).

9.3 **Audit.** Row64 may, by itself or through an independent third party, audit Customer's use of the Software or the Services to verify Customer's compliance with these Terms. Customer agrees to provide reasonable access to its systems and records for purposes of conducting these audits.

9.4 **Feedback.** Row64 will be free to use, disclose, reproduce, license, and otherwise distribute and exploit any suggestions, comments, or other feedback provided by Customer to Row64 with respect to Row64, the Software, or the Services as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise.

9.5 **Analytics.** Customer acknowledges and agrees that Row64 may collect, create, use, and store information, data, statistics, and/or other content derived from the Customer Data or Customer's use of the Software and the Services (collectively, "**Analytic Data**"). As between the parties, Row64 owns all right, title, and interest in and to the Analytic Data, together with any and all intellectual property rights embodied in or related to the foregoing.

9.6 **Publicity.** Customer consents to Row64's use of Customer's name and logo on the Row64 website or other online properties, identifying Customer as a customer of Row64 and describing Customer's use of the Software and the Services.

9.7 **Force Majeure.** Neither party will be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, whether foreseeable or not, including but not limited to acts of God (fires, storms, floods, earthquakes, etc.), civil disturbances, disruption of telecommunications, disruption of power or other essential services, interruption or termination of service by any service providers, epidemic, pandemic (including COVID-19), government actions, labor disturbances, vandalism, cable cut, computer viruses or other similar occurrences, or any malicious or unlawful acts of any third party.

9.8 **Electronic Communications.** Row64 may choose to electronically deliver all communications with Customer, which may include email to the email address on or linked to Customer's Account. Row64's electronic communications to Customer may transmit or convey information about action taken on Customer's request, portions of Customer's request that may be incomplete or require additional explanation, any notices required under applicable law, and any other notices. Customer agrees to do business electronically with Row64 and to receive electronically all current and future notices, disclosures, communications, and information, and that such electronic communications satisfy any legal requirement that such communications be in writing. An electronic notice will be deemed to have been received on the day of receipt as evidenced by such email.

9.9 Assignment. Neither these Terms nor any right or duty under these Terms may be transferred, assigned or delegated by a party, by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld, conditioned or delayed), and any attempted transfer, assignment or delegation without such consent will be void and without effect. Notwithstanding the foregoing, either party may assign these Terms to any successor to substantially all of its business or assets to which these Terms relate, whether by merger, sale of assets, sale of stock, reorganization or otherwise without such consent. These Terms will be binding upon and enforceable against any successor or permitted assignee.

9.10 Waivers. No failure or delay (in whole or in part) on the part of a party to exercise any right or remedy hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies hereunder are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default.

9.11 Severability. If any provision of these Terms is invalid, illegal or unenforceable in any jurisdiction, (a) such invalidity, illegality or unenforceability will not affect any other provision of these Terms or invalidate or render unenforceable such provision in any other jurisdiction, and (b) such provision, in such jurisdiction, will be replaced by a valid, legal and enforceable provision that best reflects the parties' intent for such first provision

9.12 U.S. Government Rights. The Software and related documentation are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to these Terms. All unpublished rights are reserved under the copyright laws of the United States.