

Terms of Use



General Terms

These terms of service ("Terms") govern your access and use of all DataShell services so please read them carefully before using the services.

By using the services you agree to be bound by these Terms in their entirety.

If you are using the services on behalf of an organization then you are agreeing to these terms for that organization and are warranting that you have the authority to bind that organization to these terms. In that case "you" and "your" will refer to that organization.

You may use the Services only in compliance with these Terms. You may use the Services only if you have the power to form a contract with DataShell and are not barred under any applicable laws from doing so. The Services may continue to change over time as we refine and add more features. We may stop, suspend, or modify the Services at any time without prior notice to you. We may also remove any content from our Services at our discretion.

Your Files and Privacy

By using our Services you provide us with information, files, and folders that you submit to DataShell (together, "your files"). You retain full ownership to your files. We don't claim any ownership of any of it. These Terms do not grant us any rights to your files or intellectual property except for the limited rights that are needed to run the Services, as explained below.

We may need your permission to do things you ask us to do with your files, for example, hosting your files, or sharing them at your discretion. This includes product features visible to you, for example, image thumbnails or document previews. It also includes design choices we make to technically administer our Services, for example, how we redundantly backup data to keep it safe. You give us the permissions we need to do those things solely to provide the Services. This permission also extends to trusted third parties we work with to provide the Services.

To be clear, aside from the rare exceptions we identify in our Privacy Policy, no matter how the Services change, we won't share your content with others, including law enforcement, for any purpose unless you direct us to. How we collect and use your information generally is also explained in our Privacy Policy.

You are solely responsible for your conduct, the content of your files and folders, and your communications with others while using the Services. For example, it's your responsibility to ensure that you have the rights or permission needed to comply with these Terms.

We may choose to review public content for compliance with our community guidelines, but you acknowledge that DataShell has no obligation to monitor any information on the Services. We are not responsible for the accuracy, completeness, appropriateness, or legality of files, user posts, or any other information you may be able to access using the Services.

Sharing

The Services provide features that allow you to share your files with others or to make it public. There are many things that users may do with your files (for example, copy it, modify it, re-share it). Please consider carefully what you choose to share or make public. DataShell has no responsibility for that activity.

Modifications

We may revise these Terms from time to time and the most current version will always be posted on our website. By continuing to access or use the Services after revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the new terms, please stop using the Services.

Software and Updates

Some of our Services require you to download a client software package ("Software"). DataShell hereby grants you a limited, nonexclusive, nontransferable, revocable license to use the Software, solely to access the Services. Your license to use the Software is automatically revoked if you violate these Terms in a manner that implicates our intellectual property rights. We hereby reserve all rights not expressly granted in these Terms. You must not reverse engineer or decompile the Software, nor attempt to do so, nor assist anyone else to do so. Our Services may update the Software on your device automatically when a new version is available. Your acceptance of such updates is required under the Terms.

Account Security

You are responsible for safeguarding the password that you use to access the Services and you agree not to disclose your password to any third party. You are responsible for any activity using your account, whether or not you authorized that activity. You should immediately notify DataShell of any unauthorized use of your account.

Your General Responsibilities

Files and other content in the Services may be protected by intellectual property rights of others. Please do not copy, upload, download, or share files unless you have the right to do so. You, not DataShell, will be fully responsible and liable for what you copy, share, upload, download or otherwise use while using the Services. You must not upload spyware or any other malicious software to the Service.

You, and not DataShell, are responsible for maintaining and protecting all of your files. DataShell will not be liable for any loss or corruption of your files, or for any costs or expenses associated with backing up or restoring any of your files.

If your contact information, or other information related to your account, changes, you must notify us promptly and keep your information current.

Limitation of Liability

THE SERVICES AND SOFTWARE ARE PROVIDED "AS IS", AT YOUR OWN RISK, WITHOUT EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND. WE ALSO DISCLAIM ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. DataShell will have no responsibility for any harm to your computer system, loss or corruption of data, or other harm that results from your access to or use of the Services or Software. Some jurisdictions in the United States do not allow the types of disclaimers in this paragraph, so they may not apply to you.

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL DATASHELL, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) DAMAGES, REGARDLESS OF LEGAL THEORY, WHETHER OR NOT DATASHELL HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE; (B) AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICES MORE THAN THE GREATER OF £20 OR THE AMOUNTS PAID BY YOU TO DATASHELL FOR THE PAST THREE MONTHS OF THE SERVICES IN QUESTION. Some jurisdictions in the United States do not allow the types of disclaimers in this paragraph, so they may not apply to you.

Termination

You can stop using our Services any time. We reserve the right to suspend or end the Services at any time, with or without cause, and with or without notice. For example, we may suspend or terminate your use if you are not complying with these Terms, or use the Services in any way

that would cause us legal liability or disrupt others' use of the Services. If we suspend or terminate your use, we will try to let you know in advance and help you retrieve data, though there may be some cases (for example, repeatedly or flagrantly violating these Terms, a court order, or danger to other users) where we may suspend immediately. If we terminate your service for breach of these terms no refund of any fees paid to DataShell relating to your service will be offered. If we terminate your service for any other reason than breach of these terms, or at our sole discretion, then we may refund unused portion of fees paid for the Services on a pro-rate basis.

Jurisdiction

THESE TERMS AND THE USE OF THE SERVICES AND SOFTWARE WILL BE GOVERNED BY UNITED KINGDOM LAW EXCEPT FOR ITS CONFLICTS OF LAWS PRINCIPLES. ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE SERVICES OR SOFTWARE MUST BE LITIGATED EXCLUSIVELY IN THE COURTS OF LONDON, UK AND BOTH PARTIES CONSENT TO VENUE AND PERSONAL JURISDICTION THERE. These Terms constitute the entire and exclusive agreement between you and DataShell with respect to the Services, and supersede and replace any other agreements, terms and conditions applicable to the Services. These Terms create no third party beneficiary rights. DataShell's failure to enforce a provision is not a waiver of its right to do so later. If a provision is found unenforceable the remaining provisions of the Agreement will remain in full effect and an enforceable term will be substituted reflecting our intent as closely as possible. You may not assign any of your rights in these Terms, and any such attempt is void, but DataShell may assign its rights to any of its affiliates or subsidiaries, or to any successor in interest of any business associated with the Services. DataShell and you are not legal partners or agents; instead, our relationship is that of independent contractors.

Free Trial Period

Where services are offered on a free trial basis, payment will be taken for the first month, quarter or year when you enter your billing details during the free trial period.

The renewal date for the contract shall be deemed to be one month, quarter or year following the end of the free trial period.

If you wish to cancel your contract during the free trial period you may do so by informing us in writing before the end of the free trial period, and before you have made payment.

If you do not cancel your service prior to the end of the free trial period the fees for the first month, quarter or year of your service will become due.

Money Back Guarantee

Some services are advertised as including a money back guarantee. To receive a refund under the guarantee you must inform us in writing before the end of the advertised money back guarantee period.

If you do not claim a refund of fees during this period then no refund will be due.

Money back guarantee is not available in combination with a free trial. If you pay for our services during or at the end of a free trial period then no money back guarantee will be available.

Fees

All charges payable by you for the DataShell Services shall be in accordance with the scale of charges and rates published from time to time by us on our web site, errors and omissions excepted, and shall be due and payable in advance of provision of the DataShell Services.

80% of the first year's fees charged for any DataShell service relate to the initial setup of your account, provisioning of computer hardware, support and service activation. You agree that, except where otherwise specified in these terms, these fees are not refundable on any basis.

We reserve the right to alter pricing, including ceasing to offer elements of the DataShell Services. DataShell will inform you by email if the charge for a service is to be altered. You can then decide if you want to continue to use such service. Your continued use of the service after the proposed fee modification has been notified will be considered acceptance of the proposed fee modification.

All fees for our services are due in advance and your contract will automatically renew on its anniversary month, quarter or year, at which point fees for the following month, quarter or year become payable. If you choose to pay by credit or debit card then you authorise DataShell to debit your account renewal fees from your card. If you wish to cancel your contract with DataShell, you must do so in writing before the renewal of your contract.

All fees paid to us are non refundable except in circumstances set out in these Terms.

You agree not to issue a chargeback via your bank in relation to any fees charged by us. If you do so you accept that you will be liable for our costs in dealing with the chargeback and recovering any fees properly due to us under the Terms.

Intellectual Property

Please be aware that we may use any feedback, comments, or suggestions that you send us or post in our forums without any obligation to you.

The Software and other technology we use to provide the Services are protected by copyright, trademark, and other laws of both the United Kingdom and foreign countries. These Terms do not grant you any rights to use the DataShell trademarks, logos, domain names, or other brand features.

Additional Terms applicable to use of DataShell Backup

Some services, including the DataShell Backup and DataShell Pro Suite package are sold on a per-computer basis and include unlimited data backup for that computer. You are only permitted to backup data stored on a) internal hard drives of that computer, b) externally connected drives, such as USB drives, connected to that computer or c) NAS storage devices attached to that computer. Backing up of NAS storage devices may incur an extra charge on some packages.

There is a limit of 5TB for any single external drive including NAS devices and USB drives.

With the exception of our business service, services that include DataShell Backup are not to be used for archiving. You must at all times hold an original copy of the data in the original location on the system it was backed up from. If you delete files from your computer that have been backed up we will remove the corresponding backup from our servers.

You must at all times run the DataShell software on any computer that is being backed up and you must ensure this computer connects to the Internet at least once every 30 days. DataShell will remove backups for computers that have not connected to the service for 30 days.

If you wish to restore data backed up onto our servers we may require up to 72 hours notice. Whilst ordinarily we would expect your data to be available for restore immediately, we reserve the right to archive data in facilities where it may not be available for immediate access.

Acceptable Use

You agree not to misuse the DataShell services. For example, you must not, and must not attempt to, use the services to do the following things.

1. Probe, scan, or test the vulnerability of any system or network;
2. Breach or otherwise circumvent any security or authentication measures;

3. Access, tamper with, or use non-public areas of the Service, shared areas of the Service which you have not been invited to, DataShell (or our service providers') computer systems;
4. Interfere with or disrupt any user, host, or network, for example by sending a virus, overloading, flooding, spamming, or mail-bombing any part of the Services;
5. Plant malware or otherwise use the Services to distribute malware;
6. Access or search the Services by any means other than our publicly supported interfaces (for example, "scraping");
7. Send unsolicited communications, promotions or advertisements, or spam; send altered, deceptive or false source-identifying information, including "spoofing" or "phishing";
8. Publish anything that is fraudulent, misleading, or infringes another's rights; promote or advertise products or services other than your own without appropriate authorization;
9. Impersonate or misrepresent your affiliation with any person or entity;
10. Publish or share materials that are unlawfully pornographic or indecent, or that advocate bigotry, religious, racial or ethnic hatred;
11. Violate the law in any way, or violate the privacy of others, or defame others.

Copyright Policy

In accordance with the Digital Millennium Copyright Act of 1998, DataShell will respond expeditiously to claims of copyright infringement committed using the DataShell service and/or the DataShell website (the "Site") if such claims are reported to DataShell in the manner identified in the sample notice below.

If you are a copyright owner, authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through the Site by completing the following DMCA Notice of Alleged Infringement and delivering it by postal mail to the address below.

DMCA Notice of Alleged Infringement ("**Notice**")

1. Identify the copyrighted work that you claim has been infringed, or – if multiple copyrighted works are covered by this Notice - you may provide a representative list of the copyrighted works that you claim have been infringed.
2. Identify the material or link you claim is infringing (or the subject of infringing activity) and to which access is to be disabled, including at a minimum, if applicable, the URL of the link shown on the Site or the exact location where such material may be found.

3. Provide your company affiliation (if applicable), mailing address, telephone number, and, if available, email address.

4.

Include both of the following statements in the body of the Notice:

"I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use)."

"I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of, the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed."

Provide your full legal name and your electronic or physical signature.

Deliver this Notice, with all items completed, to:

DataShell
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Brighton
East Sussex
BN3 2BB