

# **EigenRules AWS End User License Agreement (EULA)**

PLEASE READ CAREFULLY BEFORE USING THE SOFTWARE. This agreement supersedes all previous versions.

## **OPERATING REQUIREMENTS**

1. This end-user license agreement (EULA) is a legal agreement between you or the entity you represent (You) and FirstEigen, LLC, which has its business office at 1212 S. Naper Blvd., Suite 119-220, Naperville, IL 60540, USA (FirstEigen, Licensor, us or we) for:
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  - Online or electronic documents provided by FirstEigen in connection with the Software (Documents).

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8. GENERAL: FIRSTEIGEN does not guarantee that use of the Product will be uninterrupted or error-free. You acknowledge that the performance of the Product may be affected by any number of factors, including, without limitation, technical failure of the Product, the acts or omissions of third parties and other causes reasonably beyond the control of FIRSTEIGEN. Certain features of the Product may not be

forward-compatible with future versions of the Product and the use of such features with future versions of the Product may require the purchase of the applicable future version of the Product.

## 9. LIMITED WARRANTY:

9.1 YOU AGREE THAT FIRSTEIGEN AND ITS LICENSORS HAVE MADE NO EXPRESS WARRANTIES, ORAL OR WRITTEN, TO YOU REGARDING THE PRODUCT AND THAT THE PRODUCT IS BEING PROVIDED TO YOU "AS IS" WITHOUT WARRANTY OF ANY KIND. YOU ACKNOWLEDGE THAT THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE PRODUCT LIES WITH YOU. SHOULD THE PRODUCT PROVE DEFECTIVE, YOU ALONE (AND NOT FIRSTEIGEN, THE RETAILER, OR ANY DISTRIBUTOR) ASSUME THE FULL COST OF ALL NECESSARY REPAIRS.

9.2 Warranty Period is 30 days from the date on which you agree to this EULA. If within the Warranty Period you notify FirstEigen in writing of any defect or fault in the Software as a result of which it fails to perform substantially in accordance with the Documents, we may replace or modify the Software so that it complies with the warranty or, if such remedy is not reasonably practicable or we fail to do so within 30 days from the date of you notifying us of the defect or fault FirstEigen will refund your License fee. If you may terminate this EULA beyond the Warranty Period by a written notice, we shall return to you the relevant proportion of the Subscription Fees calculated on a pro rata basis for the remainder of the term of the License in respect of which the Subscription Fees have been paid.

10.       DISCLAIMER: FIRSTEIGEN DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS WARRANTY DISCLAIMER AFFECTS YOUR LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. SOME JURISDICTIONS DO NOT

ALLOW EXCLUSIONS OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

11.       Limitation on Liability. IN NO EVENT WHATSOEVER WILL FIRSTEIGEN BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES ARISING FROM THE SUBJECT MATTER OF THIS AGREEMENT, THE PRODUCT OR ANY SERVICES UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), OR FOR ANY LOSS OF OR CORRUPTION OF DATA, OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR TECHNOLOGY, IRRESPECTIVE OF WHETHER FIRSTEIGEN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FIRSTEIGEN'S MAXIMUM LIABILITY FOR DAMAGES SHALL BE LIMITED TO THE LICENCE FEES RECEIVED BY FIRSTEIGEN UNDER THIS LICENCE FOR THE PARTICULAR PRODUCT THAT CAUSED THE DAMAGES. Some jurisdictions do not permit the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

12.       TERMINATION: This Agreement shall terminate automatically if you fail to comply with the terms of this Agreement. No notice shall be required from FIRSTEIGEN to effect such termination. You may also terminate this Agreement at any time by notifying FIRSTEIGEN in writing of termination. Upon any termination of this Agreement, you must uninstall and destroy all copies of the Product.

13.       MISCELLANEOUS:

13.1 COMPLIANCE WITH EXPORT CONTROL LAWS: the end user agrees to fully comply with all relevant export laws and regulations, including but not limited to the U.S. Export Administration Regulations and regulations promulgated by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), as amended from time to time (collectively the

“Export Control Laws”). The end user agrees not to export or re-export the Product to any parties located in any E:1 countries which are specifically prohibited under U.S. embargoes or sanctions programs maintained by the OFAC or otherwise prohibited under the Export Control Laws. The current list of E:1 Countries is available at the following link  
[http://www.bis.doc.gov/index.php/forms-documents/doc\\_view/452-supplement-no-1-to-part-740-country-groups](http://www.bis.doc.gov/index.php/forms-documents/doc_view/452-supplement-no-1-to-part-740-country-groups)

**13.2 GOVERNING LAW:** This Agreement will be governed by the laws of the State of Illinois as they are applied to agreements between Illinois residents entered into and to be performed entirely within Illinois. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed.

**13.3 ENTIRE AGREEMENT:** You agree that this is the entire agreement between you and FIRSTEIGEN, and that it supersedes any prior agreement, whether in written or oral form, and all other communications between FIRSTEIGEN and you relating to the subject matter of this Agreement. This Agreement may be amended, modified or supplemented only as a writing document that is signed by the authorized representatives of both parties.

**13.4 RESERVATION OF RIGHTS:** All rights not expressly granted in this Agreement are reserved by FIRSTEIGEN.

**14. INJUNCTION.** Because FIRSTEIGEN would be irreparably damaged if the terms of this License Agreement were not specifically enforced, you agree that FIRSTEIGEN shall be entitled, without bond, other security or proof of damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as FIRSTEIGEN may otherwise have under applicable laws.

15. INDEMNITY. You shall defend, indemnify and hold harmless FIRSTEIGEN, its subsidiaries, affiliates, contractors, officers, directors, employees, agents, licensors, licensees, distributors, developers, content providers, and other users of the Product against all claims, actions, proceedings, losses, damages, expenses and costs (including legal fees) arising out of or in connection with use of the Software, the Ancillary Services and the Documents by you or any other User.

16. PAYMENT TERMS.

16.1 You agree to pay at the times set out above in relation to the relevant Payment Scheme, the fees specified by us (on our listing on AWS's Marketplace) at the time of entering into this EULA, or, if later, upon you varying the Instance/Image Size or Payment Scheme, as being applicable for the relevant Instance/Image Size and Payment Scheme for which you subscribe, as updated from time to time in accordance with clause 16.5 (Subscription Fees).

16.2 If due to a pricing error the fees specified as set out in clause 16.1 are obviously less than the correct Subscription Fees and this could reasonably have been recognized by you as a mispricing we may immediately terminate the EULA without liability to you. If you have an Annual Subscription and this EULA is so terminated, we shall return to you the relevant proportion of the Subscription Fees calculated on a pro rata basis for the remainder of the year in respect of which the Subscription Fees have been paid.

16.3 You agree to make all payments through AWS and you will ensure at all times that your credit card and/or other account details provided to AWS are accurate and up to date. You authorize AWS to bill the Subscription Fees on such credit card on our behalf. You also acknowledge and agree to pay all fees charged by AWS (or its affiliates) relating to the Instance upon which the Software is installed (including any infrastructure charges). Details of their charges are at <http://aws.amazon.com/ec2/pricing/>.

16.4 All Subscription Fees and other amounts payable in connection with this EULA are:

(a) Non-cancellable and (save where expressly stated otherwise in this EULA) non-refundable;

(b) Exclusive of applicable taxes and duties, including VAT and any applicable sales tax (including state sales and use tax), for which you may be additionally liable. If applicable, you agree to pay on demand the amount of any such tax or duty for which you are liable in relation to the Subscription Fees and any other amounts due to FirstEigen or AWS. You will provide us with any information we reasonably request to determine whether we are obliged to collect VAT (or any other sales tax) from you, including your VAT identification number. If you are legally entitled to an exemption from any sales, use or similar transaction tax, you are responsible for providing us with legally-sufficient tax exemption certificates for each taxing jurisdiction. We will apply the tax exemption certificates to charges under your account occurring after the date we receive the tax exemption certificates. If any deduction or withholding is required by law, you will notify us and will pay us any additional amounts necessary to ensure that the net amount we receive, after any deduction or withholding, equals the amount we would have received if no deduction or withholding had been required. Additionally, you will provide us with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.

16.5 We shall be entitled to change the Subscription Fees in relation to your Instance/Image Size and/or Payment Scheme at any time. Changes shall be made in accordance with the rules and policies applied from time to time by AWS. In the case of an Annual Subscription, such change shall take effect no earlier than at the end of that Subscription period.

16.6 All amounts payable under this EULA shall be made by you without set-off, counterclaim, deduction or withholding.

17. GENERAL PROVISIONS. You may not use, copy, modify, sublicense, rent, sell, assign or transfer the rights or obligations granted



to you in this Agreement, except as expressly provided in this Agreement. Any assignment in violation of this Agreement is void, except that you may transfer your Product to another person provided that the person accepts the terms of this License Agreement. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable, and such decision shall not affect the enforceability of: (i) such provision under other circumstances, or (ii) the remaining provisions hereof under all circumstances. FIRSTEIGEN's failure at any time to enforce any of the provisions of this Agreement shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the right of any party to enforce each and every such provision thereafter. The express waiver by FIRSTEIGEN of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement. Notwithstanding anything else in this Agreement, no default, delay or failure to perform on the part of FIRSTEIGEN shall be considered a breach of this Agreement if such default, delay or failure to perform is shown to be due to causes beyond the reasonable control of FIRSTEIGEN. This Agreement represents the complete agreement concerning this License Agreement between you and FIRSTEIGEN.

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