



Add-On License Agreement

DATAROBOT LICENSE TERMS

BACKGROUND. This Add-On License Agreement (the “Add-On License Agreement”) is entered into in conjunction with the Customer’s license to use the Underlying InterSystems Software. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the License and Support Agreement for the Underlying InterSystems Software (the “InterSystems License Agreement”). When Customer places an order with InterSystems for the Underlying InterSystems Software and requests an Add-On Product offered by DataRobot, InterSystems will place a corresponding order with DataRobot (the “DataRobot Order”) for a license allowing Customer to use such Add-On Product (referred to herein as a Service).

1. LICENSE AND SUPPORT. Subject to the terms, conditions and restrictions set forth in these terms and conditions, including payment of the applicable subscription fees (“Fees”) required to be paid by InterSystems to DataRobot pursuant to the DataRobot Order, as well as the Add-On Product Terms found at www.InterSystems.com/DRTC (the “Add-On Product Terms”), DataRobot hereby grants, and Customer hereby accepts, a non-exclusive, non-transferable, right and license, to access and use, solely for its internal business purposes, (i) the software (the “Software”) and related tools and solutions identified on the DataRobot Order (collectively the “Service”) and (ii) the user documentation provided with the Service (“Documentation”). Use of the Service is on a hosted basis (“Hosted Service”) or installed at Customer’s site (“On-Prem Service”), as specified on the DataRobot Order.

2. TERM; TERMINATION

2.1 Term and Renewal. This Add-On License Agreement is effective as of the effective date specified in the DataRobot Order (“Effective Date”) and will continue until the termination of the InterSystems License Agreement unless terminated early in accordance with the following section 2.2.

2.2 Termination. Notwithstanding the foregoing, this Add-On License Agreement may be terminated if one party materially breaches this Add-On License Agreement and fails to cure such breach within thirty (30) days or receipt of notice of the breach from the non-breaching party. In addition, Customer may terminate this Add-On License Agreement without cause at the end of any 1-year subscription period, provided that Customer provides notice to DataRobot and InterSystems of its desire to not renew this Add-On License Agreement no later than 30 days prior to the end of the then current 1-year subscription period.

3. RESTRICTIONS; PROPRIETARY RIGHTS; USAGE DATA. Customer shall not: (i) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, user interface techniques or algorithms of the Service or disclose any of the foregoing; (ii) encumber, transfer, manufacture, distribute, sell, sublicense, assign, provide, lease, lend, use for timesharing or service bureau purposes, or otherwise use (except as expressly provided herein) the Service or Documentation; (iii) copy, modify, adapt, translate, incorporate into or with other software, or create a derivative work of any part of the Service or Documentation; or (iv) attempt to circumvent any user limits, timing or use restrictions that are built into the Service. The Service is the proprietary intellectual property of DataRobot that contains trade secrets and is protected by copyright law. Subject to any license granted hereunder, DataRobot retains sole and exclusive ownership of all right, title, and interest in and to the Service and any other technology used to provide it. Any and all enhancements, modifications, corrections and derivative works that are made to the Service will be considered part of the Service for the purposes of this Add-On License Agreement and will be owned by DataRobot. DataRobot shall have the right to obtain access to and shall own all usage data related to the Service (“Usage Data”), including but not limited to metadata, performance data and any associated analytics generated from Customer’s use of the Service. Rights granted to DataRobot in Usage Data specifically exclude Customer Data, Predictive Models and Customer Confidential Information, as such terms are defined below, all of which shall be owned by Customer.

4. CUSTOMER DATA. Customer retains all rights, title and interest in and to Customer’s own information and data that is input by Customer into the Service or supplied to DataRobot (“Customer Data”) and any predictive models generated by Customer through processing the Customer Data through the Service (“Predictive Models”), provided, however, that Customer must have an active subscription to the Service in order to use the Predictive Models. DataRobot disclaims any and all responsibility for any loss of any Customer Data and is not responsible for the backup of any Customer Data. Customer represents and warrants that use and supply of Customer Data in connection with the Service, (i) is legally and rightfully authorized, (ii) does not infringe upon the intellectual property rights of any third party, and (iii) complies with all applicable local, state, national and international laws and regulations, including without limitation those laws and regulations related to privacy and export control. Customer further represents and warrants that Customer Data does not contain any credit card or other sensitive financial information, patient or other sensitive health care information or personal information as defined by any applicable laws or regulations, and, if Customer Data does contain such information, DataRobot shall not be liable for such Customer Data. Customers of the Hosted Service must comply with the Acceptable Use Policy of DataRobot’s hosting provider, Amazon Web Services, found at <https://aws.amazon.com/aup/>. DataRobot has the right in its sole discretion to suspend the Hosted Service or to remove or block any Customer Data at any time where (a) Customer Data or Customer’s use of the Service violates applicable laws, regulations, orders, or is in breach of this Add-On License Agreement; (b) removal or blocking is necessary because of exigent circumstances or to protect the safety, security, reputation, or integrity of the Service, DataRobot, or any third party; or (c) in order to respond to law enforcement or any other governmental authority. Customer agrees to defend, at its cost, indemnify and hold harmless DataRobot and its affiliates, subsidiaries, shareholders, officers, directors, employees, contractors, agents and representatives (together, the “DataRobot Indemnified Parties”) against any costs, damages, claims, losses, penalties, awards, settlements, liability or expenses including, without limitation, reasonable attorneys’ fees and related costs,

that arise from a third party claim (including a government investigation) related to or in connection with (i) Customer Data and (ii) Customer's breach of this Section 4.

5. PUBLICITY. Upon Customer's prior written consent, Customer may agree to marketing activities which may include (a) participation in a press release following the execution of this Add-On License Agreement naming Customer as a customer of DataRobot, as well as upon successful implementation, (b) allowing its name to be used in sales materials and user literature, which references DataRobot's customers generally, and (c) the use of its name, without endorsement, in a listing of DataRobot's other customers. Customer shall also make reasonable efforts to, upon DataRobot's prior reasonable request, serve as a reference account and to participate in case studies and other promotional activity.

6. CONFIDENTIALITY. Each party shall maintain as confidential and shall not disclose (except to its employees, accountants, attorneys, advisors, affiliates, outsourcers and third party service providers of recipient with a need to know in connection with recipient's performance under this Add-On License Agreement, and who have been advised of the obligation of confidentiality hereunder), copy or use for purposes other than the performance of this Add-On License Agreement, any information which relates to the other party's business affairs, trade secrets, technology, research, development, pricing or terms of this Add-On License Agreement ("Confidential Information") and each party agrees to protect all received Confidential Information with the same degree of care that it would use with its own Confidential Information and to prevent unauthorized, negligent or inadvertent use, disclosure or publication thereof. Breach of this Section may cause irreparable harm and damage. Thus, in addition to all other remedies available at law or in equity, the disclosing party shall have the right to seek equitable and injunctive relief, and to recover the amount of damages (including reasonable attorneys' fees and expenses) incurred in connection with such unauthorized use. The recipient shall be liable to the disclosing party for any use or disclosure in violation of this Section by recipient or its affiliates, employees, third party service providers or any other related party. Confidential Information shall not include information that (a) is already known prior to the disclosure by the owning party; (b) is or becomes publicly known through no breach of this Add-On License Agreement; (c) is independently developed without the use of the other party's Confidential Information and evidence exists to substantiate such independent development; (d) information that is obtained from a third party, and that third party is not, in good faith belief to the recipient, under any legal obligation of confidentiality; or (e) the recipient receives written permission from the disclosing party for the right to disclose any Confidential Information.

7. LIMITED SERVICE WARRANTY AND DISCLAIMER. DataRobot represents and warrants that the Service will substantially conform to the Documentation during the term of this Add-On License Agreement. If Customer notifies DataRobot in writing of a nonconformity of Service during the Warranty Period, DataRobot will, at its option and expense, (a) correct any nonconformities in the Service that cause the Service to fail to conform to the Documentation, or (b) provide to Customer a pro rata refund of any prepaid but unutilized Fees applicable to the non-conforming Service. The limited warranty set forth in this Section shall be void if the Service nonconformity is caused by (i) the use or operation of the Service with an application or in an environment other than that specified in the Documentation, (ii) modifications to or customizations of the Service without the express written authorization of DataRobot, (iii) accident, disaster or Force Majeure Event, (iv) misuse, fault or negligence of or by Customer, (v) use of the Service in a manner for which it was not designed, (vi) causes external to the Service such as, but not limited to, power failure or electrical power surges. **THE WARRANTY AND REMEDIES SET FORTH IN THIS SECTION 7 REPRESENT DATAROBOT'S SOLE WARRANTY AND CUSTOMER'S SOLE REMEDY IN THE EVENT OF BREACH OF WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, DATAROBOT AND INTERSYSTEMS MAKES NO AND DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE**

8. LIMITATION OF LIABILITY. THE CUMULATIVE LIABILITY OF DATAROBOT TO CUSTOMER FOR ALL CLAIMS ARISING UNDER OR RELATED TO THIS ADD-ON LICENSE AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID TO DATAROBOT IN RESPECT OF CUSTOMER'S USE OF THE SERVICE WITHIN THE YEAR PRECEDING THE CLAIM. NOTWITHSTANDING THE FOREGOING, IN NO EVENT WILL DATAROBOT OR ITS SUPPLIERS BE LIABLE TO CUSTOMER OR ANY OTHER PARTY FOR DAMAGES FOR LOSS OF DATA, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS ADD-ON LICENSE AGREEMENT, EVEN IF DATAROBOT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IS NEGLIGENT.

9. INFRINGEMENT INDEMNIFICATION. If a third party claims that the Service infringes any U.S. patent, copyright, or trade secret, DataRobot will defend Customer against such claim at DataRobot's expense and pay all damages finally awarded through judgment or settlement, provided that Customer promptly notifies DataRobot in writing of the claim, allows DataRobot sole control of the defense and/or settlement, and cooperates with DataRobot in, the defense or settlement of such action. If such a claim is made or is likely, DataRobot may, at its option, secure for Customer the right to continue to use the Service, modify or replace the Service so that it is non-infringing, or, if neither of the foregoing options is available in DataRobot's reasonable opinion, terminate this Add-On License Agreement and refund to Customer through InterSystems any pre-paid Fees for use of the Service on a pro rata basis. DataRobot shall have no liability or obligation hereunder with respect to any infringement claim if such infringement is caused by (i) compliance with Customer's instructions, designs, guidelines, plans or specifications; (ii) Customer's use of the Service other than as specified in the applicable Documentation; (iii) modification of the Service by any person other than as authorized in writing by DataRobot; or (iv) the combination, operation or use of the Service with other product(s) or services not supplied by DataRobot (other than the Underlying InterSystems Software), where the Service would not by itself be infringing. **THIS SECTION STATES DATAROBOT'S ENTIRE OBLIGATION TO CUSTOMER WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.**

10. GENERAL.

10.1 Entire Agreement. These terms and conditions, together with the DataRobot Order and Add-On Product Terms is the complete and exclusive statement of the parties' agreement regarding the Customer's use of the Service and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof. If these terms and conditions conflict with any of the terms or conditions of the DataRobot Order, the terms and conditions of such DataRobot Order or Add-On Product Terms will control solely with respect to the Services covered by such DataRobot Order. Any purchase orders issued by Customer shall be deemed to be for Customer's convenience only and, notwithstanding acceptance of such purchase orders by InterSystems or DataRobot, shall in no way change, override, or supplement this Add-On License Agreement.

10.2 Waiver. Any waiver or modification of the provisions of this Add-On License Agreement will be effective only if in writing and signed by the party against whom it is to be enforced. If any provision of this Add-On License Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. A waiver of any provision, breach or default by either party or a party's delay exercising its rights shall not constitute a waiver of any other provision, breach or default.

10.3 Independent Contractor. 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 venturer, employer or employee of the other party.

10.4 Notices. All notices or other communications required to be given hereunder shall be in writing and delivered either by U.S. mail, certified, return receipt requested, postage prepaid; by overnight courier; or as otherwise requested by the receiving party, in the case of Customer, to the address set forth in the DataRobot Order, and in the case of DataRobot to the address set forth below. Notices shall be effective upon their receipt by the party to whom they are addressed.

DataRobot, Inc.; Attn: Legal
225 Franklin Street, 13th Floor
Boston, MA 02110

With a copy to:

InterSystems Legal Dept.
One Memorial Drive
Cambridge, MA 02142

10.5 Assignment. This Add-On License Agreement may not be assigned by Customer without DataRobot's prior written consent.

10.6 Compliance with Laws. Each party will be responsible for compliance with all legal requirements related to its performance under this Add-On License Agreement, including all applicable U.S. export laws and those laws related to the protection, privacy and disclosure of data and information.

10.7 Force Majeure. Neither party will be responsible for any failure to perform due to causes beyond its reasonable control, including, but not limited to, acts of God, terrorism, war, riot, embargoes, fire, floods, earthquakes, or strikes (each a "Force Majeure Event") provided that such party gives prompt written notice to the other party of the Force Majeure Event. The time for performance will be extended for a period equal to the duration of the Force Majeure Event.

10.8 Governing Law and Disputes. This Add-On License Agreement and any dispute arising hereunder shall 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 shall be subject to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts, and each party consents to the exclusive personal jurisdiction and venue of such courts.

10.9 Survival. The following provisions of this Add-On License Agreement shall survive any termination or expiration hereof: Sections 3 and 4 and Sections 6 through 10 inclusive.

10.10 Personal Data. Customer will not supply any personal data or personally identifiable information to DataRobot unless DataRobot provides its express written consent to receiving such personal data or personally identifiable information. If DataRobot provides its express written consent to receive personal data or personally identifiable information, Customer will have all necessary rights and consents to supply such personal data or personally identifiable information to DataRobot. Customer agrees to indemnify and keep indemnified DataRobot against all costs, claims, demands, liabilities, expenses, damages or losses (including without limitation any direct or indirect, or consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) arising out of or in connection with any damages arising out of or resulting from any provision of personal data or personally identifiable information (inadvertent or intended) to DataRobot without DataRobot's express written consent.

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