

NMRbox End User License Agreement

This NMRbox End User License Agreement (the "Agreement" or "EULA") is made and entered into by and between The Center for Biomolecular NMR Data Processing and Analysis, including but not limited to the University of Connecticut Health Center ("Center" or "UConn") and the entity agreeing to these terms ("User").

This Agreement is effective as of the date User clicks to accept the Agreement (the "Effective Date"). This Agreement governs User's access to and use of the Service.

1. Provision of the Service.

1.1 Research and Education. The Center is providing its Service to further important research and education. The Service is partially funded by the United States government and the state of Connecticut. NMRbox incorporates numerous software programs, including open source software programs, under the terms of their respective individual licenses. User understands that the Center will make reasonable efforts to provide the highest quality Service with the most relevant NMR software tools, but that the Center specifically does not hold itself out as a commercial enterprise and is not charging Users a fee for their use of this Service.

1.2 Use of the Service. Subject to this Agreement, User may access the Service either as a downloadable virtual machine or as a cloud-based service hosted by the Center. The Service is only available for academic and non-profit research. User may not sublicense or transfer these rights and may not make the Service available to others on a commercial basis. Center reserves the right to limit User's usage of storage capacity and computational resources. Center also reserves the right to disable, suspend or otherwise limit the Service at any time for any reason. If the Service is to be disabled in order to allow for software or infrastructure improvements, Center will endeavor to notify Users in advance of the date and time of such Service downtime, but is under no obligation to do so.

1.3 Accounts. User must apply for an Account in order to use the Service, and is responsible for the information it provides to create the Account, its passwords, and for any use of its Account. Center reserves the right to confirm that User is an academic, non-profit or research institution, and may deny access if, in its sole discretion, it determines a User is not an academic, non-profit or research institution, as defined and interpreted solely by Center. If User becomes aware of any unauthorized use of its password or its Account, User shall notify Center immediately and use the Center-provided facility to change its password. Center has no obligation to provide User multiple Accounts.

1.4 Applications and Functionality. Center may make new applications, tools, features or functionality available from time-to-time through the Service. Center may disable, delete or remove applications, tools, features or functionality from the Service in its sole discretion and without advance notice to User.

1.5 Monitoring. Center will run monitoring utilities to ensure optimal performance and maintain security of the Service. Center will run monitoring utilities on the cloud-based Service that track those NMR software packages that are used. De-identified information of User's overall usage is reported to software developers to ensure that they meet National Institute of Health reporting guidelines. Center

also provides the names, email addresses and institutions of all Users who access a piece of software to that software developer. The downloadable virtual machine will also monitor which software is run and identified usage statistics will be periodically reported back to Center (User may opt out of this monitoring).

1.6 Data Review. The Center reserves the right to review User data when, in its sole discretion, it deems it appropriate to do so for purposes of validating compliance with this or any other agreement, policy, law or regulation, monitoring system resources, or providing technical support.

1.7 Modifications. Center may make reasonable updates to the Service from time-to-time. If Center makes a material change to the Service, it will endeavor to inform User, but is under no obligation to do so. Center may make changes to this Agreement and the related licenses from time-to-time.

2. User Obligations.

2.1 Compliance. User is solely responsible for its applications, projects, and data, and for ensuring its applications, projects, and data comply with all applicable agreements, policies, laws and regulations. Center reserves the right, in its sole discretion, and at any time, to review User's application, project, and data for compliance with any agreements, policies, laws and regulations.

2.2 Restrictions. User will not take any action that would harm the Center, its third party licensors or other Users. User is restricted to using the Center's cloud-based services for their intended purpose. Center does not intend uses of the Service to create obligations under HIPAA, and makes no representations that the Service satisfies HIPAA requirements. If User is (or becomes) a Covered Entity or Business Associate, as defined in HIPAA, User will not use the Service for any purpose or in any manner involving Protected Health Information (as defined in HIPAA) unless User has received prior written consent to such use from Center.

2.3 Third Party Licensors. The third party components (which include open source software) of the Service are subject to separate license agreements. These license agreements can be found by visiting <http://nmrbox.org/licensing>. Center refers to these as "Third Party Licensors." Center has made diligent efforts to contact the creators and/or owners of any third party software. Any creator or licensor who has concerns with our use of the software may contact Center as directed on the project website at <http://nmrbox.org/contact-us>. This agreement does not change the terms of any Third Party Licensor agreements.

2.4 DMCA Policy. Center may not be able to determine whether its Service is being used legally. The Center responds to notices of alleged copyright infringement and terminates accounts of repeat infringers according to the process set out in the U.S. Digital Millennium Copyright Act. If User wants to notify Center of alleged copyright infringement, User can find information about submitting notices, and the Centers policy about responding to notices at: <https://security.uconn.edu/procedures-for-handling-dmca-complaints/>

2.5. Acknowledgment of Risk. Although the majority of Center's Service utilizes open source code, various aspects of the Service contain confidential data, or may be written using third party modules

that are not open source. User acknowledges that it acts “at its own risk” in taking any action in which User does not secure necessary licensing agreements.

3. Suspensions and Removals.

3.1 Suspension and Removals. If User violates this or any other applicable agreement, policy, law, or regulation, as determined in the Center’s sole discretion, the Center may, in its sole discretion, suspend User’s account, project, and/or remove any relevant User data.

3.2 Security. If Center identifies an emergency security issue, Center may suspend User applications, projects and accounts, as necessary, and in Center’s sole discretion.

3.3 Inactivity. Center reserves the right to suspend or terminate the Service for inactivity in accordance with section 7.3 of this agreement. Suspension of services includes but is not limited to suspending a virtual machine, shutting down a virtual machine, and/or archiving User data into a private cloud. Provided that the Service has not been terminated, cloud-based services may be restored by the User when activity is resumed. However, notwithstanding the above, if Center suspends a User session for inactivity, any open programs will be terminated and unsaved data will be lost. Such open programs and unsaved data will not be "restored" if User connects to Service or Center in the future.

3.4 Resources. Center reserves the right to suspend or restrict activity of User as system resources become limited, or if User’s account is in a high-resource state such as described in section 3.5.

3.5 Resource Consumption. Center reserves the right to suspend or restrict activity of User if, in Center’s sole discretion, User initiates or is engaged in any process that consumes an amount of computing resources that the Center deems improper.

4. Intellectual Property Rights.

4.1 User. As between the parties, User owns all intellectual property rights in User’s data and the application or project (if applicable), and the Center owns all intellectual property rights in the Service and software. The Center will not access or use User data, except in accordance with sections 1.6 or 4.2 of this Agreement, or as necessary to maintain the Center’s operation.

4.2 Third Parties. If User is performing research under the instruction of a third party PI (principal investigator) or on behalf of an academic institution, the Center reserves the right, in its sole discretion, to grant access to User Data to requesting third parties or representatives of User’s academic institution. Third party requests under this section must satisfy the center, in its sole discretion, that their access to User data is appropriate. If User is a student at an academic institution known to the Center to be one at which ownership and copyright of student data is held by the student, Center will make reasonable efforts to ascertain whether the data is owned by the student/User, prior to granting a third party access to the User Data.

4.3 Previous Assignment of Ownership. If User has executed agreements with third parties establishing intellectual property rights pertaining to User’s data, such agreements will supersede this section 4, except that in all cases, Center owns all intellectual property rights in the Service and software.

5. Technical Support Services. Center will make reasonable efforts to provide technical support to Users.

6. Change of Services. The Center may discontinue the Service or any portion of the Service or feature of the Service for any reason at any time. The Center may remove or alter the Service offered in archived versions of NMRbox for any reason at any time. Center will make reasonable efforts to document any change of service.

7. Term and Termination.

7.1 Term. The “Term” of this Agreement will begin when User creates an Account and continue until the Agreement is terminated as set forth in the Agreement.

7.2 Termination for Convenience. Either party may terminate this Agreement at any time for its convenience, provided that it has given thirty (30) days prior written notice of its intent to terminate for convenience.

7.3 Termination for Inactivity. Center may terminate this Agreement immediately if User fails to login to User’s account for one year. If Center terminates this Agreement for inactivity, Center may transfer User’s Data to a different server, may delete User’s data, may provide User’s data to a third party subject to section 4.2 of this Agreement, or may take any other action it deems appropriate.

7.4 Termination for Breach. If User is in breach of this Agreement, as determined in the sole discretion of Center, Center may terminate this Agreement immediately and without prior notice.

7.5 Effect of Termination. If the Agreement is terminated, then: (i) rights granted by one party to the other will immediately cease; and (ii) User will delete the Software.

8. Indemnification. User agrees to defend, indemnify and hold Center harmless from and against any and all liability, loss, expense, attorneys’ fees, or claims for injury or damages arising from the performance of this Agreement

9. Publicity. User is permitted to state publicly that it is a User of Center’s Service, but may not use any Center and/or UConn logos or trademarks. Center will provide a logo and graphical badges that may be displayed on lab websites, posters, and talks to acknowledge use of Center’s Service. All publications that utilize the Service are required to acknowledge the Center as stated at:

<http://nmrbox.org/pages/acknowledge-us>

10. Confidentiality. During the course of the parties’ relationship, each party may have access to confidential information of the other party. Neither party shall disclose any confidential information of the other party, orally or in writing, to any third party without the prior written consent of the other party, except as provided in this Agreement. The parties shall protect each other’s confidential information using commercially reasonable administrative, physical and technical safeguards. Neither party shall use the other party’s confidential information for any purpose other than the lawful performance of this Agreement.

11. Representations and Warranties. Each party represents and warrants that: (a) it has full power and authority to enter into the Agreement; and (b) it will comply with all laws and regulations applicable to its provision, or use, of the Service, as applicable.

12. Disclaimer. Except as expressly provided for in this agreement, to the maximum extent permitted by applicable law, Center and UConn do not make any other warranty of any kind, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for a particular use, and noninfringement. UConn and its third party licensors or suppliers are not responsible or liable for the deletion of, or failure to store any User data, and other communications maintained or transmitted through use of the Service. User is solely responsible for securing and backing up its application, project, and data. Center and UConn do not warrant that the operation of the software or the Service will be error-free or uninterrupted. Neither the software nor the Service are designed, manufactured, or intended for high-risk activities.

13. Limitation of Liability. To the maximum extent permitted by applicable law, and regardless of the theory of liability or whether related to or arising out of this EULA, UConn will not be liable for direct damages, lost revenues or indirect, special, incidental, consequential, exemplary, or punitive damages, loss of data or interruption of academic or business activities, or lost revenue or profits, even if UConn knew or should have known that such damages were possible.

14. Force Majeure. If the performance of Center under this Agreement is prevented, hindered, or otherwise made impractical by reason of flood, strike, war, pandemic, acts of government, or any other casualty or cause beyond the control of Center, then Center shall be excused from its performance to the extent and so long as it is prevented, hindered, or delayed by such event(s).

15. Miscellaneous. This Agreement does not confer any benefits on any third party unless expressly stated. This Agreement is governed by the law of the state of Connecticut. The terms located at a URL referenced in this Agreement and any associated documentation are incorporated by reference into the Agreement. UConn may provide an updated URL in place of any URL in this Agreement, at any time, in its sole discretion.