

MACH1 End User License Agreement (EULA)

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1. License Grant

Subject to the terms of this EULA, MACH1 grants to you a limited, non-exclusive, non-transferable license, without the right to sublicense, to install, use, and execute the Software on a single workstation.

2. Restrictions

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4. Confidentiality.

User acknowledges that the Software contains valuable trade secrets of MACH1 and User agrees to maintain the confidentiality of the Software using at least the same degree of care you use with User's own confidential information or that of User's company.

5. Term and Termination.

This EULA is effective either upon your clicking the "I Accept" button or when You begin using the Software, and shall continue until terminated. You may terminate this EULA at any time by returning the Software and all copies and extracts to MACH1. MACH1 may terminate this EULA upon a material or continuing breach of this EULA by you by the giving of 10 days prior written notice of termination, stating the cause therefor, with termination becoming effective at the close of said 10-day term if the breach is not then cured to the satisfaction of MACH1.

This LICENSE will automatically terminate if User fails to comply with any of the terms and conditions hereof. In such event, User must destroy all copies of the Software and all of its component parts. MACH1 may terminate this EULA at any time if you fail to comply with any term(s) hereof.

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NEITHER MACH1, NOR ANY OF ITS PRINCIPALS, OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES SHALL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR PENALTIES INCLUDING DAMAGES FOR LOST PROFITS, LOST BUSINESS, PERSONAL INJURY, LOST DATA, BUSINESS INTERRUPTION, AND THE LIKE, HOWEVER IT ARISES, WHETHER FOR BREACH OR IN TORT, EVEN IF MACH1 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL MACH1'S MONETARY LIABILITY IN CONNECTION WITH THIS AGREEMENT OR THE SOFTWARE TO YOU EXCEED THE AMOUNTS PAID TO IT BY YOU.

8. INDEMNITY

You shall indemnify and hold harmless MACH1 from and against all losses, claims, damages or other causes of any nature or kind whatsoever (including reasonable attorney's fees) arising directly or indirectly out of third party claims concerning (i) a breach of any of Your obligations, covenants, representations or warranties contained herein; (ii) any product or system developed by You using the Software; (iii) any combination of the Software, or any component of it, with any product or system developed by You using the Software, and (iv) the negligence or intentional misconduct of You or your officers, employees, agents or contractors. You agree not to bring any cross-claim, third party claim or similar claim against MACH1 based on a claim, suit, action or proceeding threatened or commenced against You related to the Software and arising out of any matter.

9. Export Compliance.

The Software and related technology may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree to strictly comply with all such laws and regulations and acknowledge that you have the responsibility to obtain authorization to export, re-export, or import the Software and related technology, as may be required. You will indemnify and hold MACH1 harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including attorney's fees) arising from or relating to any breach by you of your obligations under this section.

10. Governing Law; Venue.

You agree that this EULA, and any claim, dispute, action, cause of action, issue, or request for relief relating to this EULA, will be governed by the laws of the State of New York, without giving effect to any conflicts of laws principles that require the application of the laws of a different jurisdiction. Any action or proceeding relating to this EULA must be brought in a federal or state court located in New York County (Manhattan), New York and each party irrevocably submits to the jurisdiction and venue of any such court in any such claim or dispute, except that MACH1 may seek injunctive relief in any court having jurisdiction to protect its intellectual property or Confidential Information.

11. Assignment.

Neither the rights nor the obligations arising under this EULA are assignable by You, and any such attempted assignment shall be void and without effect.

12. Severability.

If any provision of this EULA is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

13. Waiver.

All waivers by MACH1 will be effective only if in writing. Any waiver or failure by MACH1 to enforce any provision of this EULA on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

14. Equitable Relief

You acknowledge that any breach of your obligations hereunder with respect to the Software or the confidential information of MACH1 will cause MACH1 irreparable injury for which it has no adequate remedy at law. You further agree that MACH1 will be entitled to seek and obtain equitable relief, including preliminary injunctions and temporary restraining orders, to prevent any unauthorized use of the Software and confidential information, without posting of bond or other security, in addition to all other remedies available to it under this EULA or other applicable law.

15. General.

a. The Software is deemed irrevocably accepted upon your use of the Software. MACH1 will have no responsibility to provide maintenance or support services with respect to the Software.

b. The headings of Sections of this EULA are for convenience and are not to be used in interpreting this EULA.

c. Except as otherwise provided in this section, no amendment to this EULA will be valid unless it is in writing hand-signed by the parties.

d. Questions or Additional Information. If you have questions regarding this EULA, please contact MACH1.