

SAAS END USER LICENSE AGREEMENT (EULA)

PLEASE READ THE CONDITIONS BELOW CAREFULLY BEFORE INSTALLING THIS SOFTWARE.

BY CLICKING "OK", "PROCEED" OR "I ACCEPT" AND PERFORMING THE INSTALLATION OR USE OF THIS SOFTWARE AND SERVICES MEANS THAT YOU ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT. If you do not accept any terms or conditions in this document, immediately cancel the installation or, if you already have the software installed, uninstall it, and request the removal of your credentials and data from Rainforest system.

1. DEFINITIONS

- 1.1. RAINFOREST: Stands for RAINFOREST TECHNOLOGIES with headquarters located at 108 West 13th St. Wilmington, DE 19801 United States, responsible for RAINFOREST'S Software and Services.
- 1.2. SOFTWARE: Includes all on-premises and cloud-based RAINFOREST software and its updates provided by RAINFOREST to CUSTOMERS.
- 1.3. CUSTOMER: Means the end user who licenses and/ or operates the RAINFOREST's Software and Services.
- 1.4. AUTHORIZED PARTNER: Any of the RAINFOREST's legally authorized distributors, resellers, business partners or other individuals offering our Software and services accordingly with a partnership agreement.
- 1.5. CONSEQUENTIAL DAMAGES: Indirect, special, incidental, punitive, exemplary, consequential, or extra-contractual damages of any kind, including third-party claims, loss of profits, system failure or malfunction, costs of obtaining substitute cloud services, work stoppage, denial of access or downtime, system or service disruption or interruption, or any lost, damaged, or stolen data, information or systems, as well as the costs of restoring any lost, damaged, or stolen data, information or systems.
- 1.6. DERIVATIVE WORK: A work that is based on one or more preexisting works (such as a revision, translation, dramatization, motion picture version, condensation, enhancement, modification, or any other form in which preexisting work may be recast, transformed, or adapted), which, if created without the authorization of the copyright owner of the preexisting work, would constitute copyright infringement.
- 1.7. INTELLECTUAL PROPERTY RIGHTS: All intellectual property or other proprietary rights throughout the world, whether existing under statute, at common law or in equity, now existing or created in the future, including copyright, trademark and patent rights, trade secrets, moral rights, right of publicity, authors' rights.
- 1.8. TECHNICAL SUPPORT: The Services that RAINFOREST (or AUTHORIZED PARTNER) provides for the Support and maintenance of the RAINFOREST Products, as specified in the Technical Support and Maintenance Terms and Conditions.
- 1.9. UPDATES: Any updates of the Software made after the date of purchase of the SaaS.
- 1.10. UPGRADE: Any and all improvements in the Software that are generally made available to End Users as a part of Support.
- 1.11. PERSONAL DATA: Any information relating to an identified or identifiable individual or is otherwise defined as "Personal Data" under the General Data Protection Regulation or other applicable data protection laws to the extent that the definition of "Personal Data" under the applicable data protection laws is broader than the preceding definitions.
- 1.12. HIGH RISK SYSTEMS: A device or system that requires extra safety functionalities such as fail-safe or fault-tolerant performance features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury or catastrophic property damage. A device or system with a fault-tolerant feature in the event of failure may continue its intended operation, possibly at a reduced level, rather than failing completely.

2. SOFTWARE LICENSE

- 2.1. The Software (including, but not limited to, any images, photographs, animation, video, audio, music, text and "applets" incorporated into the Software) is owned by RAINFOREST and third-party licensors, and its structure, organization and code are valuable trade secrets of the RAINFOREST and the third-party licensors. The Software is protected by copyright and other intellectual property laws and international treaties. Except as expressly set forth in this EULA, this EULA does not grant the Customer any intellectual property rights in the Software and the Customer cannot use the Software except as specified herein.
- 2.2. RAINFOREST grants the Customer with a limited license to use the Software based in one or more of the following metrics: volume of devices, number of users, number of applications and/ or its micro-services, number of keywords, number of domains or any other metric defined by the RAINFOREST, which should be purchased by the Customer via an Order Form.
- 2.3. The Customer acknowledges that the rights granted to the Customer under this EULA are conditional on the Customer's timely payment of the license fee payable to the RAINFOREST in connection with the Agreement.
- 2.4. The software is licensed, not sold and this Agreement is for the license of the Software on one of the following bases: (i) Perpetual License, or (ii) Subscription License.

3. EXCLUDED SOFTWARE

- 3.1. Notwithstanding the foregoing limited license grant, the Customer acknowledges that the Product includes software subject to other terms and conditions governing the use of such software other than this EULA. Certain Excluded Software may be covered by open-source software licenses ("Open-Source Components"), which means any software licenses approved as open-source licenses by the Open-Source Initiative or any substantially similar licenses, including but not limited to any license, that, as a condition of distribution of the software licensed under such license, requires that the distributor make the software available in source code format. Please visit a list of applicable Excluded Software included in this Product from time to time, and the applicable terms and conditions governing its use. Such terms and conditions may be changed by the applicable third party at any time without liability to the Customer. To the extent required by the licenses covering Open-Source Components, the terms of such licenses will apply in lieu of the terms of this EULA. To the extent the terms of the licenses applicable to Open-Source Components prohibit any of the restrictions in this EULA with respect to such Open-Source Components,

such restrictions will not apply to such Open-Source Components. To the extent the terms of the licenses applicable to Open-Source Components require the RAINFOREST to make an offer to provide source code in connection with the Software, such offer is hereby made.

4. LICENSE RESTRICTIONS

- 4.1. Except as expressly set out in this EULA or as permitted by any local law, the Customer agrees:
- 4.1.1. not to copy the Software or Documents except where it is necessary for the purpose of back-up or operational security
 - 4.1.2. not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or Documents;
 - 4.1.3. not to make modifications of, the whole or any part of the Software or Documents, or permit the Software or Documents or any part of it to be combined with, or become incorporated into, any other programs;
 - 4.1.4. not to reverse-engineer or create derivative works based on the whole or any part of the Software or attempt to do any such thing except to the extent that such actions cannot be prohibited under local law, if applicable, provided that the information obtained by you during such activities is not unnecessarily disclosed or communicated without RAINFOREST's prior written consent to any third party, and is not used to create any software that is substantially similar to the Software;
 - 4.1.5. not to provide or otherwise make available the Software in whole or in part in any form to any person without prior written consent from RAINFOREST;
 - 4.1.6. not to remove any proprietary notices from the Software, Documents or Services (e.g., copyright and trademark notices); and
 - 4.1.7. to comply with all technology control or export laws and regulations that apply to the technology used or supported by the Software, Documents or any of the Services.

5. ACCEPTABLE USE RESTRICTIONS

- 5.1. Except for the limited privileges granted herein, or otherwise permitted by applicable law, no part of the Software, Services or Documents may be copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, or distributed in any way to any other computer, server, website or other medium for publication or distribution or for any commercial enterprise, without express prior written consent by the RAINFOREST.

The Customer must:

- 5.1.1. not use the Software, Documents or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the Software, any Service or any operating system.
- 5.1.2. not infringe the RAINFOREST's intellectual property rights or those of any third party in relation to the Customer's use of the Software, Documents or any Service (to the extent that such use is not licensed by this EULA);
- 5.1.3. not transmit any material that is defamatory, offensive or otherwise objectionable in relation to the Customer's use of the Software, Documents or any Service;
- 5.1.4. not use the Software, Documents or any Service in a way that could interfere with other users or damage, disable, overburden, impair or compromise the RAINFOREST's systems or security or those of any third party in relation to the Software, Documents or Service; and not attempt to decipher any transmissions to or from the servers running the Software, or any Service.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1. The Customer acknowledges that all intellectual property rights in the Software, the Documents and the Technology anywhere in the world belong to the RAINFOREST or its licensors, that rights in the Technology are licensed (not sold) to the Customer, and that the Customer shall have no rights in, or to, the Software, the Documents, the Services or the Technology other than the right to use each of them in accordance with the terms of this EULA.
- 6.2. Customer acknowledges that has no right to have access to the Software in source-code form.
- 6.3. Any data, comments or materials the Customer has sent through the Software or Services or sent to the RAINFOREST via the Support contact details as set out in Section 6, including feedback data, such as questions, comments, suggestions, or the like ("Feedback"), shall be deemed to be non-confidential and non-proprietary. The RAINFOREST shall have no obligation of any kind with respect to such Feedback and shall be free to reproduce, use, disclose, exhibit, display, transform, create derivative works and distribute the Feedback to others without limitation, except for Personal Data which might be included in the Feedback and which will only be used to contact the Customer on any questions the Customer might have or to resolve any issues the Customer might experience in using the Software, or Services. Furthermore, the RAINFOREST shall be free to use any ideas, concepts, know-how or techniques contained in such Feedback for any purpose whatsoever, including but not limited to developing, manufacturing, and marketing Products incorporating such Feedback. The Customer is prohibited from posting or transmitting to or from the Software, or Services any Feedback:
- 6.3.1. that contains viruses and/or corrupted files that may damage the operation of the website or any computers;
 - 6.3.2. that makes false statements and/or notifications, including registration of email addresses belonging to other parties;
 - 6.3.3. that is threatening, defamatory, obscene, indecent, seditious, offensive, pornographic, abusive, liable to incite racial hatred, discriminatory, menacing, scandalous, inflammatory, blasphemous, in breach of confidence, in breach of privacy or which may cause annoyance or inconvenience.
 - 6.3.4. for which the Customer has not obtained all necessary licenses and/or approvals; or which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party, in any country in the world.

7. LIMITED WARRANTY AND DISCLAIMER

- 7.1. Limited Warranty: The RAINFOREST warrants that, for a period of 30 days from the purchase date ("Warranty Period"), the Software licensed under this Agreement will perform substantially in accordance with the Documentation ("Limited Warranty"). The Customer's exclusive remedy and the RAINFOREST's entire obligation and liability for any breach of the Limited Warranty is to repair or replace the Software or refund to the Customer the price the Customer paid for the Software if a repair or replacement of the Software would, in the RAINFOREST's opinion, be unreasonable. The Limited Warranty is conditioned upon the Customer providing the RAINFOREST prompt written notice of the Software's failure to perform substantially in accordance with the Documentation.
- 7.2. Exclusion of warranty: The Limited Warranty will not apply if:
- 7.2.1. the Software is not used in accordance with this Agreement or the Documentation;
 - 7.2.2. the Software or any part of the Software has been modified by any entity other than RAINFOREST; or
 - 7.2.3. a malfunction in the Software has been caused by any equipment or software not supplied by the RAINFOREST;
 - 7.2.4. issues are due to a third-party add-on/plugin used in the Software.
- 7.3. Disclaimer of warranties: Except for the Limited Warranty, the Software is provided "as is." To the extent permitted by law, the RAINFOREST makes no other representations or warranties of any kind regarding the Software and Support, and the RAINFOREST disclaims all other obligations and liabilities, or express or implied warranties regarding the Software, including implied warranties of merchantability, quality, fitness for a particular purpose, title, non-infringement, or systems integration. The RAINFOREST makes no warranty, representation or guarantee as to the Software's use or performance, or that the operation of the Software will be fail-safe, uninterrupted or free from errors or defects, or that the Software will protect against all possible threats.
- 7.4. High Risk Systems terms: The Software is not designed, developed, tested, or intended to be reliable in the context of High-Risk Systems. The RAINFOREST has no responsibility for, and the Customer will indemnify and hold harmless the RAINFOREST from, all claims, suits, demands and proceedings alleging, claiming, seeking, or asserting any liability, loss, obligation, risk, cost, damage, award, penalty, settlement, judgment, fine or expenses (including attorney's fees) arising from or in connection with the Customer's use of the Software on or in a High Risk System, including those that could have been prevented by deployment of fail-safe or fault-tolerant features to the High Risk System, or are based on a claim, allegation, or assertion that the functioning of a High Risk System depends or depended on the functioning of the Software, or that the failure of the Software caused a High Risk System to fail.
- 7.5. Third parties: The RAINFOREST Products may contain independent third-party products and rely on them to perform certain functionality, including malware definitions or URL filters and algorithms. The RAINFOREST makes no warranty as to the operation of any third-party products or the accuracy of any third-party information.

8. LIMITATION OF LIABILITY

- 8.1. Each party's entire aggregate liability to the other party for claims under or related to the subject-matter of this agreement will not exceed the total payments paid or payable by the Customer to the RAINFOREST under this agreement in the three (3) months prior to the claim. Neither party will be liable for any consequential damages in connection with this agreement, even if the damages were foreseeable or a party has been advised of the possibility of those damages. This limitation of liability applies whether such claims arise under contract, tort (including negligence), equity, statute or otherwise. Nothing in this agreement limits or excludes any liability that cannot be limited or excluded under applicable law.

9. INDEMNIFICATION

- 9.1. Customer indemnification obligations: The Customer will unconditionally indemnify and defend the RAINFOREST, its affiliates, and their officers, directors, employees, contractors and agents (each a RAINFOREST Indemnified Party) against any claims, liabilities and expenses (including court costs and reasonable attorney's fees) that a RAINFOREST Indemnified Party incurs as a result of or in connection with any third-party claims arising from:
- 9.1.1. the Customer's failure to obtain any consent, authorization or license required for the RAINFOREST's use of data, software, materials, systems, networks or other technology provided by the Customer under this Agreement;
 - 9.1.2. the Customer's use of the Software in a manner not expressly permitted by this Agreement;
 - 9.1.3. the RAINFOREST's compliance with any technology, designs, instructions or requirements provided by the Customer or a third party on the Customer's behalf;
 - 9.1.4. any claims, costs, damages, and liabilities whatsoever asserted by any Customer Representative; or
 - 9.1.5. any violation by the Customer of applicable laws; and
 - 9.1.6. any reasonable costs and attorney's fees required for the RAINFOREST to respond to a court order or other official government inquiry regarding the Customer's use of the Software.
- 9.2. RAINFOREST indemnification obligations: The RAINFOREST will indemnify the Customer, and, at the RAINFOREST's election, defend the Customer against a third-party claim asserted against the Customer in a suit or action if the claim is for direct patent infringement, for direct copyright infringement, or for the RAINFOREST's trade secret misappropriation, and the claim is asserted against the Software alone and not in combination with anything else, or solely a combination of RAINFOREST Products.
- 9.3. Exclusions: Notwithstanding anything to the contrary in this Agreement, the RAINFOREST will not indemnify or defend the Customer for claims asserted, in whole or in part, against:
- 9.3.1. technology, designs or requirements that the Customer gave to the RAINFOREST;
 - 9.3.2. modifications or programming for the Software that were made by anyone other than the RAINFOREST; or
- 9.4. Remedies: The RAINFOREST may, in its sole discretion and at its own expense, with respect to any Software that is subject to a claim:
- 9.4.1. Procure for the Customer the right to continue using the Software;

- 9.4.2. replace the Software with a non-infringing Software;
- 9.4.3. modify the Software so that it becomes non-infringing; or

9.5. Indemnification procedure

The Indemnified Party (Indemnitee) will:

- 9.5.1. provide prompt written notice to the Indemnifying Party (Indemnitor) of the claim (provided that the failure to provide timely notice that prejudices the Indemnitor will relieve the Indemnitor of its obligations under this section to the extent the Indemnitor has been prejudiced and the failure to provide timely notice will relieve the Indemnitor of any obligation to reimburse the Indemnitee for its attorney's fees incurred prior to notification);
- 9.5.2. reasonably cooperate in connection with the defense or settlement of the claim; and
- 9.5.3. give the Indemnitor sole control over the defense and settlement of the claim, provided that any settlement of a claim will not include a specific performance obligation or admission of liability by the Indemnitee.
- 9.5.4. Personal and exclusive indemnity: The foregoing indemnities are personal to the parties and may not be transferred to anyone. This section states the parties' entire indemnification obligations, and the Customer's exclusive remedy claims involving intellectual property rights.

10. PRIVACY AND COLLECTION OF PERSONAL DATA OR SYSTEM INFORMATION

- 10.1. The Software or Support may employ applications and tools to collect Personal Data, sensitive data, or other information about the Customer (including name, address, e-mail address and credit card or payment details), IP address, location, device, and browser information.
- 10.2. The collection of the Data may be necessary to provide the Customer with the relevant Software or Support functionalities. This Data may also be used to:
 - 10.2.1. To improve, support and administer the Software, to allow Customer to use its functionalities, and to fulfill and enforce our Terms of Service. We may also use your information to, among other things, show you suggestions, promote the Software, and customize your experience.
 - 10.2.2. To fulfill requests for services, Software functionality, support, and information for internal operations, including troubleshooting, data analysis, testing, research, statistical, and survey purposes and to solicit your feedback.
 - 10.2.3. To customize the Software and services based on the country settings you have chosen or show you content that is like content that you like or interacted with.
 - 10.2.4. To make suggestions and provide a customized ad experience.
 - 10.2.5. To communicate with you, including to notify you about changes in our services
 - 10.2.6. To facilitate sales, promotion, and purchases of goods and services and to provide user support.

11. EXPORT RESTRICTIONS

- 11.1. The Customer acknowledges that the Software is subject to United States of America export jurisdiction. The Customer agrees to comply with all applicable international and national laws that apply to the Software.

12. SUPPORT, TRAINING AND MAINTENANCE

- 12.1. The RAINFOREST shall provide Support to the Customer regarding any issue arriving from the Software during the Purchase Period. The primary mode of Support shall be over RAINFOREST's website (<https://rainforest.tech/support>) or via support@rainforest.tech.

13. TRAINING

- 13.1. If necessary, and solely at Rainforest discretion, the Customer shall be provided with a walk-through of the Software through calls with trained customer service representatives, to explain and demonstrate the Software.

14. RELATIONSHIP

- 14.1. The parties are independent contractors under this Agreement and expressly disclaim any partnership, franchise, joint venture, agency, employer/employee, fiduciary or other special relationship. Neither party intends this Agreement to benefit or create any right or cause of action in or on behalf of, any person or entity other than the parties and listed affiliates. This Agreement is not intended to create a third-party beneficiary of any kind. The Customer must not represent to any third party that it has any right to bind the RAINFOREST in any manner and the Customer will not make any representations or warranties on behalf of the RAINFOREST.

15. SEVERABILITY

- 15.1. If a court holds that any provision of this Agreement is invalid or unenforceable under applicable law, the court will modify the provision to the minimum extent necessary to make it valid and enforceable, or, if it cannot be made valid and enforceable, the court will sever and delete the provision from this Agreement. The change will affect neither the validity of the amended provision nor the validity of any other provision of this Agreement, which will continue in full force and effect.

16. NO WAIVER

- 16.1. A party's failure or delay in enforcing any provision of this Agreement will not operate as a waiver of the right to enforce that provision or any other provision of this Agreement at any time. A waiver of any provision of this Agreement must be in writing, specify the provision to be waived and be signed by the party agreeing to the waiver.

17. FORCE MAJEURE; OTHER EXCUSABLE FAILURES OR DELAYS IN PERFORMANCE

- 17.1. Neither party is liable for delays or failures to perform any of its obligations under this Agreement, to the extent caused by a Force Majeure Event.
- 17.2. The RAINFOREST 's failures or delays in its performance are excused to the extent they result from: (i) The Customer's acts or omissions, or those of its employees, agents, users, affiliates or contractors; (ii), The Customer's failure or delay in the performance of a specific task, obligation or responsibility under this Agreement or a Schedule, which task, obligation, or responsibility is a condition or requirement for a RAINFOREST task, obligation, or responsibility; (iii) reliance on instructions, authorizations, approvals or other information from the Customer; or (iv) acts or omissions of third parties (unless directed by the RAINFOREST).

18. GOVERNING LAW

- 18.1. This SAAS End User License Agreement shall be governed by and construed and enforced in accordance with the laws of the DELAWARE of DELAWARE which law shall prevail in the event of any conflict of the parties.

19. ASSIGNMENT

- 19.1. The Customer may not sublicense, assign, or transfer its rights under this Agreement without the RAINFOREST 's prior written consent. Any attempt by the Customer to sublicense, assign or transfer any of its rights, duties, or obligations under this Agreement, whether directly, or indirectly by merger, acquisition or change of control, will be null and void.

At any time, RAINFOREST may change or revise this LICENSE AGREEMENT , in its sole discretion. This new document will come into force 48 (forty-eight) hours after its publication on the RAINFOREST website (<https://rainforest.tech/legal/eula>). Users who do not accept the new terms must uninstall the RAINFOREST Software and request the removal of its credential information from Rainforest system.