# DATAROBOT EVALUATION TERMS OF SERVICE

These DataRobot Evaluation Terms of Service (these **"Terms"**) describe your rights and responsibilities as a user of our Evaluation Software. These Terms are between you and DataRobot, Inc. (**"DataRobot"**). **"You"** means the entity you represent in accepting these Terms or, if that does not apply, you individually. You represent and warrant that you are at least 16 years of age or older. If you are accepting on behalf of your employer or another entity, you represent and warrant that: (i) you have full legal authority to bind your employer or such entity to these Terms; (ii) you have read and understand these Terms; and (iii) you agree to these Terms on behalf of the party that you represent. If you don't have the legal authority to bind your employer or the applicable entity, please do not click "I agree" (or similar button or checkbox) that is presented to you. **PLEASE NOTE THAT IF YOU SIGN UP TO USE THE EVALUATION SOFTWARE WITH AN EMAIL ADDRESS FROM YOUR EMPLOYER OR ANOTHER ENTITY, THEN (A) YOU WILL BE DEEMED TO REPRESENT SUCH PARTY, (B) YOUR CLICK TO ACCEPT WILL BIND YOUR EMPLOYER OR THAT ENTITY TO THESE TERMS, AND (C) THE WORD "YOU" IN THESE TERMS WILL REFER TO YOUR EMPLOYER OR THAT ENTITY.**

*These Terms are effective as of the date you first click "I agree" (or similar button or checkbox) or use or access the Evaluation Software, whichever is earlier (the "Effective Date"). These Terms do not have to be signed in order to be binding. You indicate your assent to these Terms by clicking "I agree" (or similar button or checkbox) at the time you register to use the Evaluation Software and you also indicate your assent to these Terms by accessing or using the Evaluation Software.* **These Terms supersede any other agreement (including any click-through or electronic agreements within the Evaluation Software) between DataRobot and you with respect to the Evaluation Software.**

## 1    DEFINITIONS

**Documentation** means the technical documentation for the Solution that is included in the version of the Solution accessed by Customer, including all additions and modifications made by DataRobot from time to time in accordance with this Agreement.

**Evaluation Software** means a no fee, trial, demo, alpha, beta or early access offering of DataRobot's software products and Documentation.

**Evaluation Term** means the period for which you have rightful access to the Evaluation Software, which shall be 30 days from the date that you are first granted access to the Evaluation Software unless such period is extended or earlier terminated by DataRobot.

**Model** has the meaning given at https://docs.datarobot.com/en/docs/glossary/index.html#modelsmodeling.

**Project** has the meaning given at https://docs.datarobot.com/en/docs/glossary/index.html#project.

**Your Data** means any code or data which is uploaded into the Evaluation Software by or on behalf of you (including by DataRobot on your behalf).

## 2    LICENSE GRANT

2.1    Subject to these Terms, DataRobot grants to you, for the Evaluation Term, a non-exclusive, non-transferable, non-sublicensable license to use the Evaluation Software internally, solely for the purpose of evaluating its suitability to you for subsequent purchase.

## 3    RESTRICTIONS ON USE OF THE EVALUATION SOFTWARE

You shall not, and shall not permit any third party to, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

(a)    use the Evaluation Software other than in accordance with the Documentation;

(b)    attempt to backup, copy, modify, create derivative works from, or distribute any part of the Evaluation Software;

(c)    attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form any part of the Evaluation Software..

(d)    access any part of the Evaluation Software to build a competing product or service;

(e)    use the Evaluation Software to provide services to third parties;

(f)    license, lease, transfer, assign, disclose, or otherwise commercially exploit the Evaluation Software; or

(g)    modify any proprietary rights notices that appear in the Evaluation Software.

## 4    EVALUATION USE

4.1    Any Models generated by you using the Evaluation Software may only be used to evaluate the features and functions of the Evaluation Software and not used to make decisions on any other business issues. Upon conclusion of the evaluation, you shall cease use of and destroy all such Models unless you purchase DataRobot's software product within three months of access to the Evaluation Software ending.

4.2    DataRobot shall have the right to terminate, downgrade, limit or modify the Evaluation Software at any time without notice or compensation. No warranty, indemnity, availability, maintenance or support obligations of DataRobot will apply to Evaluation Software.

4.3    You grant to DataRobot, without charge, the fully paid-up, perpetual right to exploit any feedback you may provide pertaining to DataRobot's products or services for any purpose, so long as such exploitation does not identify you as the source of the feedback.

## 5    TERM AND TERMINATION

5.1    DataRobot may extend the Evaluation Term (if agreed by the parties) or terminate your access to the Evaluation Software at any time without cause.

5.2    Upon termination or expiry of the Evaluation Term:

(a) this Section 5.2, Section 10 (Confidentiality), Section 13 (Limitation of Liability), Section 16 (Entire Agreement) and Section 17 (General) will survive alongside any other Sections that are intended to survive termination or expiration of these Terms in order to achieve their fundamental purposes;

(b) each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party;

(c) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination which existed at or before the date of termination will not be affected.

## 6 PROPRIETARY RIGHTS

6.1 The Evaluation Software and Documentation are the proprietary intellectual property of DataRobot and its licensors. DataRobot retains sole and exclusive ownership of all right, title, and interest in and to the Evaluation Software, Documentation and any other technology used to provide them.

6.2 All enhancements, modifications, corrections and derivative works that are made in or through the Evaluation Software will be considered part of the Evaluation Software and will be owned by DataRobot.

6.3 You retain all right, title and interest to Your Data you upload to the Evaluation Software.

## 7 YOUR DATA

7.1 The parties shall comply with DataRobot's Information Security Policy available at https://www.datarobot.com/legal/Information_Security as well as DataRobot's Data Processing Policy available at https://www.datarobot.com/legal/Data_Processing.

7.2 You shall comply with all laws and regulations applicable to use of the Evaluation Software.

7.3 DataRobot shall only process Your Data as necessary to perform its obligations under these Terms.

7.4 You represent and warrant that you have the necessary rights and permissions to provide the Your Data to DataRobot.

7.5 You shall not use or allow others to use the Evaluation Software:

(a) for any illegal or fraudulent activity;

(b) to violate the rights of others;

(c) to threaten, incite, promote, or actively encourage violence, terrorism, or other serious harm;

(d) for any content or activity that promotes child sexual exploitation or abuse;

(e) to violate the security, integrity, or availability of any user, network, computer or communications system, software application, or network or computing device.

7.6 You shall not import or allow others to import into the Evaluation Software any:

(a) trojan horse, worm, virus or other code which does not serve a legitimate purpose, and which is designed to be destructive, disabling or harmful or enables unauthorized access to, or disclosure or corruption of information or software;

(b) data regulated by the Payment Card Industry Data Security Standards, or other financial account numbers or credentials;

(c) information regulated by the U.S. Health Insurance Portability and Accountability Act;

(d) social security numbers (or local equivalent), driver's license numbers or other government ID numbers;

(e) sensitive personal data (including special categories of personal data defined under (i) the California Consumer Privacy Act, as amended by the California Privacy Rights act, or (ii) Article 9 and criminal offence data defined under Article 10 of the E.U. and U.K. General Data Protection Regulation);

(f) personal data of individuals under 16 years old;

(g) information subject to regulation or protection under the U.S. Gramm-Leach-Bliley Act, U.S. Children's Online Privacy Protection Act or similar foreign or domestic laws; or

(h) content that violates a third party's intellectual property rights.

## 8 DATAROBOT DATA

8.1 DataRobot may collect, and process data related to your use of the Evaluation Software. To the extent that this data includes personal data, DataRobot is a data controller under the GDPR and the UK GDPR and complies with applicable privacy laws and DataRobot's Privacy Policy found at https://www.datarobot.com/privacy/.

8.2 User Metrics: DataRobot may automatically collect and analyze data about your usage of the Evaluation Software using the User Activity Monitor (see https://docs.datarobot.com/en/docs/admin/for-admins/users/main-uam-overview.html for description of User Activity Monitor). This data includes technical logs, frequency of logins, number of Models deployed, and feature usage and engagement. For a full list of all data points collected through the User Activity Monitor, please see User Activity Monitor Report Types at https://docs.datarobot.com/en/docs/admin/for-admins/users/main-uam-overview.html (collectively "**User Metrics**"). DataRobot may collect user interaction and navigation data, including clickstream and mouse tracking. When DataRobot uses User Metrics for any purposes other than those described in the Privacy Policy, it is anonymized of personal data and Your Data in accordance with applicable law.

8.3 Metadata: DataRobot may automatically collect and analyze data that describes a customer's Your Data, Models and Projects. This includes data points such as dataset summary statistics, dataset size, Project type, Model accuracy metrics,

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run times, Project and Model flags or errors, specific Models and blueprints run, and the parameters of such Models and blueprints. (See https://docs.datarobot.com/en/docs/glossary/index.html#blueprint) for description of "blueprints") (collectively "**Metadata**"). Metadata is always anonymized of personal data and Your Data.

**9       THIRD PARTY SOFTWARE INTEGRATIONS**

9.1     Certain features of the Evaluation Software integrate with third party software, including but not limited to the DataRobot Notebooks Code-Assist feature which integrates with Microsoft's Azure OpenAI Services.

9.2     To the extent you use any such integrated feature, you acknowledge and agree that Your Data may be sent to and processed by such third party subject to their applicable terms of use and data processing terms.

9.3     DATAROBOT IS NOT LIABLE FOR THE PERFORMANCE OF ANY THIRD PARTY SOFTWARE OR ITS PROCESSING OF YOUR DATA. You should confirm acceptability of any such third party's applicable terms before use.

**10      CONFIDENTIALITY**

10.1    "**Confidential Information**" means all information of a party or its affiliates ("**Discloser**") disclosed to the other party ("**Recipient**") that is identified as confidential at the time of disclosure or should be reasonably known by the Recipient to be confidential due to the nature of the information and the circumstances surrounding the disclosure.

10.2    The Recipient will:

(a)     not use the Discloser's Confidential Information for any purpose outside of the evaluation;

(b)     not disclose such Confidential Information to any person or entity other than on a need-to-know basis;

(c)     ensure that anyone Confidential Information is disclosed to is bound by written obligations of confidentiality in place with the Recipient; and

(d)     use reasonable measures to protect the confidentiality of such Confidential Information.

10.3    If the Recipient is required by applicable law or court order to make any disclosure of such Confidential Information, it will first, if legally permitted, give written notice to the Discloser. To the extent within its control, the Recipient shall permit the Discloser to intervene in any relevant proceedings to protect its interests in its Confidential Information.

10.4    Confidential Information will not include information that the Recipient can show:

(a)     was rightfully in its possession or known to it prior to receipt without any restriction on its disclosure;

(b)     is or becomes publicly known through no breach of these Terms;

(c)     is independently developed without the use of the other party's Confidential Information; or

(d)     is rightfully obtained from a third party without breach of any confidentiality obligation.

10.5    The Recipient acknowledges that unauthorized disclosure of the Discloser's Confidential Information could cause substantial harm to the Discloser for which damages would not be an adequate remedy.

**11      NO WARRANTY**

11.1    You acknowledge that the Evaluation Software provides prediction capabilities based on Your Data. DataRobot gives no warranty as to the accuracy, correctness, or completeness of any predictive model used by the Evaluation Software or predictions made by the Evaluation Software.

11.2    All software, documentation, support, upgrades and services are provided "as is" without any warranty and all other conditions, warranties or other terms which might have effect or be implied or incorporated into these Terms, whether by statute, common law or otherwise are excluded.

**12      INDEMNIFICATION**

12.1    You agree to defend, at your cost, DataRobot against any third party claim arising from your breach of Sections 2 or 6 and you shall pay all costs and damages finally awarded against DataRobot by a court of competent jurisdiction because of any such claim, provided that DataRobot (i) gives reasonable notice of any such claim and (ii) reasonably cooperates with you as necessary, at your expense.

**13      LIMITATION OF LIABILITY**

13.1    Neither party's liability for any damages (whether for breach of contract, misrepresentations, negligence, strict liability, other torts or otherwise) under this Agreement will exceed an amount equal to $100. This limitation will apply notwithstanding any failure of essential purpose of any remedy.

13.2    Notwithstanding the above, nothing in these Terms will limit or exclude liability for:

(a)     any matter which by law may not be excluded or limited;

(b)     your breach of Sections 2 (Restrictions on Use of the Evaluation Software) or 6 (Your Data), or your indemnity obligations in Section 12 of these Terms.

**14      EXPORT**

Each party will comply with applicable laws and regulations governing the export, re-export, and transfer of the Solution and will obtain all required local and extraterritorial authorizations, permits or licenses.

**15      NOTICES**

15.1    All notices required to be given under these Terms shall be in writing and delivered by hand, email, first class prepaid mail or recorded delivery mail.

15.2    Notices for DataRobot shall be sent to legal@datarobot.com and DataRobot Inc., 225 Franklin St.; 13th Floor, Boston, MA 02110, U.S.A., Attn: Legal.

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15.3 Notices for you shall be sent to the email address provided at the time of registration.

15.4 Notice will be deemed given:

(a) when received, if delivered by hand or email; or

(b) the next business day after it is sent, if sent by first class prepaid mail or recorded delivery;

(c) five business days following postage if sent internationally.

## 16 ENTIRE AGREEMENT

These Terms and any documents referred to in them are the complete and exclusive statement of the parties' agreement and supersede all proposals or prior arrangements, understandings or agreements between the parties relating to the subject matter described herein.

## 17 GENERAL

17.1 Unless expressly states otherwise herein, there are no third party beneficiaries to these Terms and no third party shall have the right to enforce any of these Terms

17.2 Any waiver or modification of the provisions of these Terms will only be effective if in writing and signed by both parties. Waivers and amendments to this Agreement shall be effective only if made by non-pre-printed agreements clearly understood by both parties to be an amendment or waiver to these Terms.

17.3 If the whole or any part of a provision of these Terms are held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will be unaffected. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

17.4 No failure or delay by a party to exercise any right or remedy provided under these Terms or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

17.5 DataRobot is an independent contractor and not an employee of Customer. At no time shall either party make any commitments or incur any charges or expenses for or in the name of the other party, or be considered the agent, partner, joint venture, employer or employee of the other party.

17.6 Neither party may assign this Agreement without the prior written approval of the other, which approval will not be unreasonably withheld or delayed, provided that either party may assign any of its rights and/or obligations herein to any of its Affiliates; or to any entity that acquires all or substantially all of its assets, provided always that the assignee is in a position to discharge the obligations of the assignor.

17.7 Neither the Uniform Commercial Code (UCC), United Nations Convention on Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act (UCITA) will apply to the Evaluation Software.

17.8 Except as may be stated in relation to any SCCs (as defined in DataRobot's Data Processing Policy), these Terms and any dispute (whether contractual or non-contractual) arising out of or in connection with them, their subject matter or formation will be governed by and interpreted and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to conflict of law principles, and will be subject to the exclusive jurisdiction of the federal and state courts located in Boston, Massachusetts. Each party consents to the exclusive personal jurisdiction and venue of such courts.