



**Atmospheric and Environmental Research, Inc.**  
**Services and Data Sales eCommerce Terms and Conditions**

**Version: February 2021**

These terms and conditions govern the sale of data products (“Product”) and provisions of services (“Services”) by Atmospheric and Environmental Research, Inc. (“AER”). Customer’s acceptance of the Products and Services from AER shall be deemed to constitute acceptance of the terms and conditions contained herein, in the consents obtained from you on AER’s eCommerce Platform, and in the terms of use of the eCommerce Platform.

1. DEFINITIONS:

In this Agreement, unless the contrary intention appears:

**"Agreement"** means these Terms and Conditions and any consents or permissions obtained from the Primary User on the eCommerce Platform;

**"eCommerce Platform"** means the online platform accessed through AER's website allowing customers to browse the inventory of Products available for download and used to conclude this Agreement;

**"Effective Date"** means the date on which you first order the Product;

**"Employee"** means term employees and contractor employees working directly for Primary User in Primary User's regular course of business. This specifically excludes independent contractors or consultants that are hired by Primary User on a project basis;

**"Fee"** means the amount displayed, in the relevant currency, on the eCommerce Platform as being payable to purchase the Product;

**"Intellectual Property Rights"** means any and all Intellectual Property Rights, including patents, supplementary protection certificates, petty patents, utility models, trademarks, domain names, database rights, rights in designs, copyrights (including rights in computer software) and topography rights (whether or not any of these rights are registered, and including applications and the right to apply for registration of any such rights), moral rights, goodwill, know-how and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world, in each case for their full term, and together with any renewals or extensions;

**"Permitted Computer"** means any computer, tablet or mobile device that is under the personal control of your Employees;

**"Primary User"** or **"you"** means the individual entering into this Agreement to obtain a Product pursuant to a License, jointly with any legal person by whom such individual is employed or engaged on whose behalf the Product is used; and

**"Product"** means the data products ordered using AER's eCommerce Platform, and associated data files.

2. DELAY: Customer acknowledges that AER’s delivery dates are estimates only. AER will work diligently to avoid any delays, but unexpected or unforeseeable delays may occur. If a delay occurs or is expected to occur, AER will communicate the issue and details to Customer as soon as practicable and work with Customer to mitigate the impact. The Customer acknowledges and agrees that any delay in the delivery of, or inadequacy of, the data or



parameters to be delivered by the Customer to AER may result in delays in the delivery of the Deliverable. In the event of any such delay the Customer acknowledges and agrees that the time for delivery of the Deliverable to the Customer shall be extended to account for such delay. The parties acknowledge and agree that upon delivery of the Deliverable by AER to the Customer, AER shall be deemed to have fulfilled its obligations under this Agreement with respect to the performance of the services contemplated hereby and the delivery of the Deliverable.

3. **TERM:** This Agreement is effective until termination or expiration of this Agreement. The Agreement may be terminated as provided in Section 6 below or at the completion of the services provided by AER hereunder.
4. **NONEXCLUSIVITY:** The services performed hereunder and the Deliverable are provided to Customer on a non-exclusive basis.
5. **COMPENSATION AND BILLING:** The foregoing fees shall be non-refundable. The amount invoiced for Product and Services in connection with this Agreement is net of any applicable withholding taxes that may be imposed by governmental authorities of any country from which such payment may be made. If any such withholding taxes shall be imposed or collected in connection with such payment so that the payment actually received by AER shall have been reduced from the amount of the payment stated in this Agreement, Customer shall be responsible for paying to AER such additional amounts from time to time as shall be necessary to cause AER to have received the full amount stated herein without regard to the imposition or collection of any such withholding taxes.
6. **TERMINATION:** Either party shall have the right, on thirty (30) days prior written notice to the other party, to terminate this Agreement with respect to all or any part of the services being rendered hereunder. In the event of termination of this Agreement by Customer, the fee payable pursuant to Section 1 above shall not be refundable.
7. **PROPERTY:** All materials and information owned by AER or developed or used by AER in connection with the provision of the Product and Services, including but not limited to computer code, software, documentation, programming, copyrighted language, or trade secrets, which AER may develop, license or use in connection with or resulting from the performance of the Services hereunder, are and shall remain the exclusive property of AER (or its third party licensors, as applicable). Further, the results of the services provided hereunder, including the Deliverable, all new products or services and updates, error corrections, enhancements, improvements, or other changes to interfaces, functionality, compatibility, capabilities, performance, efficiency, or quality thereof arising from provision of the Product and Services hereunder are and shall remain the exclusive property of AER, even to the extent Customer is consulted in connection therewith, and Customer hereby disclaims all right, title and interest thereto. Neither the Customer, nor any employees, agents of Customer, customer of Customer or any other person or entity, may otherwise transfer, distribute, or otherwise make the Deliverable available, in whole or in part, to any other person or entity, subject to the provisions of this Section 7 and Section 8.
8. **REQUIRED COPYRIGHT NOTICE:**
  - a. If the Deliverable is reprinted, copied, or otherwise used in full, copies must reflect the copyright notice actually shown on the Deliverable.
  - b. If the Deliverable is reprinted, copied, or otherwise used in part, the following legend must appear at the bottom of each page so used:  
  
“Includes copyrighted material of Atmospheric and Environmental Research, Inc. with its permission.”
9. **ADDITIONAL OBLIGATIONS AND REPRESENTATIONS OF CUSTOMER:**
  - a. The Customer agrees to deliver to AER any input parameters and specifications as necessary to AER.
  - b. Customer acknowledges and agrees that it is requesting and directing AER to gather and process the data contemplated to be processed by AER pursuant to this Agreement, including without limitation with the use by AER of any third-party software required in connection with the foregoing and Customer represents and warrants that Customer has the right to do so. Customer further represents and warrants that it has the right



to use and deliver to AER the input parameters and information to be delivered by or on behalf of the Customer to AER and that Customer has the proper authority and right to grant AER the right to use such data and information. Customer assumes all risk and liability with respect to the collection and processing of the data and shall be liable to AER for the collection, processing and use of such data.

10. NO WARRANTIES:

- a. The services of AER contemplated by this Agreement and the Deliverable are each provided on an "AS IS" basis. AER MAKES NO REPRESENTATIONS, COVENANTS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES OR DELIVERABLE PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO WARRANTIES OF CONDITION, QUALITY, DURABILITY, SUITABILITY, NON-INFRINGEMENT, ORIGINALITY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR IN RESPECT OF ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, AND ALL SUCH WARRANTIES ARE DISCLAIMED BY AER. THE INFORMATION INCLUDED IN THE DELIVERABLE MAY BE STATISTICAL SAMPLES AND/OR SIMULATIONS, AND AER MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, THAT THE DELIVERABLE WILL ACCURATELY REFLECT, PREDICT OR RESEMBLE EXPERIENCE FOR THE CUSTOMER OR ANY OTHER PERSON OR ENTITY. AER DOES NOT WARRANT AND MAKES NO REPRESENTATIONS REGARDING THE COMPLETENESS, ACCURACY OR CURRENCY OR PREDICTIVE VALUE OF THE DELIVERABLE OR THE INFORMATION CONTAINED THEREIN. AER SHALL HAVE NO LIABILITY AND SHALL NOT BE RESPONSIBLE FOR BUSINESS AND OR LEGAL CONCLUSIONS, JUDGMENTS OR DECISIONS THAT MAY BE REACHED OR MADE BY THE CUSTOMER WITH RESPECT TO THE DELIVERABLE OR THE INFORMATION CONTAINED THEREIN. AER shall not be liable to Customer, nor to anyone else, for (a) any delays resulting from circumstances beyond its reasonable control including without limitation fires, casualties, or other acts of God, strikes or other labor disputes, war or other violence, or any law or other requirement of any governmental agency or authority, or (b) any loss or damage of any kind howsoever caused, including without limitation, any special, indirect, incidental or consequential damages resulting from or arising out of the services provided hereunder, the Deliverable including the use of any third party software. Oral statements do not constitute warranties, shall not be relied upon by Customer, and are not part of this Agreement. In any event, AER's liability shall be limited to the amount paid to it by Customer for the services provided hereunder. Customer agrees to indemnify, defend and hold AER harmless from and against any loss, claim, suit, or expense, including reasonable attorneys' fees, arising out of or relating to the services provided hereunder, the accessing and use of any other data or algorithms rendered through third party software identified by Customer and the access to or use of the Deliverable by Customer, except to the extent of damage or loss caused directly by or resulting directly from the gross negligence or willful misconduct of AER in the performance of the services hereunder. As the deliverable is provided "AS IS" and without warranty, Customer acknowledges that third party claim or actions for infringement of intellectual property and other rights may interfere with or enjoin Customer's use of or access to any such deliverables and that Customer acts at its sole risk, responsibility, liability and expense respecting any continued use of the Deliverables upon or following any such claim or action, that Customer shall comply with any demand from AER that Customer cease any use of the Deliverable following any such claim or action, and hereby indemnifies AER from and against any and all loss, cost, damage or expense arising from any such claim or action, including any decision by Customer not to comply with any demand from AER or any other party to cease the use of the Deliverable.
- b. The Customer acknowledges and agrees in preparing the Deliverable that AER may use third party software as components of the data processing chain. The Customer agrees that neither AER nor any provider of such third-party software is making any representations or warranties regarding such software or its use in connection with the Services and Deliverables provided by AER under this Agreement. Customer assumes full responsibility for its use of the Deliverables, including any decisions made by Customer (or its customers) in connection therewith.

11. STATUS: Customer and AER agree that AER is acting as an independent contractor with respect to services



it renders hereunder and not as an employee or agent of Customer. Both parties warrant to each other that they hold themselves out to the public as an independent contractor with respect to the work to be performed under this Agreement and that Customer shall not be responsible for the withholding or payment of any federal or state tax, FICA contribution, disability or unemployment tax from any payment to AER relating to any employees of AER.

12. CONFIDENTIALITY:

- a. AER and Customer acknowledge that much, if not all, of the material, data and information which has or will come into their possession from the other party pursuant to this Agreement consists of confidential and proprietary information (“Confidential Information”). The parties hereto agree that neither party shall disclose or release any Confidential Information of the other party, which is disclosed to it either (i) in a writing or other tangible form or (ii) orally, to any third party except with the other party’s prior written consent, unless compelled to do so by legal process. In the event that the party receiving the information (“recipient”) is required by law, including by subpoena, judicial or administrative order or otherwise, to make any disclosure of any of the Confidential Information, the recipient shall first give written notice of such requirement to the party who disclosed the Confidential Information (“discloser”) to the recipient and shall permit the discloser to intervene in any relevant proceedings to protect its interests in the Confidential Information, and shall provide full cooperation to the discloser in seeking to obtain such protection. The recipient further agrees that if the discloser is not successful in precluding the requesting legal body from requiring the disclosure of the Confidential Information, it will furnish only that portion of the Confidential Information which is legally required and, at the request and expense of the discloser, will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.
- b. The recipient agrees to hold the Confidential Information in strictest confidence and agrees not to copy, reverse engineer or attempt to derive the composition or underlying information, structure or ideas of any Confidential Information or to release or disclose such Confidential Information to any individual or entity, whether employee, subcontractor, or subcontractor employee, except that the recipient may disclose such information to its employees who have a bona fide need to know, are necessarily involved in the performance of the recipient’s obligations hereunder, have been advised of the existence and terms of this Agreement and have agreed in writing to keep the information confidential to protect the discloser’s interests. The recipient further agrees not to (i) use the Confidential Information for its own benefit or for the benefit of any third parties, other than for the performance of its obligations under this Agreement, and (ii) release or disclose the Confidential Information to any other person or entity, either during the term or after the termination of this Agreement.
- c. In the event of any breach of this confidentiality obligation or of the obligations relative to the rights of AER respecting the products and services provided pursuant to this Agreement, and any Deliverable or product delivered in providing Services, the recipient acknowledges and agrees that due to the nature of the Discloser’s Confidential Information, that any breach or threat thereof, of its obligations hereunder, or any unauthorized use or release or threatened use or release of any Confidential Information may result in irreparable harm to the Discloser and that in the event of violation of this Agreement, without limiting a Party’s other rights and remedies in law or equity, the Discloser shall be entitled to appropriate equitable relief including an injunction without the necessity of posting bond or specific performance, against the recipient for breaching or threatening to breach this Agreement in addition to whatever remedies it might have at law including reasonable attorney’s fees and damages without the necessity of proving actual damages. Customer shall be liable for any breach of this confidentiality provision by any of its affiliates, employees, representatives or agents.
- d. The party recipient shall be solely responsible for maintaining the security of such Confidential Information and for complying with all federal, state, provincial and local laws, regulations, or other requirements including the Gramm-Leach-Bliley Act of 1999, 15 U.S.C., Section 6801, as amended from time to time governing the privacy, confidentiality and non-disclosure of such information.
- e. The foregoing obligations shall not apply to any information which: a) is or becomes known publicly through no fault of the recipient; or b) is acquired or learned by the recipient from a third party entitled to disclose it;



or c) is already known to the recipient before receipt from the discloser as shown by the recipient's written records; or d) is independently developed by the recipient without reference or use of the disclosing party's Confidential Information as shown by the recipient's written records; or e) must be disclosed by operation of law.

f. The foregoing obligations of each party shall survive the termination or expiration of this agreement.

13. **COMPLIANCE WITH APPLICABLE LAW:** Each party to this Agreement certifies and warrants that it will comply with all federal, state, provincial and local laws, regulations and rules applicable to it and to its obligations under this Agreement. Each party represents that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of it has been properly authorized and empowered to enter into this Agreement. The parties both warrant that they have all the requisite power and authority to execute, deliver, and perform this Agreement; that they have duly authorized execution, delivery, and performance of this Agreement; and to their knowledge, there is no outstanding litigation, arbitrated matter, or other dispute to which they are a party which, if decided unfavorably to them, would reasonably be expected to have a material adverse effect on that party's ability to fulfill its respective obligations under this Agreement.

14. **NOTICES:** Any notice to be given to either party shall be deemed properly given at the time it is either personally delivered, or mailed, properly addressed and post-paid, to the address stated on this agreement or to such other address as AER or Customer may specify to the other in writing.

15. **SURVIVABILITY:** Sections 1, 3, 6, 7, 9, 10, 11, 12, this Section 15, 17, and Section 22 shall survive any termination, expiration or cancellation of this Agreement.

16. **SECTION HEADING:** The section headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.

17. **GENERAL:**

- a. **Governing Law, Jurisdiction.** This Agreement shall be construed and enforced in accordance with the laws of the State of New York, USA, without giving effect to conflict of laws. No action regarding this Agreement, any Product or the relationship between you and AER may be commenced in any court except the in a court of competent jurisdiction (whether federal or state) sitting within the State and County of New York, which shall have the exclusive jurisdiction over any action.
- b. **Entire Agreement, Severability.** This Agreement constitutes the entire agreement, and supersedes any proposals, previous agreements or existing contracts previously executed, with respect to the subject matter hereof. If any provision, clause or application of this Agreement to any party or circumstance is held invalid and unenforceable, this shall not affect any other provision, clause or application of this Agreement.
- c. **Amendments.** No amendment or variation of this Agreement shall be effective unless made in writing and signed the authorized representatives of both parties.
- d. **Notices.** All notices, consents, approvals or other communications pursuant to this Agreement shall be made in writing and shall be delivered by personal delivery, by prepaid registered or certified mail (return receipt requested), by overnight courier (with receipt for delivery), to the applicable address specified by, in your case, on the e- Commerce Platform or, in the case of AER, to AER's registered office or as otherwise notified to you from time to time.
- e. **Waivers.** The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any other right hereunder.



18. **USE OF DATA:** *AER collects some information from you, including but not limited to your name, address, telephone number, and order history. We securely store your information in accordance with our Privacy Policy, <https://www.verisk.com/privacy-trademarks-use/iso-online-privacy-notice/>.*
19. **ASSIGNMENT:** Neither the Primary User nor any Employee may assign or sublicense any of its rights and privileges under this Agreement without AER's prior written consent.
20. **THIRD PARTY RIGHTS:** A person who is not a party to this Agreement has no right to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available.
21. **EXPORT CONTROLS:**
- a. You acknowledge that the provision of the Products may be subject to the export control laws (including trade sanctions) of the United States of America, and other relevant jurisdictions (including but not limited to the US Export Administration Regulations and you agree that you will comply with all applicable export control laws of all relevant jurisdictions to the extent that they apply. You further agree that you will not, and you will ensure that your employees will not, access or use the Products so as to cause AER to breach any applicable export control laws or sanctions. AER reserves the right to restrict your access to the Products to locations which are not subject to sanctions or export controls of the United States of America, and other relevant jurisdictions without liability to you. AER further reserves the right to suspend provision of Products to you or terminate this Agreement upon written notice, without liability, in the event that you, your affiliates or employees, or the uses to which you put the Products, are or become the target of export control laws and regulations or trade sanctions of the United States of America, or any relevant jurisdiction. In the event that AER determines that you or any of your affiliates or employees are in breach of this section, AER may immediately terminate this Agreement without credit or refund on written notice to you.
  - b. You shall indemnify AER and its affiliates from any and all loss, settlement, damage or expense (including reasonable legal fees) and any fine or penalty howsoever suffered or incurred that arise in relation to your breach of the restrictions in Section 21.a above.
22. **FEES; TAXES:**
- a. Unless otherwise stated, the Fees charged by AER as consideration exclude any sales or use tax, any value added tax or any other tax or other governmental charge payable in connection with your execution and delivery of this Agreement or the exercise of your rights hereunder. You shall pay any such tax or other governmental charge in addition to any Fee, whether or not separately invoiced by AER. You shall indemnify and hold harmless AER from your failure to make any such payment in a timely manner.
  - b. You shall pay each Fee promptly upon your receipt of an invoice therefor. The invoice may be provided by AER, or a subsidiary, affiliate, or parent company of AER. If AER shall elect to provide you any Product prior to your having paid the Fee therefor, such election by AER shall not relieve you of your obligation to pay such fee as provided in the preceding sentence. No Fee is refundable for any reason except to the extent otherwise expressly provided herein.
  - c. The Fee for each Product as stated in this Agreement is net of any applicable withholding taxes that may be imposed by governmental authorities of any country from which payment of such Fee may be made. If any such withholding taxes shall be imposed or collected in connection with such Fee such that the amount of such Fee actually received by AER shall have been reduced from the amount of the Fee stated in this Agreement, you shall be responsible for paying to AER such additional amounts from time to time as shall be necessary to cause AER to have received in connection with this Agreement the full amount of the Fee stated herein without regard to the imposition or collection of any such withholding taxes.