

## END USER LICENSE AGREEMENT

This End User License Agreement (the "Agreement") is entered into by Tonic AI, Inc., a Delaware corporation ("Tonic"), and the licensee identified below ("Licensee"), as of the last date of execution by the parties (the "Effective Date").

**1. SOFTWARE, SERVICES, AND SUPPORT.** Tonic will provide to Licensee the software and services, including cloud-hosted data transformation services, if identified in the applicable order form (collectively, the "Software"), including any Enhancements thereto, and all relevant documentation, as each may be updated from time to time, for Licensee's limited use, as set for herein. With respect to Licensees obtaining software for on-premises installation, "Software" means the source code, object code, or underlying structure, ideas, know-how, or algorithms of any software made available to Licensee under this Agreement, as well as any documentation related thereto. With respect to Licensees purchasing Tonic's cloud-hosted products, "Software" means the software made available to the Licensee via the cloud-interface services provided by Tonic; for such Licensees all licenses are to such services and such Licensees shall have no other rights to the software used by Tonic to provide those services. "Enhancement" means any correction, customization, improvement, update, upgrade, new release, or other change that Tonic makes available generally to all other licensees of the Software. Tonic will provide technical support to Licensee via email on weekdays from 9:00 AM to 5:00 PM Pacific time, except on US federal holidays ("Support Hours"). Licensee may initiate a helpdesk ticket during Support Hours by emailing [support@tonic.ai](mailto:support@tonic.ai). Licensor will use commercially reasonable efforts to respond to all helpdesk tickets within 1 business day.

**2. LIMITED LICENSE; RESTRICTIONS ON USE.** Tonic hereby grants to Licensee a revocable, royalty-free, non-exclusive, non-transferable, non-sublicensable license to use the Software during the Term, only as permitted herein. Licensee's use of the Software will be strictly limited to its internal use. Licensee will under no circumstances use the Software for any external use, including but not limited to making the Software available to any third parties, or using the Software as part of any consulting engagement with, or the provision of any similar benefit to, any third party. Licensee understands and agrees that any such non-authorized use will constitute a material breach of this Agreement, for which Tonic will have the right to terminate this Agreement immediately upon written notice. In addition, Licensee will not: reverse engineer, decompile, disassemble, or otherwise attempt to discover the Software; modify, translate, or create derivative works based on the Software (except to the extent expressly permitted by Tonic or authorized within the Software); use the Software for timesharing or service bureau purposes or otherwise for the benefit of any third party; use the Services to develop models that compete with Tonic; or remove any proprietary notices or labels included in the Software. All rights, title, and interest in the Software will at all times exclusively remain with Tonic. All rights not expressly granted are reserved to Tonic.

**3. COMPLIANCE WITH APPLICABLE LAWS.** Licensee will not remove or export from the United States or allow the export or re-export of the Software, or any direct product thereof, in violation of any restrictions, laws, or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. The Software as defined herein is a "commercial item" under FAR section 2.101 and is deemed to comprise "commercial computer software" and "commercial computer software documentation" under DFAR section 252.227-7014(a)(1) and (5); accordingly, 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 as expressly permitted herein.

**4. TERM.** Either party may terminate this Agreement if the other party materially breaches this Agreement and does not cure such breach to the reasonable satisfaction of the non-breaching party within 30 days of written notice of the breach. Either party may terminate immediately on written notice if the other party becomes insolvent, is dissolved or liquidated (except for reorganization), makes a general assignment for the benefit of its creditors, files or has filed against it a petition for bankruptcy, or has a receiver appointed for a substantial part of its assets. Tonic may terminate this Agreement immediately upon written notice for any breach of the limited license granted herein or of the restrictions on use, as set forth in Section 2.

**5. OBLIGATIONS UPON TERMINATION OR EXPIRATION.** Upon termination or expiration of this Agreement, (i) Licensee will remove from all its systems and will permanently delete the Software, if applicable; and (ii) upon the written request of Tonic, which may be via email, Licensee will certify in writing to such removal and destruction of the Software.

**6. CONFIDENTIAL INFORMATION; TELEMETRY; CUSTOMER ACCOUNT MANAGEMENT.**

- a. Nondisclosure Obligation. Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose business, technical, or financial information relating to the Disclosing Party’s business (the “Confidential Information” of the Disclosing Party). Confidential Information of Tonic includes non-public information regarding features, functionality, and performance of the Software. The Receiving Party will: (i) take reasonable precautions to protect all Confidential Information, and (ii) not use (except as expressly permitted herein) or divulge it to any third person. The parties agree that except with respect to the Software and all non-public information relating thereto, the foregoing will not apply 3 years after disclosure or if the Receiving Party can document that the information (a) is or has become generally available to the public; (b) was in its possession or known by it, prior to receipt from the Disclosing Party; (c) was rightfully disclosed to it by a third party; or (d) was independently developed without use of any Confidential Information of the Disclosing Party. Despite the foregoing, the Receiving Party may disclose the Disclosing Party’s Confidential Information to the extent required by law or regulatory or judicial order, provided that the Receiving Party promptly notifies the Disclosing Party and cooperates, at the Disclosing Party’s sole expense, in any efforts of the Disclosing Party seeking relief from such order.
- b. Telemetry (for on-premises software installations only). Notwithstanding anything to the contrary set forth herein, Tonic will have the right to collect and analyze usage data and related information about the provision, use, and performance of the Software (“Telemetry”) to develop, improve, support, and operate the Software and to verify Licensee’s usage in compliance with this Agreement. Tonic will not share any Telemetry except to the extent that such usage data is anonymized and aggregated, and to the extent that it includes Licensee Confidential Information, such use will not identify Licensee or its Confidential Information. Telemetry may be collected with or derived from customer support and account management data (as set forth in subpart (c)) provided however, that (i) access to Telemetry will not include access to any Licensee Data, as defined below, or any systems of Licensee; and (ii) Licensee will at all times have visibility into what usage data is being and has been obtained by Tonic. In addition, Tonic will not at any time collect (except as allowed herein) any Licensee Data, which is defined as “any source data from Licensee databases, or any results, information, and materials developed and/or obtained by Licensee relating thereto.” All rights not expressly granted are reserved to Tonic.
- c. Customer Support and Account Management Data. Tonic will have the right to collect and analyze data about: end-user usage and interactions with Tonic applications; system and service logs (application, network, security, system, error, performance logs, etc.), as well as other data required to operate the Software. These data may contain end-user personally identifying information (as listed in “Analytics telemetry – end-user interactions” and “Customer support and account management” sections of the document set forth at <https://docs.tonic.ai/app/admin/tonic-monitoring-logging/tonic-data-collection>) that is required by Tonic staff to identify Licensee and its end-users while debugging. Tonic retains this data for 90 days.

**7. INDEMNIFICATION.** Licensee will indemnify, defend, and hold Tonic and its parents, subsidiaries, affiliates, officers, directors, and employees harmless from all losses, liabilities, costs, damages, penalties, fines, and expenses, including reasonable attorneys’ fees, arising from any third-party claims, demands, threats, suits, or proceedings (each, a “Claim”) arising from any act or omission of Licensee in breach of this Agreement including, but not limited to, any violation of any applicable law in its use of the Software or from any breach of any third-party data privacy or data use consent. If any Claim is asserted, Tonic will promptly notify Licensee of all material details of such Claim known to it. Tonic will cooperate with Licensee in the defense of the Claim and will not compromise or otherwise settle any such Claim without Licensee’s prior written consent, which shall not unreasonably be withheld.

**8. DISCLAIMERS OF WARRANTIES.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, TONIC MAKES NO, AND HEREBY DISCLAIMS, ANY REPRESENTATION, WARRANTY, OR GUARANTY, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE.

**9. LIMITATION OF LIABILITY.** EXCEPT WITH RESPECT TO (i) IN THE CASE OF LICENSEE, ANY BREACH OF THE LICENSES GRANTED HEREIN, AND ITS OBLIGATION TO INDEMNIFY UNDER SECTION 7, (ii) BREACH OF SECTION 6 (CONFIDENTIAL INFORMATION), AND (iii) INFRINGEMENT OF A PARTY’S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY NOR ITS OFFICERS, AFFILIATES, REPRESENTATIVES, SUPPLIERS, CONTRACTORS, OR EMPLOYEES WILL BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY FOR (i) ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR (ii) ANY AMOUNT THAT IN THE AGGREGATE EXCEEDS \$1,000. IN NO EVENT WILL EITHER PARTY BE DIRECTLY LIABLE TO THE OTHER PARTY FOR ANY PUNITIVE OR EXEMPLARY DAMAGES.

**10. GENERAL.** Each party represents and warrants that it has the power and authority to enter into and fully perform its obligations under this Agreement. Licensee represents and warrants that it will use the Software solely as authorized herein. Nothing in this Agreement will be construed to create an employer/employee, joint venture, agency, or partnership relationship between the parties. Licensee may not assign or otherwise transfer its rights under this Agreement without the prior written consent of Tonic, except (with written notice to Tonic) to Licensee's successor by way of merger, acquisition, or sale of substantially all its assets relating to this Agreement. Neither party will issue any press release or other publicity without the prior written consent of the other (which may be given via email). If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited to the minimum extent necessary. This Agreement is the complete and exclusive statement of the mutual understanding of the parties, superseding and canceling all previous written and oral agreements, communications, and other understandings relating hereto. All waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. This Agreement will be governed by the laws of California, excluding any conflicts of law principles that would require the application of the laws of another jurisdiction. Each party irrevocably submits to the personal jurisdiction of the courts located in San Francisco County, California, which it agrees will have exclusive jurisdiction over this Agreement and the parties; venue will be proper in any such court. Upon termination or expiration of this Agreement, Sections 2 (last sentence), 3, and 5 through this Section 10 will survive. If there is any dispute under this Agreement, the parties will work in good faith, for a period of no less than 30 days from the date of written notice of the dispute, to resolve the matter informally, before initiating any formal proceeding. All notices will be in writing and addressed to Tonic AI, Inc., 548 Market Street, #49486, San Francisco, CA 94104, "Attn: Legal Dept" and/or to [notices@tonic.ai](mailto:notices@tonic.ai).

Tonic AI, Inc.		[Licensee full name]	
By		By	
Name		Name	
Title		Title	
Date		Date	
Address	548 Market Street, #49486	Address	
	San Francisco, CA 94104		
Email for Notices	notices@tonic.ai	Email for Notices	