# Public Software EULA

*Effective date: 1 September 2024*

This Public Software End User License Agreement (**"EULA"**) describes your rights and responsibilities as a user of Public Software. This EULA is between you and Datagrok, Inc., a Delaware corporation (**"Datagrok"**, **"we"**, or **"us"**). **"You"** means you as an individual or your company. If you use a company email to sign up, you'll be deemed to represent that company, and "you" in this EULA will mean your company. If you're agreeing on behalf of your company, you confirm you have the authority to bind your company to this EULA. If you lack such authority, don't accept this EULA.

You accept this EULA by clicking "I agree" (or a similar button or checkbox) or by using the Public Software. This EULA is effective from the date you first accept it or use the Public Software, whichever comes first. No signature is required for this EULA to be binding.

In this EULA, certain terms are capitalized and defined in Section 19 (Definitions) or within text.

**1.** <u>**Scope**</u>. This EULA governs Public Software and incorporates Our Policies by reference. This EULA doesn't apply to free Public Service available at https://public.datagrok.ai, the use of which requires a separate agreement with us.

**2.** <u>**Delivery and registration**</u>. All deliveries under this EULA are electronic. Public Software is deemed delivered when you download and install it on your servers or devices.

**3.** **What's included; restrictions**

    **3.1.** <u>**License**</u>. We license, not sell, the Public Software to you. This license is limited, worldwide, non-transferable, non-sublicensable, and non-exclusive. Under this EULA, you may use the Public Software for personal, non-commercial purposes (including Academic Research) in accordance with the Documentation and all restrictions in this EULA. You may also use Your Plugins in connection with the Public Software. You may not use the Public Software for any other purposes. Before using the Public Software, you must register with us following our provided registration process. You may use the Public Software on an unlimited number of your compatible devices, provided you are the only person who uses the Public Software under this EULA.

    **3.2.** <u>**Support**</u>. We don't provide any support for the Public Software under this EULA.

    **3.3.** <u>**New Versions**</u>. We may, at our sole discretion, provide you with New Versions of Public Software. **"New Versions"** means updates or upgrades of Public Software, including bug fixes, patches, or new functionality. When a New Version is provided, you must replace all copies of your current version of Public Software with the New Version. Your rights regarding the New Version will be governed by the most recent Public Software End User License Agreement. You are not allowed to use both the New Version and your previous version of Public Software simultaneously, and your single-user license for Public Software automatically transfers to the New Version upon installation.

    **3.4.** <u>**Restrictions**</u>. Except as otherwise expressly permitted in the EULA, you won't (nor authorize, assist, or encourage anyone else to):

1. use the Public Software for High Risk Activities. You acknowledge that the Public Software is not designed for (and we have no liability for) such prohibited use. **"High Risk Activities"** means activities where use or failure of the Public Software could lead to death, personal injury, or

environmental damage, including life support systems, emergency services, nuclear facilities, autonomous vehicles, or air traffic control;

2.  incorporate the Public Software into any commercial product or service, where such product or service derives its value substantially from the Public Software;

3.  resell, sublicense, rent, lease, timeshare, lend, or otherwise distribute or provide access to the Public Software to third parties, whether as part of a commercial engagement or otherwise, except for temporary, non-production, and closely supervised demonstration purposes, or as otherwise expressly permitted in this EULA or with our prior written consent;

4.  conduct security or vulnerability tests of the Public Software, interfere with its operation, or circumvent access restrictions;

5.  use the Public Software in a way that has a detrimental impact on our and our licensors' ability to provide products and services to customers;

6.  use the Public Software in violation of any applicable law, including data protection laws and export restrictions;

7.  reproduce, modify, adapt, or create derivative works of the Public Software or Third Party Software (except to the extent permitted by an applicable open source license);

8.  combine or distribute the Public Software with any code in any way that would require us to distribute the Public Software under an open source license or grant third party rights to our intellectual property. To be clear, you may not combine or otherwise modify the Public Software or Third Party Software except as expressly authorized in the EULA or an applicable open source license;

9.  reverse engineer, disassemble, decompile, translate, or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats, or non-public APIs to any Public Software or any Third Party Software, except as otherwise permitted by the applicable open source license or to the extent expressly permitted by applicable law (and then only upon advance notice to us);

10. remove or obscure any proprietary or other notices contained in the Public Software or any Third Party Software;

11. assert against us or any our Affiliates, or Our Ecosystem any patent infringement or other intellectual property infringement claim regarding the Public Software or Plugins;

12. Use Public Software if you are under 18 years old or cannot sign a binding contract with us.

**4.   Data and privacy.** We collect and use data about you as described in our Privacy Policy, which you accept.

**5.   Your Plugins.** You are solely responsible for Your Plugins, including their functionality, content, and compliance with laws and this EULA. You acknowledge and agree that we, our Affiliates, and Our Ecosystem may develop, acquire, license, and distribute products or services similar to or competitive with Your Plugins. You irrevocably waive and agree never to assert against us, our Affiliates, or Our Ecosystem any claims of intellectual property rights relating to Your Plugins.

**6.   Open Source Software.** The Public Software may be provided with or incorporate software subject to the terms and conditions of "open source" software licenses (**"Open Source Software"**). Your use of

Open Source Software is governed by their respective licenses, which are separate from this EULA. Nothing in this EULA limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable open source license. A list of the Open Source Software is available in the Documentation or we may provide it to you upon your request.

**7. Third Party Software; Non-Datagrok Content**

**7.1. Third Party Software.** You may choose to use Third Party Software with the Public Software. **"Third Party Software"** means third party Plugins, software applications, extensions, databases, web services, or other functionality that is not owned or exclusively licensed by us. Your use of any Third Party Software is subject to separate agreements with its providers. If you enable or use Third Party Software with the Public Software: (a) we will allow third party providers to access and use your data as necessary for the Third Party Software to interoperate with the Public Software (this may include transmitting, transferring, modifying, or deleting your data, or storing your data on third-party systems); (b) we aren't responsible for third parties' use of your data or their security or privacy practices; (c) you are solely responsible for your decision to permit any third party provider or Third Party Software to use your data; and (d) we don't warrant or support any Third Party Software, even if it's listed in our Plugin repository or labeled as "supported".

**7.2. Non-Datagrok Content.** The Public Software may provide access to Non-Datagrok Content. **"Non-Datagrok Content"** means information obtained by Datagrok from publicly available sources or third party providers and made available to you through the Public Software. Your use of any Non-Datagrok Content is subject to the applicable terms between you and the Non-Datagrok Content provider, and you will comply with those terms. We are not designating or adopting Non-Datagrok Content as our own.

**7.3. Removal.** We don't guarantee the continued availability of any Third Party Software or Non-Datagrok Content. We may stop providing these without liability to you.

**7.4. Disclaimer.** Third Party Software and Non-Datagrok Content provided "as is". We disclaim any and all liability and responsibility for any Third Party Software or Non-Datagrok Content (whether support, availability, security, or otherwise) or for the acts of omissions of any third party providers or vendors.

**8. Fees and payment.** Subject to the terms and conditions of this EULA, you are not obligated to pay any fees to us for the access and use rights to Public Software granted to you under this EULA.

**9. Changes to Public Software.** We may modify the Public Software for any reason at any time.

**10. No warranties.** YOUR USE OF PUBLIC SOFTWARE IS AT YOUR SOLE RISK. PUBLIC SOFTWARE IS PROVIDED "AS IS". WE AND OUR SUPPLIERS AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE MINIMUM PERIOD PERMITTED BY LAW.

**11. Limitation of liability.** WE WON'T HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS EULA FOR DAMAGES FOR LOSS OF USE, LOST OR INACCURATE DATA, FAILURE OF SECURITY MECHANISMS, LOST PROFITS, COST OF DELAY OR INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF INFORMED OF THEIR POSSIBILITY IN ADVANCE. OUR AND OUR LICENSORS' ENTIRE LIABILITY TO YOU UNDER THIS EULA WON'T EXCEED US$100.

**12. IP rights**

**12.1.   Reserved rights.** Neither party grants the other any rights or licenses not expressly set out in this EULA.

**12.2.   Our Technology and Feedback.** Public Software is made available to you on a limited license basis, and no ownership right is conveyed to you. We and our licensors have and retain all right, title, and interest, including all intellectual property rights, in and to Our Technology (including Public Software) and all its derivatives and modifications. This ownership remains unaffected regardless of whether such derivatives or modifications were made or developed based on your request or specifications and regardless of any payment, support, or assistance provided by you or any third party in relation to them. If you give us Feedback regarding the improvement or operation of Public Software, we may use the Feedback without restriction or obligation.

**12.3.   Your data and Your Plugins.** Except for our express rights set forth in this EULA, you retain all intellectual property and other rights in your data and Your Plugins, subject to our rights in Our Technology and any third party rights in materials or code incorporated in or used by Your Plugins. Subject to this EULA, and solely to the extent necessary to provide the interoperation of the Public Software and Your Plugins, you grant us a worldwide, non-exclusive, royalty-free license to integrate with, modify, create derivative works, and adapt Your Plugins for their use with the Public Software.

**13.   Your indemnity.** YOU WILL INDEMNIFY AND HOLD HARMLESS US (AND OUR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AGAINST ALL CLAIMS, DAMAGES, LOSSES, PENALTIES, AND EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING OUF ANY THIRD PARTY CLAIM INVOLVING YOUR DATA, YOUR PLUGINS, OR A BREACH OF YOUR OBLIGATIONS UNDER THIS EULA.

**14.   Publicity.** You agree that if you use Public Software as an employee, contractor, or agent of a corporation, partnership, or similar entity, we may disclose such person as our customer and use their name and logo on our website and in our promotional materials. We will promptly stop doing so upon your request sent to sales@datagrok.ai.

**15.   Audit rights.** We may audit your compliance with this EULA, and you will provide reasonable assistance upon our request. If we ask, you will certify in a signed writing that your use of the Public Software is in full compliance with this EULA. If such certification or audit discloses that you have used or permitted use of the Public Software in a manner that is not permitted under this EULA, then we may, in our sole discretion, exercise any or all of the following remedies, which shall be cumulative and non-exclusive: (a) terminate this EULA; (b) charge you for any unauthorized use at our then-current rates; (c) pursue any other legal or equitable remedies available to us under applicable law.

**16.   Term and termination.** This EULA is effective as of the Effective Data and continue until terminated in accordance with this EULA. Notwithstanding anything to the contrary, we may terminate this EULA, for any reason or no reason whatsoever, at any time by delivering a written notice of termination to you. Upon termination of this EULA, you must cease using and delete all copies of Public Software from all computers and servers on which it has been installed. Upon our request, you will certify such deletion in writing. All provisions which by their nature are intended to survive termination shall survive termination of this EULA.

**17.   Governing law and courts.** This EULA will be governed by and construed in accordance with the applicable laws of the State of Delaware, USA, without giving effect to the principles of that State relating to conflicts of laws. All disputes arising out of or in relation to this EULA will be submitted to the exclusive jurisdiction and venue of the courts of the State of Delaware. In any action or proceeding to enforce a party's

rights under this EULA, the prevailing party will be entitled to recover its reasonable costs and attorneys' fees. Notwithstanding the foregoing, may seek injunctive relief or other equitable remedies in any court of competent jurisdiction, without waiving any other rights or remedies. Nothing in this EULA will prevent such actions or the enforcement or recognition of any award or order in any appropriate jurisdiction. The terms of the United Nations Convention on Contracts for the Sale of Goods don't apply to this EULA. The Uniform Computer Information Transactions Act (UCITA) won't apply to this EULA regardless of when or where adopted.

## 18. General terms

**18.1.** **Notices.** Any notice hereunder will be in writing. If to us, such notice will be sent to [legal@datagrok.ai](mailto:legal@datagrok.ai). If to you, notices will be sent via email to the address associated with your account. We reserve the right to provide notices via registered mail, courier, or other methods if we deem it necessary or if required by law. You agree to keep your email address and postal address current, and to check your emails regularly. Notices sent by email will be deemed received 24 hours after sending, unless the sender receives an automated response indicating delivery failure. Notices sent by mail shall be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if sent by certified or registered mail (return receipt requested); or (c) one day after it is sent if by next day delivery by a major commercial delivery service. Either party may update its address with notice to the other.

**18.2.** **Assignment.** You may not assign or transfer this EULA without our prior written consent. Any attempt to do so will be null and void. We may assign or transfer this EULA without your consent. We may also permit our Affiliates, agents, and contractors to exercise our rights or perform our obligations under this EULA. Subject to the foregoing, this EULA will inure to the parties' permitted successors and assigns.

**18.3.** **Government rights.** Public Software was developed fully at private expense. To the extent applicable, Public Software is "commercial computer software" or a "commercial item" for purposes of FAR 12.212 and DFARS 227.7202. Use, reproduction, release, modification, disclosure, or transfer of Public Software is governed solely by the terms of the EULA, and all other use is prohibited.

**18.4.** **Entire agreement; modifications.** This EULA, as defined in Section 1 (Scope), is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this EULA. We may modify the terms and conditions of this EULA (including Our Policies) from time to time. For material changes, we will notify you in accordance with Section 18.1 (Notices) or by posting the modified EULA on our website. Together with notice, we will specify the effective date of the modifications. You may be required to click to accept or otherwise agree to the modified EULA in order to continue using Public Software, and, in any event, continued use of the Public Software after the modified version of this EULA becomes effective will constitute your acceptance of such modified version. If you object to the modifications, your exclusive remedy is to cease using Public Software.

**18.5.** **Order of precedence.** In the event of any conflict between the main body of this EULA and Our Policies, Our Policies will control with respect to their subject matter.

**18.6.** **Waivers.** Waivers must be signed by the waiving party's authorized representative and cannot be implied from conduct or failure to enforce or exercise rights under this EULA.

**18.7.** **Interpretation; severability**

1. **General interpretations**. In the EULA, the word "including" (and similar variations) means "including without limitation" (and similar variations). The headings are provided for convenience

only. The word "party" (and its variations) refers to you and us, as well as yours and our respective successors and permitted assigns. References to one gender include all genders, and references to the singular form also include the plural form and vice versa.

2. **Public Software**. Unless expressly stated otherwise, "Public Software" means "Public Software in whole or in part" (and similar variations) when referring to the general terms of access, use, or restrictions, including Sections 3.1 (License), 3.4. (Restrictions), and 18.8. (Compliance with laws).

3. **Severability**. If a court finds any part of this EULA unenforceable or invalid, that part will be changed as little as possible to make it enforceable while keeping the rest of the EULA in effect.

**18.8.**    **Compliance with laws.** You will comply with all applicable laws and regulations in your performance under this EULA, including anti-corruption laws, data protection laws, and export control regulations. You acknowledge that the use of the Public Software is subject to U.S. and other applicable export control laws. You represent and warrant that you are not subject to export restrictions and will comply with all applicable export laws, including U.S. and other governments' export regulations, end-user, end-use, and destination restrictions. You will not export, re-export, or transfer the Public Software in violation of any export or import laws or use it for any prohibited end-use. **You will indemnify and hold harmless us (and our Affiliates, officers, directors, agents, and employees) from and against any claims, penalties loss, expense (including reasonable attorneys' fees), or damages arising out of your breach of obligations under this section**. We make no claim about the lawful use of the Public Software outside the United States. Use outside the U.S. is at your own risk. This EULA is void where prohibited by law.

**18.9.**    **Relationship of parties.** The parties are independent contractors. This EULA doesn't create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

**18.10.**    **Third party beneficiaries.** Datagrok, Inc., its Affiliates, and its licensors may be third-party beneficiaries of this EULA. No other third party is intended to be a beneficiary of this EULA entitled to enforce its terms directly.

**18.11.**    **Remedies.** Other than as expressly stated herein, the remedies provided herein, including termination of this EULA, are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**18.12.**    **Language.** The English version of this EULA is controlling.

**19.**    **Definitions**

**"Academic Research"**: means the use of Public Software by the Academic Users for the purposes directly related to: (a) teaching, training, or instructing degree-granting programs; (b) studies and coursework as part of degree-granting programs; (c) research and development activities whereby all results and research will be made available to the public or published in the public domain; or (d) performance of non-profit activities by Academic Users, including participation in student competitions or student projects. **"Academic Users"** means academic researchers and educators of an academic institution, as well as students enrolled in a diploma-seeking program with an academic institution.

**"Affiliate"**: means an entity controlled, controlling, or under common control with a party, where control means at least 50% ownership or power to direct an entity's management.

**"Datagrok"**: means Datagrok, Inc., a Delaware corporation.

**"Documentation"**: means our standard published documentation for Public Software.

**"Effective Date"**: means the date you first accept the EULA or download and install the Public Software, whichever is earlier.

**"Feedback":** means comments, questions, ideas, suggestions, or other feedback relating to Public Software.

**"HIPAA"**: means Health Insurance Portability and Accountability Act (as amended and supplemented).

**"Our Ecosystem"**: means our customers, vendors, business partners, licensors, or end users of our products and services.

**"Our Policies"**: means our Acceptable Use Policy, Privacy Policy, and (unless specified) any other policies or terms referenced in this EULA.

**"Our Technology"**: means Public Software (including all Plugins owned by us), its "look and feel", any and all related or underlying technology, and any modifications or derivative works of the foregoing, including as they may incorporate Feedback.

**"Plugin"**: means software developed using our public API that extends the functionality of the Public Software, including enabling an integration between the Public Software and Third-Party Software. Plugins may be developed by us, you, or third parties.

**"Public Software"** means Datagrok's free software product for data analysis provided in connection with this EULA in object code form, including New Versions provided to you in accordance with this EULA and any application programming interfaces (APIs) we provide for use with the Public Software. Public Software doesn't include any Third Party Software or Non-Datagrok Content.

**"Your Plugins"**: means Plugins developed by you or on your behalf.