

## Terms of Use

Effective date: 4/1/2022

Welcome to Electric AI, Inc. Please read on to learn the rules and restrictions that govern your use of our website (the "Site"). If you have any questions, comments, or concerns regarding these terms or the Site, please contact us at:

Email: [hello@electric.ai](mailto:hello@electric.ai)

Address: Electric AI, Inc., Attn: Aaron Shierlaw, 408 Broadway, 5<sup>th</sup> Floor, New York, NY 10013

These Terms of Use (the "Terms") are a binding contract between you and Electric AI, Inc. ("Electric," "we" and "us"). Your use of the Site in any way means that you agree to all of these Terms, and these Terms will remain in effect while you use the Site. These Terms include the provisions in this document as well as those in the Privacy Policy <<https://www.electric.ai/privacy-policy>>. **Your use of our Site may also be subject to additional policies, rules and/or conditions ("Additional Terms"), which are incorporated herein by reference, and you understand and agree that by using our Site, you agree to also comply with these Additional Terms.**

**Please read these Terms carefully.** They cover important information about our Site. **These Terms include information about [future changes to these Terms](#), [limitations of liability](#), [a class action waiver and resolution of disputes by arbitration instead of in court](#).** PLEASE NOTE THAT YOUR USE OF AND ACCESS TO OUR SITE ARE SUBJECT TO THE FOLLOWING TERMS; IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SITE IN ANY MANNER.

**ARBITRATION NOTICE AND CLASS ACTION WAIVER:** EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE [ARBITRATION AGREEMENT SECTION BELOW](#), YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

### **Will these Terms Ever Change?**

We are constantly trying to improve our Site, so these Terms may need to change along with our Site. We reserve the right to change the Terms at any time, but if we do, we will place a notice on our Site located at <https://www.electric.ai/>, send you an email, and/or notify you by some other means.

If you don't agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Site. If you use the Site in any way after a change to the Terms is effective, that means you agree to all of the changes.

Except for changes by us as described here, no other amendment or modification of these Terms will be effective unless in writing and signed by both you and us.

## **What About My Privacy?**

Electric takes the privacy of its users very seriously. For the current Electric Privacy Policy, please click here<<https://www.electric.ai/privacy-policy>>.

### *Children's Online Privacy Protection Act*

The Children's Online Privacy Protection Act ("COPPA") requires that online service providers obtain parental consent before they knowingly collect personally identifiable information online from children who are under 13 years of age. We do not knowingly collect or solicit personally identifiable information from children under 13 years of age; if you are a child under 13 years of age, please do not attempt to register for or otherwise use the Site or send us any personal information. If we learn we have collected personal information from a child under 13 years of age, we will delete that information as quickly as possible. If you believe that a child under 13 years of age may have provided us personal information, please contact us at [hello@electric.ai](mailto:hello@electric.ai).

## **What are the Basics of Using Electric's Website?**

You represent and warrant that you are an individual of legal age to form a binding contract (or if not, you've received your parent's or guardian's permission to use the Site and have gotten your parent or guardian to agree to these Terms on your behalf).

You will only use the Site for your own internal, personal, non-commercial use, and not on behalf of or for the benefit of any third party, and only in a manner that complies with all laws that apply to you. If your use of the Site is prohibited by applicable laws, then you aren't authorized to use the Site. We can't and won't be responsible for your using the Site in a way that breaks the law.

## **What About Messaging?**

As part of the Site, you may receive communications through the Site, including messages that Electric sends you (for example, via email).

## **Are There Restrictions in How I Can Use the Site?**

You represent, warrant, and agree that you will not provide or contribute anything, including any Content (as that term is defined below), to the Site, or otherwise use or interact with the Site, in a manner that:

- (a) infringes or violates the intellectual property rights or any other rights of anyone else (including Electric);
- (b) violates any law or regulation, including, without limitation, any applicable export control laws, privacy laws or any other purpose not reasonably intended by Electric;
- (c) is dangerous, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;

- (d) attempts, in any manner, to obtain the password, account, or other security information from any other user;
- (e) violates the security of any computer network, or cracks any passwords or security encryption codes;
- (f) runs Maillist, Listserv, any form of auto-responder or “spam” on the Site, or any processes that run or are activated while you are not logged into the Site, or that otherwise interfere with the proper working of the Site (including by placing an unreasonable load on the Site’ infrastructure);
- (g) “crawls,” “scrapes,” or “spiders” any page, data, or portion of or relating to the Site or Content (through use of manual or automated means);
- (h) copies or stores any significant portion of the Content; or
- (i) decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Site.

A violation of any of the foregoing is grounds for termination of your right to use or access the Site.

### **What Are My Rights in the Site?**

The materials displayed or performed or available on or through the Site, including, but not limited to, text, graphics, data, articles, photos, images, illustrations and so forth (all of the foregoing, the “Content”) are protected by copyright and/or other intellectual property laws. You promise to abide by all copyright notices, trademark rules, information, and restrictions contained in any Content you access through the Site, and you won’t use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell, commercialize or otherwise exploit for any purpose any Content not owned by you, (i) without the prior consent of the owner of that Content or (ii) in a way that violates someone else’s (including Electric’s) rights.

Subject to these Terms, we grant each user of the Site a worldwide, non-exclusive, non-sublicensable and non-transferable license to use (i.e., to download and display locally) Content solely for purposes of using the Site. Use, reproduction, modification, distribution or storage of any Content for any purpose other than using the Site is expressly prohibited without prior written permission from us. You understand that Electric owns the Site. You won’t modify, publish, transmit, participate in the transfer or sale of, reproduce (except as expressly provided in this Section), create derivative works based on, or otherwise exploit any of the Site. The Site may allow you to copy or download certain Content, but please remember that even where these functionalities exist, all the restrictions in this Section still apply.

### **Who Is Responsible for What I See and do on the Site?**

Any information or Content publicly posted or privately transmitted through the Site is the sole responsibility of the person from whom such Content originated, and you access all such information and Content at your own risk, and we aren’t liable for any

errors or omissions in that information or Content or for any damages or loss you might suffer in connection with it. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Site. We can't guarantee the identity of any users with whom you interact in using the Site and are not responsible for which users gain access to the Site.

You are responsible for all Content you contribute, in any manner, to the Site, and you represent and warrant you have all rights necessary to do so, in the manner in which you contribute it.

The Site may contain links or connections to third-party websites or Sites that are not owned or controlled by Electric. When you access third-party websites or use third-party Sites, you accept that there are risks in doing so, and that Electric is not responsible for such risks.

Electric has no control over, and assumes no responsibility for, the content, accuracy, privacy policies, or practices of or opinions expressed in any third-party websites or by any third party that you interact with through the Site. In addition, Electric will not and cannot monitor, verify, censor or edit the content of any third-party site or service. We encourage you to be aware when you leave the Site and to read the terms and conditions and privacy policy of each third-party website or service that you visit or utilize. By using the Site, you release and hold us harmless from any and all liability arising from your use of any third-party website or service. If there is a dispute between participants on our Site, or between users and any third party, you agree that Electric is under no obligation to become involved.

### **Will Electric Ever Change the Site?**

We're always trying to improve our Site, so it may change over time. We may suspend or discontinue any part of the Site, or we may introduce new features or impose limits on certain features or restrict access to parts or all of the Site. We reserve the right to remove any Content from the Site at any time, for any reason (including, but not limited to, if someone alleges you contributed that Content in violation of these Terms), in our sole discretion, and without notice.

### **What if I Want to Stop Using the Site?**

You're free to do that at any time; please refer to our Privacy Policy <<https://www.electric.ai/privacy-policy>>, as well as the licenses above, to understand how we treat information you provide to us after you have stopped using our Site.

Electric is also free to terminate (or suspend access to) your use of the Site for any reason in our discretion, including your breach of these Terms. Electric has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms.

Provisions that, by their nature, should survive termination of these Terms shall survive termination. By way of example, all of the following will survive termination: any obligation you have to indemnify us, any limitations on our liability, any terms regarding ownership or intellectual property rights, and terms regarding disputes between us, including without limitation the arbitration agreement.

### **What Else Do I Need to Know?**

Warranty Disclaimer. Electric and its licensors, suppliers, partners, parent, subsidiaries or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives and agents, and each of their respective successors and assigns (Electric and all such parties together, the “Electric Parties”) make no representations or warranties concerning the Site, including without limitation regarding any Content contained in or accessed through the Site, and the Electric Parties will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Site or any claims, actions, suits procedures, costs, expenses, damages or liabilities arising out of use of, or in any way related to your participation in, the Site. The Electric Parties make no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through or in connection with the Site. THE SITE AND CONTENT ARE PROVIDED BY ELECTRIC (AND ITS LICENSORS AND SUPPLIERS) ON AN “AS-IS” BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

Limitation of Liability. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE ELECTRIC PARTIES BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, (B) ANY SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, (C) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF ONE-HUNDRED (\$100) DOLLARS OR (D) ANY MATTER BEYOND OUR REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL OR CERTAIN OTHER DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

Indemnity. You agree to indemnify and hold the Electric Parties harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and

expenses (including attorneys' fees) arising from or in any way related to any claims relating to (a) your use of the Site, and (b) your violation of these Terms.

Assignment. You may not assign, delegate or transfer these Terms or your rights or obligations hereunder, in any way (by operation of law or otherwise) without Electric's prior written consent. We may transfer, assign, or delegate these Terms and our rights and obligations without consent.

Choice of Law. These Terms are governed by and will be construed under the Federal Arbitration Act, applicable federal law, and the laws of the State of New York, without regard to the conflicts of laws provisions thereof.

Arbitration Agreement. Please read the following ARBITRATION AGREEMENT carefully because it requires you to arbitrate certain disputes and claims with Electric and limits the manner in which you can seek relief from Electric. Both you and Electric acknowledge and agree that for the purposes of any dispute arising out of or relating to the subject matter of these Terms, Electric's officers, directors, employees and independent contractors ("Personnel") are third-party beneficiaries of these Terms, and that upon your acceptance of these Terms, Personnel will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third-party beneficiary hereof.

(a) *Arbitration Rules; Applicability of Arbitration Agreement.* The parties shall use their best efforts to settle any dispute, claim, question, or disagreement arising out of or relating to the subject matter of these Terms directly through good-faith negotiations, which shall be a precondition to either party initiating arbitration. If such negotiations do not resolve the dispute, it shall be finally settled by binding arbitration in New York County, New York. The arbitration will proceed in the English language, in accordance with the JAMS Streamlined Arbitration Rules and Procedures (the "Rules") then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes. The arbitrator shall be selected from the appropriate list of JAMS arbitrators in accordance with such Rules. Judgment upon the award rendered by such arbitrator may be entered in any court of competent jurisdiction.

(b) *Costs of Arbitration.* The Rules will govern payment of all arbitration fees. Electric will pay all arbitration fees for claims less than seventy-five thousand (\$75,000) dollars. Electric will not seek its attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous.

(c) *Small Claims Court; Infringement.* Either you or Electric may assert claims, if they qualify, in small claims court in New York County, New York or any United States county where you live or work. Furthermore, notwithstanding the foregoing obligation to arbitrate disputes, each party shall have the right to pursue injunctive or other equitable relief at any time, from any court of competent jurisdiction, to prevent the actual or

threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights.

(d) *Waiver of Jury Trial.* YOU AND ELECTRIC WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR JURY. You and Electric are instead choosing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between you and Electric over whether to vacate or enforce an arbitration award, YOU AND ELECTRIC WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.

(e) *Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor Electric is entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in (g) below.

(f) *Opt-out.* You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the following address: Electric AI, Inc., Attn: Aaron Shierlaw, 408 Broadway, 5<sup>th</sup> Floor, New York, NY 10013 postmarked within thirty (30) days of first accepting these Terms. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of these Terms' arbitration agreement.

(g) *Exclusive Venue.* If you send the opt-out notice in (f), and/or in any circumstances where the foregoing arbitration agreement permits either you or Electric to litigate any dispute arising out of or relating to the subject matter of these Terms in court, then the foregoing arbitration agreement will not apply to either party, and both you and Electric agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in, respectively, New York County, New York or the federal district in which that county falls.

(h) *Severability.* If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration Agreement section will be null and void. This arbitration agreement will survive the termination of your relationship with Electric.

*Miscellaneous.* The failure of either you or us to exercise, in any way, any right herein shall not be deemed a waiver of any further rights hereunder. If any provision of these Terms are found to be unenforceable or invalid, that provision will be limited or eliminated, to the minimum extent necessary, so that these Terms shall otherwise

remain in full force and effect and enforceable. You and Electric agree that these Terms are the complete and exclusive statement of the mutual understanding between you and Electric, and that these Terms supersede and cancel all previous written and oral agreements, communications and other understandings relating to the subject matter of these Terms. You hereby acknowledge and agree that you are not an employee, agent, partner, or joint venture of Electric, and you do not have any authority of any kind to bind Electric in any respect whatsoever.

Except as expressly set forth in the section above regarding the arbitration agreement, you and Electric agree there are no third-party beneficiaries intended under these Terms.