

Cresta Intelligence Inc.
Pilot Agreement

This Pilot Agreement (“Agreement”) is entered into by and between the Customer set forth on the applicable Order Form and Cresta Intelligence Inc., a Delaware corporation having a principal place of business at 100 South Murphy Ave Ste 300 Sunnyvale, California 94086 (“Cresta”).

Cresta will provide Customer with the Services specified in the applicable Order Form for the purpose of testing the Services in a non-production environment for its internal business purposes (the “Purpose”). Customer may only use the Services with its non-production data and in accordance with the following conditions:

1. **Pilot Period and Fees.** Cresta will provide Customer with access to the Services for the period of time specified in the applicable Order Form (“Pilot Period”), commencing on the Order Form Effective Date, unless otherwise specified in the Order Form. Any licenses to the Services granted under this Agreement will terminate upon expiration or termination of the applicable Order Form. Fees (if any) for the Services will be invoiced and paid in accordance with the terms of the Order Form.
2. **Termination.** Either Party may terminate this Agreement or any Order Form (i) if there is a material breach of this Agreement or the applicable Order Form by the other Party which is not cured within ten (10) days of written notice from the non-breaching Party or (ii) immediately if the other Party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency, or similar proceeding that is not dismissed within sixty (60) days of filing.
3. **Effects of Termination.** Upon any termination or expiration of this Agreement or the applicable Order Form, Cresta shall no longer provide the Services to Customer and Customer and its users shall cease using the Services. If termination is for Cresta’s breach, Customer shall pay Cresta for all fees that had accrued before the termination date; otherwise, Customer shall pay all outstanding invoices and amounts due. Except as expressly stated in this Agreement, termination of this Agreement by either Party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such Party. Upon termination of this Agreement, 1) each party shall promptly return or destroy all Confidential Information of the other party in its possession and 2) Cresta will delete all Customer Content.
4. **Compliance.** Each party will comply with the requirements set forth in the Data Processing Agreement found at <https://www.cresta.com/legal>, which is incorporated herein as part of the Agreement (“DPA”), and the requirements set forth in the Enterprise Security Addendum found at <https://trust.cresta.com/>. If the Customer Content contains Protected Health Information (as defined by HIPAA rules), Customer will comply with Cresta’s Business Associate Agreement (“BAA”), incorporated herein by reference and available at <https://cresta.com/legal/>. The terms of the DPA, BAA, and Security Addendum shall supersede any terms that conflict with the terms set forth in this Agreement.
5. **Title to Services.** Customer shall have no right, title, or interest in the Services or any derivatives or copies thereof. Title to and ownership of the Services, derivatives, and/or copies remains with Cresta at all times.
6. **Support.** Cresta will provide support during its normal business hours (6 AM PST to 6 PM PST, Monday through Friday) throughout the Pilot Period.
7. **Customer Obligations.** Customer’s rights and obligations regarding the Services are as follows:
 - a. Customer is granted a non-exclusive, non-transferable license, without the right to sublicense, to use the Services for the Purpose.
 - b. Customer and its users shall not (and shall not allow any third party to):
 - i. reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Services;
 - ii. access the Services to build a competitive product or service or copy ideas, features, functions, or graphics of the Services;
 - iii. copy, license, sell, transfer, make available, lease, time-share, distribute, or assign its licenses or the Services to any third-party or use the Services on behalf of any third party;

- iv. upload or otherwise transmit any Customer Content that is unlawful, offensive, or otherwise objectionable or that infringes any proprietary or intellectual property rights of any person;
 - v. upload or otherwise transmit any material that contains software viruses or any other harmful code, files, or programs;
 - vi. interfere with or disrupt the Services or networks connected to the Services, or;
 - vii. violate any law or regulation or use the Services for any high risk purposes as defined by applicable law.
- c. Customer Content. Customer retains all ownership and intellectual property rights in all Customer Content. Customer Content means all information Customer or its users provide to or otherwise make available through use of the Services. Customer will maintain backups of all Customer Content and Cresta will have no liability for the storage, maintenance, or deletion of any Customer Content. Customer represents and warrants to Cresta that it has and will have all necessary rights to provide the Customer Content to Cresta, including without limitation, obtaining any necessary consents to provide the Customer Content to Cresta or to utilize the Services in connection with contacting any individual.
- d. Customer Content License Grant. By providing Customer Content, Customer grants to Cresta a nonexclusive, royalty-free, worldwide, transferable, and sublicensable right and license to use and modify the Customer Content as required for Cresta and its subcontractors and service providers to provide and support the Services.
- e. Customer Activity. Customer is responsible for all activities conducted under its user logins and for its users' compliance with this Agreement. Unauthorized use, resale, or commercial exploitation of the Services is prohibited. Customer is responsible for procuring and maintaining Customer's infrastructure, network connections, and access to the Services, as well as selecting and initiating contact with each Customer of outbound communications utilizing the Services. The Services do not independently initiate or send outbound messages.
8. Confidentiality. During the term of this Agreement, each Party shall keep confidential any information provided by the other Party that a reasonable person would consider confidential, including the Services ("Confidential Information"). The receiving Party may disclose Confidential Information only to its directors, officers, or employees ("Representatives") who need to know it for purposes of this Agreement, and shall only use the other Party's Confidential Information for the disclosed purpose, not for its own or any third party's benefit without the disclosing Party's prior written consent. Each Party is responsible for its Representatives' actions and must protect Confidential Information with at least reasonable care. The terms and pricing of this Agreement are Confidential Information. Customer shall not use the Services for comparative analysis, evaluations, or product benchmarks, nor publicly post any analysis or reviews of the Services without Cresta's prior written consent. The receiving Party shall promptly notify the disclosing Party of any actual or threatened breach of this Section and cooperate with reasonable requests to enforce the disclosing Party's rights. Confidential Information remains the property of the disclosing Party. Confidential Information does not include information that: (i) was known to the receiving Party without confidentiality obligations before receipt; (ii) is received from a source not bound by confidentiality; (iii) becomes public other than through a breach of this Agreement; or (iv) is independently developed by the receiving Party without use of the disclosing Party's Confidential Information. The receiving Party may disclose Confidential Information as required by law, legal process, or government regulation, provided a protective order is in place or the disclosing Party is given reasonable prior written notice to contest the disclosure, and such disclosure is limited to what is required. Unauthorized use of Confidential Information may cause irreparable harm and the disclosing Party may seek injunctive relief in addition to other remedies.
9. **WARRANTY DISCLAIMER. THE SERVICES ARE PROVIDED TO CUSTOMER UNDER THIS AGREEMENT WITHOUT WARRANTY OF ANY KIND. AND ARE DELIVERED TO, AND ACCEPTED BY, CUSTOMER "AS IS." CRESTA DOES NOT MAKE ANY WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OR TRADE.**

10. Indemnity. Customer will indemnify, defend, and hold Cresta harmless against any costs, liabilities, losses, and expenses (including reasonable attorneys' fees) resulting from a claim, suit, action, or proceeding brought by any third party against Cresta or any of its Affiliates that arises out of or is related to Customer's breach of Section 7.
11. **LIMITATION OF LIABILITY**. EXCEPT AS MAY ARISE OUT OF A PARTY'S CONFIDENTIALITY OBLIGATIONS OR MISUSE OF THE OTHER PARTY'S INTELLECTUAL PROPERTY, AND CUSTOMER'S OBLIGATIONS UNDER SECTION 7 (THE "EXCLUDED CLAIMS"), NEITHER PARTY SHALL HAVE ANY OBLIGATION OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES (EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME), OR FOR LOSS OF REVENUE, LOSS OF BUSINESS, OR OTHER FINANCIAL LOSS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES. Except as may arise out of an Excluded Claim, the total cumulative liability of a Party for any claims and damages under this Agreement, whether arising by statute, contract, tort or otherwise, will not exceed \$10,000.00.
12. Assignment. This Agreement and the use rights granted hereunder may not be assigned or otherwise transferred by Customer without Cresta's prior written consent.
13. Miscellaneous. This Agreement constitutes the entire Agreement between Customer and Cresta and supersedes any other oral or written agreements related to this subject matter. Only a written instrument signed by both Parties may amend this Agreement. Any inconsistent or conflicting terms in any purchase order issued by Customer are rejected and shall be of no force or effect, even if the order is accepted by Cresta. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, United States of America, without reference to conflict of laws principles. Any legal action or proceeding between the Parties or regarding this Agreement shall be brought exclusively in the state or federal courts in San Francisco, California.