

## SAAS SERVICES ORDER FORM

Customer: [CUSTOMER]	Contact: N/A
Address: [ADDRESS]	Phone: [PHONE]
	E-Mail: [EMAIL]
<b>Services:</b> <i>SAAS Subscription for Cerebros Enterprise AutoML Small Business Edition</i> (the “Service(s)”).	
<b>Service Volume:</b>  <input type="checkbox"/> 4 vCPU; 16GB Memory (Offered; Not SLA Supported) <input type="checkbox"/> 8 vCPU; 32 GB Memory <input type="checkbox"/> 16 vCPU; 64 GB Memory <input type="checkbox"/> 32 vCPU; 128 GB Memory <input type="checkbox"/> 48 GB Memory; 192 GB Memory <input type="checkbox"/> Custom: ___ vCPU ___ GB Memory	<b>Accelerator:</b> <input type="checkbox"/> * Contact us for a custom service agreement. <b>Integration and consulting fees:</b> <input type="checkbox"/> Small business: ___ hours <b>Live Training (We offer free training materials; First 90 minutes is based on a per-natural-person basis, up to 5 team members):</b> <input type="checkbox"/> Live Training, first 90 minutes: \$100 <input type="checkbox"/> Live Training, first additional hour: \$150 <input type="checkbox"/> Additional hour of live training: \$300
<b>Required Services Fees:</b>  1. Provisioning: \$9.00/ one time fee/ CPU core. 2. Cloud provider’s hardware fees: Refer to GCP fees for N2 series compute instances.  <b>Fees for recommended services (Required for clients in regulated industries, healthcare, and government clients other than universities and public health agencies):</b> 1. Monthly SLA Subscription: \$9.00 per month (Optional for customers not needing SLA support) 2. Live Training, first 90 minutes: \$100  <b>Optional fees for full service offerings:</b> 1. Small business Integration and consulting: \$200 / hr. 2. Live Training, first additional hour: \$150 3. Additional hour of live training: \$300  ... provisioning fees and 1st month payable in advance, subject to the terms of Section 4 herein.	<b>Initial Service Term:</b> Monthly, prorated continuously
<b>Implementation Services:</b> Company will use commercially reasonable efforts to provide Customer the services described in the Statement of Work (“SOW”) attached as Exhibit A hereto (“Implementation Services”), and Customer shall pay Company the Implementation Fee in accordance with the terms herein.  <b>Implementation Fee (one-time):</b> All fees for the SAAS offering as described are included in section “Services Fees”. The provisioning fee and any fees for elected optional and recommended services will be charged to the subscriber’s payment method at the time of service start.  <b>Monthly Charges (recurring):</b> Monthly charges: Monthly SLA subscription charges, accumulated cloud provider’s hardware fees are billed to the subscriber’s payment method on the first of the month.  <b>Prepayment and discounts:</b> Prepayment for 60+ days of sustained use will reduce Cerebros subscription fees by 7% and	

will involve a sizable discount from the GCP for hardware service.

### SAAS SERVICES AGREEMENT

This SaaS Services Agreement (“Agreement”) is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the “Effective Date”) between Company AutoML Platform with a place of business at 2000 PGA Blvd Suite 4440, Palm Beach Gardens, FL, 33408, and the Customer listed above (“Customer”). This Agreement our Terms and Conditions and contains, license limitations in Cerebros Community Edition (<https://github.com/david-thrower/cerebros-core-algorithm-alpha/blob/main/license.md>) among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

**Cerebros:**

**Customer:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **TERMS AND CONDITIONS**

### **1. SAAS SERVICES AND SUPPORT**

1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services in accordance with the Service Level Terms attached hereto as Exhibit B. As part of the registration process, Customer will be provided with an administrative user name and password for Customer's Company account. Company reserves the right to refuse registration of, or cancel passwords it deems inappropriate or the license terms are violated, or the customer .

1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services in accordance with the terms set forth in Exhibit C.

### **2. RESTRICTIONS AND RESPONSIBILITIES**

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover any closed source source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third; or remove any proprietary notices or labels. With respect to any Software that is distributed or provided to Customer for use on Customer premises or devices, Company hereby grants Customer a non-exclusive, non-transferable, non-sublicensable license to use such Software during the Term only in connection with the Services.

2.2 Further, Customer may not remove or export from the United States or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are "commercial items" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

2.3 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Company's standard published policies then in effect (the "Policy") and all applicable laws and regulations. Customer

hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

2.4 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

### **3. CONFIDENTIALITY; PROPRIETARY RIGHTS**

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Company to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 Customer shall own all right, title and interest in and to the Customer Data Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

**3.3** Notwithstanding anything to the contrary, Company shall have the right collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies, and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

#### **4. PAYMENT OF FEES**

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services and Implementation Services in accordance with the terms therein (the "Fees"). If Customer's use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to the Company's customer support department.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes associated with Services other than U.S. taxes based on Company's net income.

#### **5. TERM AND TERMINATION**

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this

Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, Company will make all Customer Data available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter Company may, but is not obligated to, delete stored Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

#### **6. WARRANTY AND DISCLAIMER**

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

#### **7. LIMITATION OF LIABILITY**

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS

ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO COMPANY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **8. MISCELLANEOUS**

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. The parties shall work together in good faith to issue at least one mutually agreed upon press release within 90 days of the Effective Date, and Customer otherwise agrees to reasonably cooperate with Company to serve as a reference account upon request.

## **EXHIBIT A**

### **Statement of Work**

1. Cerebros AutoML (community edition) is a free open source AutoML which, with correct hyperparameter tuning can provide relatively lightweight predictive models with astounding model performance from a cold start on small, noisy data without elaborate preprocessing, like seen in the example shown on readme.md on the Cerebros enterprise community edition's public repository on Github and the results of the tests performed and documented via Github Actions. Cerebros can be downloaded and used freely from here:
2. Cerebros enterprise is a user friendly enterprise edition of Cerebros AutoML which enables a user to pick a csv file to train a model with and pick which column is the target for prediction\* based on the data in the remaining columns\*. Cerebros Enterprise will build an ML model from there. It works by running Cerebros Community Edition, enhanced with a distributed training and tuning environment using the open source Kubeflow pipelines, the Kale Jupyter plugin, and the Katib Kubeflow tuning plugin as its high level architecture architecture, and is hosted on the customer's preferred cloud, on a pilot basis available now on GCP. Cerebros enterprise also has a non-SLA supported desktop version available on Mac and Ubuntu Linux.
3. As nearly all modern software does, cerebros includes numerous 3rd party components from various vendors. These include without limitation, Canonical (Ubuntu) <https://canonical.com/>, Google Cloud [cloud.google.com](https://cloud.google.com), Arrikto <https://www.arrikto.com/>, the Kubeflow open source community <https://www.kubeflow.org/>, the jupyter open source community <https://jupyter.org/>, and many others. Many areas of our service level agreement are supported to varying degrees by 3rd party SLA support. All support requests pertaining to these will be sent from the client to Cerebros, and cerebros will coordinate these with the appropriate 3rd party vendor if applicable. Cerebros will be responsible for forwarding communication to the customer as these are resolved.
4. Model performance you experience with Cerebros may vary on factors that Cerebros has no control of such as:
  1. The characteristics, distribution, and scale of your data
  2. Sampling methods used
  3. How data was trained - test split (hint, if samples with identical data is a possibility, random selection is usually not the best way, hashing each sample then modulus division by a constant, and placing samples where the result of this is  $\leq$  train set proportion, is better. This will force all occurrences of a given set of identical samples on the same side of the train, test split),
  4. Hyperparameter selection, hyperparameter search space chosen, and tuning algorithm chosen
  5. Feature selection practices and features available and selected in your use case.
  6. Model drift, changes in the patterns in data, trends over time, climate change, social changes over time, evolution, etc.
  7. Random seed and luck of the draw.
5. The real world applicability of the models produced are dependent on factors that Cerebros has no control of such as:
  1. Stability and changes in patterns observed in the real world related to the model. (Model drift)
  2. The factors mentioned above.
  3. Sampling practices (A model trained from sales data sampled as all customers that shopped on Monday probably won't predict saturday's sales as the validation metrics appear to, for example.)

4. Positive and negative feedback loops that are an artifact of actions taken due to the model's predictions.
6. Cerebros is tested according to the process found in the Cerebros community edition repository in branch main in `./github/workflows/automerger.yml` and source / release controlled per our stringent CICD process detailed in an SOP.

**\* Data and labels “target column” and “remaining columns” used to train consisting exclusively of numerical values which can be expressed as 32 bit floating point numbers. No values may be missing.**

## **EXHIBIT B**

### **Service Level Terms**

The Services, Cerebros Enterprise AutoML SAAS platform shall have 90% availability at the host hardware configuration elected. Measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than one hour, Company will pro-rate the service month proportionately to the service outage beyond the scope of the 90% uptime offered; Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place, has reported the outage to Cerebros and continues until the availability of the service is restored. Failure to provide such notice will forfeit the right to receive downtime credit, as it compromises the company's right to troubleshoot the issue. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event. Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement. Many areas of the platform which are covered by 3rd party service level agreements inherit the 3rd party vendor's SLA. Service terms may be updated at any time and the most recent updated terms are effective at the time of purchase or service renewal.



## **EXHIBIT C**

### **Support Terms**

1. Company will provide Technical Support to Customer via electronic mail on weekdays during the hours of 9:00 am through 5:00 pm Pacific time, with the exclusion of Federal Holidays (“**Support Hours**”).
2. Customer may initiate a helpdesk ticket during Support Hours by calling (650) 789-4375 or any time by emailing david@cerebros.one.
3. Company will use commercially reasonable efforts to respond to all Helpdesk tickets within four hours to one (1) business day, not to include federal holidays.
4. Cerebros will provide reasonable time to support to SLA supported functionality which Cerebros is responsible for.
5. For matters of integration of models with your own enterprise platform, scientific and technical Cerebros will provide support for the integration, billed under