

## DATAROBOT MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement (this “**Agreement**”) between **DataRobot, Inc.**, a Delaware Corporation, with its principal place of business located at 225 FRANKLIN STREET, 13<sup>TH</sup> FLOOR, BOSTON, MASSACHUSETTS 02110, USA (“**DataRobot**”) and the customer stated in the Order (as defined in Section 1.1) (“**Customer**”) is effective as of the date DataRobot accepts the Order (the “**Effective Date**”).

This Agreement supersedes any other agreement (including any click-through or electronic agreements within the Solution) between DataRobot and Customer with respect to the Solution. Any references in the Order to an “agreement” or “EULA” or other similar term will be deemed to refer to this Agreement.

### 1 ORDERING AND LICENSE GRANT

1.1 This Agreement governs each order, order form, statement of work or purchase order that references this Agreement (each an “**Order**”). Each Order will form a separate contract between the parties.

1.2 Subject to the terms of this Agreement, DataRobot grants to Customer, for the period set out in the Order (the “**Subscription Term**”), a non-exclusive, non-transferable, non-sublicensable license to use DataRobot’s software product, and Documentation (as defined in Section 1.3) stated in the Order (the “**Solution**”) for the intended purpose of the Solution and Customer’s internal business purposes only.

1.3 The “**Documentation**” means the technical documentation for the Solution that is included in the Solution and which may be modified by DataRobot from time to time.

### 2 AUTHORIZED USERS

2.1 “**Affiliate**” means, in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under direct or indirect common control with such party, or which is a wholly owned subsidiary of such party, where “**control**” means owning, directly or indirectly, at least 51% of the equity securities or equity interests of such entity.

2.2 Customer Affiliates will have the right to make purchases pursuant to this Agreement by executing an Order referencing this Agreement. Where an Affiliate makes a purchase pursuant to this Agreement, references to each party in this Agreement will be read as references to the Affiliate of each party stated in the Order.

2.3 Customer may permit its employees, agents, independent contractors and Affiliates (“**Authorized Users**”) to use the Solution provided that:

- (a) only Customer may bring actions against DataRobot for any losses, damage or liabilities suffered or incurred by any Authorized Users;
- (b) Customer shall procure that its Authorized Users comply with the terms of this Agreement and shall remain liable for all acts and omissions of its Authorized Users; and

(c) the exclusions and limitations of liability in this Agreement will apply to Customer and Customer Affiliates as a whole, so that they apply to all liabilities incurred under or in connection with this Agreement by DataRobot to Customer and Customer Affiliates in aggregate.

2.4 Where an Authorized User is an individual, Customer shall ensure that or, in the case of Customer Affiliates, shall procure that:

- (a) the maximum number of Authorized Users that it authorizes to access the Solution shall not exceed the number of user subscriptions purchased; and
- (b) it shall maintain a written, up to date list of Authorized Users and provide that to DataRobot within five working days of written request.

### 3 RESTRICTIONS ON USE

Customer shall not, and shall not permit any third party, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except as permitted under this Agreement:

- (a) use the Solution other than in accordance with the Documentation;
- (b) attempt to backup, copy, modify, create derivative works from, or distribute any part of the Solution;
- (c) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form any part of the Solution except to the extent the law in Customer’s jurisdiction permits this where necessary for the purposes of integrating the operation of the Solution with the operation of other software or systems used by the Customer. Before carrying out such action, Customer shall give DataRobot no less than 30 days’ written notice and the exception will not apply if DataRobot is prepared to carry out such action at a reasonable commercial fee or provides the information necessary to achieve such integration within a reasonable period;
- (d) access any part of the Solution in order to build a competing product or service;
- (e) use the Solution to provide services to third parties;
- (f) license, lease, transfer, assign, disclose, or otherwise commercially exploit the Solution;
- (g) attempt to obtain, or assist third parties in obtaining, access to the Solution, other than as provided under this Section 3;
- (h) modify any proprietary rights notices that appear in the Solution;
- (i) use the Solution in support of any nuclear proliferation, chemical weapon, biological weapon or missile proliferation activity; or

- (j) introduce, or permit the introduction of, any Virus (as defined in Section 4.1) into DataRobot's network or information systems.

#### **4 VIRUSES AND USE OF THE SOLUTION**

- 4.1 In Customer's use of the Solution, Customer shall not access, store or distribute:
  - (a) any software, program trojan horse, worm, virus or other code which does not serve a legitimate purpose, and which is designed to be destructive, disabling (excluding license keys) or harmful or enables theft, denial of service, unauthorized access to, or disclosure or corruption of information or software. ("**Virus**");
  - (b) any material that:
    - (i) infringes the intellectual property or other rights of any third party;
    - (ii) is unlawful, illegal, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
    - (iii) facilitates illegal activity; or
    - (iv) is discriminatory based on race, gender, color, religious belief, sexual orientation, disability.
- 4.2 DataRobot shall be entitled to disable Customer's access to any material that breaches the provisions of Section 4.1.
- 4.3 Customer shall comply with all applicable laws and regulations with respect to the use of the Solution and performance of its obligations under this Agreement.

#### **5 EVALUATION USE**

- 5.1 Customer may receive access to the Solution (or Solution features) as a no-fee, trial, alpha, beta or early access offering ("**Evaluation Software**"). Unless otherwise agreed, use of the Evaluation Software is only for Customer's internal evaluation for 30 days from the date Customer is first granted access to the Evaluation Software.
- 5.2 Any predictive models generated by Customer through the use of the Evaluation Software may only be used for evaluation purposes and not production purposes. Upon conclusion of the evaluation, Customer shall cease use of and destroy all such predictive models.
- 5.3 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.
- 5.4 Customer agrees to provide feedback related to the Evaluation Software as reasonably requested by DataRobot. Customer grants to DataRobot, without charge, the fully paid-up, perpetual right to exploit such feedback for any purpose. The Evaluation Software is subject to the terms of Section 3 (Restrictions on Use) to the same extent as the Solution.
- 5.5 Other than for a breach of Section 3 (Restrictions on Use), and subject to Section 16.3 (Liability which cannot be

excluded), each party's liability in connection with Customer's use of any Evaluation Software will be \$10,000.

#### **6 SUPPORT AND MAINTENANCE**

- 6.1 DataRobot shall provide the technical support services described in Appendix 1 (Support Policy) ("**Support**") and updates to the Solution as described in Appendix 1 (Support Policy) ("**Maintenance**").
- 6.2 If Customer has purchased access to the Solution as software-as-a-service ("**SaaS**"), DataRobot shall comply with the service level as described in Appendix 2 (Availability).

#### **7 PROFESSIONAL SERVICES**

- 7.1 DataRobot will provide training, enablement and/or other professional services ("**Professional Services**") as described in an Order.
- 7.2 Professional Services will be performed on business days (a business day means Monday through Friday, excluding national holidays, during working hours, in the location where the Professional Services are delivered).
- 7.3 DataRobot grants to Customer, during the Subscription Term a non-exclusive, non-transferable, non-sublicensable license to use any training and other informational materials resulting from the Professional Services to the extent necessary to enable Customer's use of the Solution. Unless otherwise agreed, if not used, pre-purchased Professional Services and expenses expire 12 months after the date purchased.
- 7.4 Customer agrees to provide reasonable cooperation and information as necessary to permit DataRobot to perform the Professional Services. Customer will be charged at cost for travel and expenses incurred in providing the Professional Services (if any).
- 7.5 DataRobot will own any intellectual property rights in anything provided or created by it in the performance of the Professional Services.

#### **8 EXPORT**

The Solution is subject to local and extraterritorial export control laws and regulations. Each party will comply with such laws and regulations governing use, export, re-export, and transfer of the Solution and will obtain all required local and extraterritorial authorizations, permits or licenses.

#### **9 TERM AND TERMINATION**

- 9.1 This Agreement starts on the Effective Date and will continue until all licenses to the Solution expire or until this Agreement is terminated in accordance with its terms.
- 9.2 Either party shall be entitled to terminate this Agreement:
  - (a) for any material breach not cured within 30 days following written notice of the breach; or
  - (b) immediately upon written notice if the other party becomes the subject of any bankruptcy proceeding or any other proceedings relating to insolvency, administration, liquidation or assignment for the benefit of its creditors.

9.3 DataRobot shall be entitled to immediately suspend or terminate this Agreement and/or Customer's license to the Solution:

- (a) upon Customer's breach of Section 3 (Restrictions on Use) and Section 4 (Viruses and Use of the Solution); or
- (b) if it believes that it is no longer able to continue to operate its business or the Solution in the country where Customer is using the Solution.

9.4 Except as otherwise set out in this Agreement, this Agreement and the applicable Order are non-cancellable and all fees are non-refundable.

9.5 On termination or expiry of this Agreement for any reason:

- (a) this Section 9.5, Section 11 (Proprietary Rights), Section 12 (Customer Data), Section 13 (Confidentiality), Section 15 (Indemnification), Section 16 (Limitation of Liability), Section 18 (Entire Agreement) and Section 20 (General) will survive alongside any other clauses that are intended to survive termination or expiration or expiration of this Agreement in order to achieve the fundamental purposes of this Agreement;
- (b) all licenses granted under this Agreement will immediately terminate and Customer shall immediately cease use of the Solution;
- (c) 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;
- (d) DataRobot may destroy or otherwise dispose of any Customer Data in its possession unless DataRobot receives written notice requesting the return of the Customer Data no later than 10 days following the date of termination of this Agreement; and
- (e) 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.

## 10 FEES, PAYMENT AND TAXES

10.1 The fees for Maintenance and Support are included in the fees for the Solution.

10.2 Customer will be invoiced for the fees for the Solution and Professional Services as set out in the Order. Customer shall pay invoices within 30 days of the invoice date.

10.3 All amounts due under this Agreement shall be paid by Customer in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). If requested by DataRobot, Customer shall promptly provide tax receipts or other documents issued by the relevant tax office showing the payment of any withholding tax. Following no less than 14 days' written notice, DataRobot may suspend Customer's access to the Solution if any payments are not received within 60 days of the invoice date.

10.4 All fees are exclusive of any sales, excise, export, import, value added or similar tax ("**Tax**"). Customer is responsible

for the payment of any Tax. Customer shall pay DataRobot's invoices for Tax whenever DataRobot is required to collect Tax from Customer.

## 11 PROPRIETARY RIGHTS

11.1 The Solution and Documentation are the proprietary intellectual property of DataRobot and its licensors. Subject to any license granted in this Agreement, DataRobot retains sole and exclusive ownership of all right, title, and interest in and to the Solution, Documentation and any other technology used to provide them.

11.2 Any and all enhancements, modifications, corrections and derivative works that are made to the Solution will be considered part of the Solution for the purposes of this Agreement and will be owned by DataRobot.

## 12 CUSTOMER DATA

12.1 Each party shall comply with all data protection laws applicable to it.

12.2 DataRobot may collect and analyze DataRobot's technical logs, account and login information, and other data about Customer's use of the Solution such as frequency of logins, volume of Customer Data collected, number of models deployed, feature usage and engagement ("**Usage Data**"). DataRobot uses Usage Data to:

- (a) review trends and performance;
- (b) improve the Solution and develop new functionality and products; and
- (c) assist with diagnostic and corrective purposes in connection with the Solution,

and Usage Data is not Customer Confidential Information or Customer Data.

12.3 Customer retains all rights, title and interest in any data that Customer uploads to the Solution ("**Customer Data**") predictive models and predictions data generated by Customer through processing Customer Data through the Solution. DataRobot shall retain ownership of all code in its machine learning platform used to produce the predictive models.

12.4 DataRobot shall only use Customer Data as necessary to perform its obligations under this Agreement.

12.5 Customer confirms that it has the necessary rights and permissions to provide the Customer Data to DataRobot.

12.6 Where Customer is using the Solution as SaaS, Customer shall not use the Solution to store or process any:

- (a) data regulated by the Payment Card Industry Data Security Standards, or other financial account numbers or credentials;
- (b) information regulated by the U.S. Health Insurance Portability and Accountability Act;
- (c) social security numbers, driver's license numbers or other government ID numbers;

- (d) sensitive personal data (as defined under the E.U. General Data Protection Regulation);
  - (e) personal data of individuals under 16 years old; or
  - (f) 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.
- 12.7 For the SaaS version of the Solution, DataRobot shall be entitled to suspend the SaaS Solution or to remove or block any Customer Data that Customer submits to the SaaS Solution at any time where:
- (a) Customer Data or Customer's use of the SaaS Solution is in breach of this Agreement; or
  - (b) removal or blocking is necessary to protect the security, or integrity of the Solution, DataRobot, or any third party; or
  - (c) in order to respond to law enforcement or any other governmental authority.
- 12.8 When possible, DataRobot will give Customer reasonable notice of such suspension.

### 13 CONFIDENTIALITY

- 13.1 "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.
- 13.2 The Recipient will:
- (a) not use the Discloser's Confidential Information for any purpose outside of this Agreement;
  - (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.
- 13.3 If the Recipient is required by applicable law or court order to make any disclosure of such Confidential Information, it will first 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.
- 13.4 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 this Agreement;
  - (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.

- 13.5 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.

### 14 WARRANTIES

- 14.1 DataRobot warrants that:
- (a) during the first 90 days following the date the Solution is purchased, the Solution will, in all material respects, conform to the functionality described in the then-current Documentation for the applicable software version;
  - (b) the Solution is not subject to any "copyright" or other obligation or condition that: (i) requires or conditions the use, operation, publication, reproduction or distribution of the Solution or any Customer software used in conjunction with the Solution or the disclosure, licensing or distribution of the Solution or any Customer software used in conjunction with the Solution (including any source code); or (ii) otherwise imposes any limitation, restriction or condition on the right or ability of DataRobot to license the Solution to its customers;
  - (c) it shall comply with all laws applicable to the provision of the Solution, Support, Maintenance and Professional Services;
  - (d) the Professional Services will be provided in accordance with good industry standards by appropriately qualified personnel using reasonable skill and care; and
  - (e) it has all the rights in relation to the Solution that are necessary to grant all the rights it grants under this Agreement.
- 14.2 In the event of a breach of Section 14.1, Customer's sole and exclusive remedy is that DataRobot shall use commercially reasonable efforts to correct any reproducible nonconformity. If such efforts are unsuccessful within 30 calendar days of written notice from Customer, Customer may terminate the license to the affected Solution. DataRobot shall then promptly provide a pro-rata refund of the license fees that have been paid in advance for the remainder of the Subscription Term for the applicable Solution, calculated from the date of termination.
- 14.3 The warranty in Section 14.1 will not apply where:
- (a) Customer uses the Solution with an application or in an environment other than as described in the Documentation;
  - (b) modifications are made to the Solution that were not made by DataRobot, DataRobot's authorized representatives or with the express written authorization of DataRobot; or
  - (c) there is misuse, fault or negligence by Customer.

14.4 Customer acknowledges that the Solution provides prediction capabilities based on Customer Data. DataRobot gives no warranty as to the accuracy, correctness, or completeness of any predictive model used by the Solution or predictions made by the Solution.

14.5 Except as expressly set out in this Agreement, all software, documentation, support, upgrades and services are provided “as is” and all other conditions, warranties or other terms which might have effect or be implied or incorporated into this Agreement whether by statute, common law or otherwise are excluded.

## 15 INDEMNIFICATION

15.1 Subject to Section 15.3, DataRobot agrees to defend, at its cost, Customer against (or, at DataRobot’s option, settle), any third party claim to the extent such claim alleges that the Solution infringes or misappropriates any patent, copyright, trademark or trade secret of a third party, and DataRobot shall pay all costs and damages finally awarded against Customer by a court of competent jurisdiction as a result of any such claim.

15.2 If the use of the Solution is, or in DataRobot’s sole opinion is likely to become, subject to such a claim, DataRobot, shall be entitled to:

- (a) replace the applicable Solution with functionally equivalent non-infringing technology;
- (b) obtain a license for Customer’s continued use of the applicable Solution; or
- (c) terminate this Agreement and refund Customer any license fees that have been paid in advance for the remainder of the Subscription Term for the applicable Solution, calculated from the date of termination.

15.3 The indemnity in Section 15.1 will not apply:

- (a) if the Solution is modified by anyone other than DataRobot;
- (b) if the infringement is caused by Customer combining the Solution with non-DataRobot applications, code, products or processes;
- (c) in the event of continued use of an infringing version of the Solution after DataRobot has provided a non-infringing version; or
- (d) to any use of the Solution in breach of this Agreement.

15.4 The foregoing will be Customer’s sole remedy for any claim of infringement of third party intellectual property rights.

15.5 Customer agrees to defend, at its cost, DataRobot against any third-party claim arising from the processing of any Customer Data in the Solution and Customer shall pay all costs and damages finally awarded against DataRobot by a court of competent jurisdiction as a result of any such claim.

15.6 An indemnifying party’s obligations under this Section 15 only apply if:

(a) the other party notifies the indemnifying party of the indemnification claim in writing as soon as possible once they are aware of the claim;

(b) the indemnifying party is given control over the defense of the claim and settlement of it, provided that the indemnified party may, at its own expense, assist in the defense if it so chooses, but the indemnifying party shall control the defense and all negotiations related to the settlement of any such claim;

(c) the indemnified party provides all reasonable assistance to the indemnifying party.

15.7 Any settlement of a third party claim under this Section 15 will require the other party’s written consent, not to be unreasonably withheld or delayed, unless the settlement is only the payment of money.

## 16 LIMITATION OF LIABILITY

16.1 Subject to Section 16.4, DataRobot will not have any liability in relation to any conclusions drawn by Customer or any third party from its use of the Solution, any predictions made by the Solution or any predictive model used by the Solution. DataRobot will not be liable to Customer for any costs, expenses or losses suffered or incurred by Customer as a result of it relying on any prediction generated by the Solution.

16.2 Subject to Section 16.3, in no event will either party be liable for any: (a) loss of revenues or profits; (b) loss of or damage to business reputation; (c) loss of use or business interruption; (d) loss of wasted management time or staff time; (e) loss of data; or (f) indirect, incidental, special, punitive or consequential whether in an action in contract or tort (including negligence), even if the other party has been advised of the possibility of such damages.

16.3 Subject to Sections 16.1, 16.2 and 16.3, 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% of the total fees paid (plus fees payable) to DataRobot during the 12 months immediately preceding the claim giving rise to such damages. This limitation of liability is aggregate and not per incident. If Customer has made an upfront payment of fees for the entire Subscription Term, the limitation of liability cap will be calculated by using 12 times the pro rata monthly fee of the fees paid upfront. These limitations will apply notwithstanding any failure of essential purpose of any remedy.

16.4 Nothing in this Agreement will limit or exclude either party’s liability for:

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

(b) in the case of Customer, for: (i) breach of Section 3 (Restrictions on Use) and Section 4 (Viruses and Use of the Solution); and (ii) payment of fees.

## 17 RESELLERS

- 17.1 If Customer makes any purchases through an authorized partner of DataRobot (“Partner”):
- (a) instead of paying DataRobot, Customer will pay the applicable amounts to the Partner, as agreed between Customer and the Partner; and
  - (b) Customer order details (e.g., the Solution Customer is entitled to use, how Customer’s entitlements are measured, the Subscription Term, etc.) will be as stated in the order placed between Partner and Customer and communicated to DataRobot.
- 17.2 Partners are not authorized to modify this Agreement or make any promises or commitments on DataRobot’s behalf, and DataRobot is not bound by any obligations to Customer other than as set out in this Agreement or in writing by an authorized DataRobot representative.
- 17.3 The amount paid or payable by the Partner to DataRobot for Customer’s use of the applicable Solution under this Agreement will be deemed the amount actually paid or payable by Customer to DataRobot under this Agreement for purposes of calculating the liability cap in Section 16 (Limitation of Liability).
- 18 ENTIRE AGREEMENT**
- 18.1 This Agreement and any documents referred to in it 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 of this Agreement.
- 18.2 Each party acknowledges that, in entering into this Agreement, it has not relied on, and will have no right or remedy in respect of, any statement, representation, assurance, understanding or warranty (whether in writing or not) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.
- 19 NOTICES**
- 19.1 All notices required to be given under this Agreement shall be in writing and delivered by hand, email, first class prepaid mail or recorded delivery mail.
- 19.2 Notices for DataRobot shall be sent to [legal@datarobot.com](mailto:legal@datarobot.com) or DataRobot Inc., 225 Franklin St.; 13th Floor, Boston, MA 02110, U.S.A., Attn: Legal.
- 19.3 Notices for Customer shall be sent to the bill to address on the Order or address at the top of this Agreement.
- 19.4 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.
- 20 GENERAL**
- 20.1 Unless it expressly states otherwise, this Agreement does not give rise to any rights for a third party to enforce any term of this Agreement.
- 20.2 If this Agreement conflicts with any of the terms of any Order, then, unless otherwise set out in this Agreement, the terms of the Order will control solely with respect to the Solution and Professional Services covered by the Order. Any purchase orders issued by Customer shall be deemed to be for Customer’s convenience only and, notwithstanding acceptance of purchase orders by DataRobot, shall in no way change, override, or supplement this Agreement.
- 20.3 Any waiver or modification of the provisions of this Agreement 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 this Agreement.
- 20.4 If the whole or any part of a provision of this Agreement is 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.
- 20.5 No failure or delay by a party to exercise any right or remedy provided under this Agreement 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.
- 20.6 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.
- 20.7 Customer may not assign this Agreement without the prior written approval of DataRobot.
- 20.8 Neither the Uniform Commercial Code (UCC) nor the Uniform Computer Information Transactions Act (UCITA) will apply to this Agreement.
- 20.9 As defined in U.S. Federal Acquisition Regulation (FAR) section 2.101, the Solution and Documentation are “commercial items” and according to U.S. Defense Federal Acquisition Regulation Supplement (DFARS) section 252.227 7014(a)(1) and (5) are deemed to be “commercial computer software” and “commercial computer software documentation.” Consistent with DFARS 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.
- 20.10 Except for payment obligations, neither party will be responsible for any failure to perform its obligations under this agreement due to causes beyond its reasonable control including acts of any government or government agency such

as blocking internet traffic or any webpage (each a “**Force Majeure Event**”). The time for performance will be extended for a period equal to the duration of the Force Majeure Event.

- 20.11 Customer agrees that DataRobot may refer to Customer by its trade name and logo, and may briefly describe Customer’s business, in DataRobot’s marketing materials and website.
- 20.12 The person signing this Agreement for each party represents that they are duly authorized to enter into this Agreement on behalf of the party they are signing for.
- 20.13 This Agreement and any dispute (whether contractual or non-contractual) arising out of or in connection with this

Agreement, its 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. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Each party consents to the exclusive personal jurisdiction and venue of such courts.

**APPENDIX 1**  
**SUPPORT POLICY**

This support policy (“**Support Policy**”) describes the support provided by DataRobot to its customers.

**1. DEFINITIONS**

“**Business Day**” means Monday through Friday (Customer Local Time), excluding U.S. federal and US and UK public holidays.

“**Business Hours**” means 9:00 a.m. to 5:00 p.m. (Customer Local Time) on Business Days.

“**Support Contact**” means Authorized Users registered in the DataRobot Support Portal account.

**2. TECHNICAL SUPPORT CONTACT INFORMATION**

Support Contacts may contact DataRobot technical support by opening a case via the DataRobot Support Portal ([support.datarobot.com](https://support.datarobot.com)).

**3. SUPPORT SERVICES OBLIGATIONS**

3.1 Customer shall use the DataRobot Support Portal to report any bug, error or malfunction in the Solution (“**Error**”). DataRobot will use commercially reasonable efforts, commensurate with the severity of the Error, to correct the Error so that the Solution will substantially perform in accordance with the Documentation.

3.2 Customer shall conduct reasonable and adequate research with respect to any claimed Error prior to contacting the DataRobot Support Portal. Customer will respond promptly to all reasonable DataRobot requests for information and assistance regarding an Error.

3.3 Each reported Error will be logged and assigned a tracking identifier which will be provided to Customer. The Error ticket will remain open until the issue is resolved. Customer may suggest the severity level when submitting an Error. DataRobot shall be entitled to adjust the severity based on the definitions in Paragraph 3.5. Any support for Upgrades will be designated as Severity 3.

3.4 DataRobot does not provide Support for any customizations of the Solution nor any scripts, extensions, APIs or similar that are created for Customer unless agreed otherwise in writing.

3.5 DataRobot shall use commercially reasonable efforts to deliver a solution or an action plan to correct any reported Error as follows:

| SEVERITY   | DATAROBOT RESPONSIBILITIES  | CUSTOMER RESPONSIBILITIES  | DEFINITION  |
|------------|---|--|---|
| Severity 1 | Resources available 24x7 until a resolution or workaround is in place.  | Designated resources available 24x7 until a resolution or workaround is in place. Ability to provide necessary diagnostic information.                                   | A condition in which all or a critical portion of the Solution is not operating.  |
| Severity 2 | Resources available Monday through Friday during Business Hours until a resolution or workaround is in place. | Resources available Monday through Friday during local Business Hours until a resolution or workaround is in place. Ability to provide necessary diagnostic information. | A condition in which the Solution is degraded, but there is some capacity to operate the Solution by a majority of Customer’s users.                  |
| Severity 3 | Resources available Monday through Friday during Business Hours until a resolution or workaround is in place. | Resources available Monday through Friday during Business Hours until a resolution or workaround is in place. Ability to provide necessary diagnostic information.       | A condition whereby Customer has experienced a partial, non-critical loss of functionality of the Solution.   |
| Severity 4 | Solid understanding of the Customer request documented in DataRobot systems for review by Product Management. | Use cases for the feature request and specifics on requested functionality   | A condition whereby functionality of the Solution is not affected, but a change is desired solely for aesthetic, “look and feel,” or similar reasons. |



| SEVERITY   | INITIAL RESPONSE TARGET | UPDATE FREQUENCY TARGET                              |
|------------|-------------------------|--|
| Severity 1 | Within 1 hour           | Continuous effort with written updates every 4 hours |
| Severity 2 | Within 2 Business Hours | Updated every Business Day                           |
| Severity 3 | Within 8 Business Hours | Updated every 3 Business Days                        |
| Severity 4 | Within 2 Business Days  | N/A, feature request                                 |

3.6 For a Severity 1 Error, the parties agree to activate a management call-out and escalation list for the purpose of problem resolution.

3.7 With Customer’s written permission, DataRobot may access error logs and application logs held by Customer for the sole purpose of providing proactive support and fixes to the affected Solution. This may require a connection to Customer’s system, or Customer can establish a means of getting this information to DataRobot personnel in a manner conducive to providing efficient support (e.g., posting logs to a secure ftp site).

#### 4. MAINTENANCE

4.1 DataRobot shall make available to Customer copies of all new versions, updates, and upgrades of the Solution made generally available to its customer base (“**Upgrades**”), without additional charge.

4.2 DataRobot shall be entitled to make any new features and functionality available as a separate plug in or for a separate fee. DataRobot will not be required to develop or provide Customer with any specific updates or upgrades to the Solution.

4.3 DataRobot shall be entitled to perform maintenance to the Solution or any elements of its hardware or infrastructure as DataRobot deems necessary for the provision of the Solution. For the SaaS version of the Solution, DataRobot will give Customer no less than 48 hours’ notice of any standard Maintenance and as much notice as possible for non-standard emergency Maintenance (collectively “**Scheduled Maintenance**”). During Scheduled Maintenance, Customer may not be able to access the Solution. DataRobot will maintain at least one webpage that informs Customer that Scheduled Maintenance is underway along with an estimate of when the Scheduled Maintenance will be finished. DataRobot will use commercially reasonable efforts to keep the frequency and duration of impeded access during Scheduled Maintenance to a minimum.

#### 5. EXCLUSIONS

This Support Policy does not apply to any software, equipment, or solutions not purchased from DataRobot. This Support Policy does not apply if Customer is in breach of this Agreement.

#### 6. END OF MAINTENANCE AND SUPPORT

DataRobot will provide Maintenance and Support for each version of the Solution until there are three newer versions. For example, when version 7.0 comes out, DataRobot will still support the previous two versions (being versions 6.3 and 6.2) but version 6.1 will no longer receive Maintenance and Support.

## **APPENDIX 2**

### **AVAILABILITY**

This Appendix 2 will only apply if Customer has purchased the SaaS version of the Solution, as indicated in the Order.

#### **1. AVAILABILITY**

1.1 DataRobot shall provide Availability (as defined below) of 99.9% (the “**Availability SLA**”) for the Solution.

“**Availability**” is measured by the following formula:  $(n - y)/n * 100$ , where:

- (a) “n” is the total number of minutes in the relevant calendar quarter;
- (b) “y” is the total number of minutes in the relevant calendar quarter that the Solution was not accessible to Customer ; and
- (c) “y” will not include any minutes where the Solution was not accessible because of an Exclusion.

“**Exclusions**” means any time the Solution is not accessible because of:

- (a) any emergency or Scheduled Maintenance performed by DataRobot.
- (b) failure of the Internet backbone itself and the network by which Customer connects to the Internet backbone;
- (c) any network unavailability outside of the data center located router that provides the outside interface of each of DataRobot’s WAN connections to its backbone providers;
- (d) misconfigurations, proxies or firewalls of Customer;
- (e) Customer using, combining or merging the Solution with any hardware or software not supplied by DataRobot or not identified by DataRobot in the Documentation as being compatible with the Solution; or
- (f) Customer’s or any third party’s use of the Solution in an unauthorized or unlawful manner.

1.2 Availability will be determined by a DataRobot health monitoring system on the Solution. Failure of some features or functions within the Solution does not mean that the Solution is not Available if such unavailability does not impact the process necessary for the Customer to make predictions and inferences.

#### **2. REMEDIES FOR EXCESSIVE DOWNTIME**

2.1 If Availability falls below the Availability SLA in a given calendar quarter, DataRobot will pay Customer a service credit (“**Service Credit**”) as follows, corresponding to the actual Availability during the applicable calendar quarter (on pro-rated basis):

- (a) if the Availability is 99.9% or greater, Customer is entitled to receive no credits;
- (b) if the Availability is 97.0% - 99.89%, then Customer is entitled to receive Service Credits equal to 5 percent of the fees for the applicable calendar quarter;
- (c) if the Availability is 95.0% - 96.9%, then Customer is entitled to receive Service Credits equal to 10 percent of the fees for the applicable calendar quarter; and
- (d) if the Availability is less than 95.0%, then Customer is entitled to receive Service Credits equal to 20 percent of the fees for the applicable calendar quarter.

2.2 To receive Service Credits, Customer shall submit a written request to DataRobot at [legal@DataRobot.com](mailto:legal@DataRobot.com)) within 15 days after the end of the quarter in which failure to meet Availability occurred or Customer’s right to receive Service Credits will be waived. Customer’s notice must include the date and time period for each instance of unavailability and any relevant calculations.

2.3 Such Service Credit will be issued as a credit against any fees owed by Customer for the calendar quarter of the Subscription Term after the request for a Service Credit, or, if Customer does not owe any additional fees, then DataRobot will pay Customer the amount of the applicable Service Credit within 30 days after the end of the calendar month in which Customer has requested the Service Credit. The remedies stated in this Appendix 2 are Customer’s sole and exclusive remedy for service interruption or unavailability.