

## FRACTAL LABS END-USER LICENCE AGREEMENT

Last Updated: **12 July 2024**

PLEASE READ THE TERMS AND CONDITIONS OF THIS END-USER LICENCE AGREEMENT CAREFULLY. BY ACCESSING AND/OR USING THE SOLUTION/S OR ANY PART THEREOF, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS DESCRIBED HEREIN AND BY ALL TERMS, POLICIES AND GUIDELINES INCORPORATED HEREIN BY REFERENCE. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, YOU MAY NOT USE THE SOLUTION/S.

Fractal Labs Proprietary Limited (“Fractal Labs”) is the owner of mobile and/or web-based solutions and services (“the Solution/s”). The terms and conditions of this end-user licence agreement (“EULA”) apply to your use of the Solution/s and do not alter in any way the terms or conditions of any other agreement you may have with Fractal Labs, its agents, licensees, subsidiaries or affiliates (collectively, “us”, “we”, “our”), except that, where the terms of any such agreement conflict with the terms of this EULA, these terms shall prevail to the extent of such conflict, unless expressly agreed to the contrary. By using the Solution/s, you represent and warrant that you are over the age of 18 (eighteen) and are lawfully able to accept this EULA. If you are using the Solution/s on behalf of any entity, you further represent and warrant that you are authorised to accept this EULA on such entity’s behalf, and that such entity agrees to indemnify us for violations of this EULA.

### 1. Grant of Licence

- 1.1. Subject to clause 2 below, Fractal Labs hereby grants you a limited, revocable, non-exclusive, non-transferable, non-assignable, non-sublicensable licence to access and use the Solution/s in object form only on the terms and conditions set forth in this EULA.
- 1.2. You –
  - 1.2.1. accept the licence granted to you in terms of clause 1.1;
  - 1.2.2. warrant that you are authorised to use the Solution/s only for your own internal business or personal purposes; and
  - 1.2.3. acknowledge that you obtain no rights of ownership of the Solution/s or any part thereof whatsoever.

### 2. Restrictions on Licence

- 2.1. You shall not –
  - 2.1.1. except to the extent as may be permitted by law, modify, translate or create derivative works based on the Solution/s, nor reverse assemble, decompile or reverse engineer the Solution/s, whether in whole or in part, or otherwise attempt to access or derive the source code, underlying ideas, algorithms, file formats, programming of the Solution/s or any files contained in or generated by the Solution/s, nor shall you permit, whether directly or indirectly, any third party to do so;
  - 2.1.2. merge or combine the whole or any part of the Solution/s with any other software or documentation without the prior written consent of Fractal Labs;
  - 2.1.3. unless explicitly agreed to in writing by Fractal Labs, grant any third-party direct access to the Solution/s;
  - 2.1.4. unless explicitly agreed to in writing by Fractal Labs, use the Solution/s to provide a solution or bureau service to any third party;
  - 2.1.5. lend or transfer the Solution/s or any part thereof to any third party;
  - 2.1.6. unless explicitly agreed to in writing by Fractal Labs, sub-license or otherwise transfer the right to access and/or use the Solution/s, whether in whole or in part, to any third party; or
  - 2.1.7. unless explicitly agreed to in writing by Fractal Labs, remove, delete, or obscure any copyright, trademark or other marks or proprietary notices associated with or generated by the Solution/s.

### **3. Use of the Solution/s**

You represent and warrant that, in respect of your access to and use of the Solution/s and all matters relating thereto, you will comply with all applicable laws and regulations, including, without limitation, those relating to the Internet, data, electronic communications, privacy, the transmission of data exported from the Republic of South Africa, and any other legal or professional body which has jurisdiction over you or to which you belong.

### **4. Intellectual Property Rights**

- 4.1. You acknowledge that the Solution/s is owned by, and all intellectual property rights therein vest in, Fractal Labs or its respective licensors or third-party content providers and that any unauthorised use thereof is expressly prohibited.
- 4.2. All elements of the Solution/s, including any artificial intelligence, computer models, templates or software developed and/or customised by Fractal Labs or its affiliates specifically developed for the use by you, and as commissioned and requested by you, are protected by copyright, trade dress, moral rights, trademark, and other laws relating to the protection of intellectual property.
- 4.3. Our logos and any other product or service name or slogan contained in the Solution/s are our registered or unregistered trademarks and those of our suppliers or licensors, and may not be copied, imitated, or used, in whole or in part, without the prior written permission of Fractal Labs or the applicable trademark holder. In addition, the look and feel of the Solution/s is the service mark, trademark and/or trade dress of Fractal Labs and may not be copied, imitated, or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in the Solution/s are the property of their respective owners.
- 4.4. We reserve the right at any time to change or discontinue without notice, any aspect or feature of the Solution/s.

### **5. Privacy and protection of personal information**

- 5.1. You and Fractal Labs are each responsible for complying with your respective obligations under applicable privacy and protection of personal information laws governing your data.
- 5.2. Fractal Labs shall at all times comply with the terms and conditions of Fractal Labs's Privacy Policy (as amended from time to time), in respect of the collection, use and disclosure of your personal information, the terms and conditions of which are incorporated herein by this reference.
- 5.3. Notwithstanding the foregoing, you remain solely responsible (i) for determining the purposes and means of Fractal Labs's processing of your data (including that processing will not place you or Fractal Labs in breach of any applicable privacy and protection of personal information laws) and (ii) for ensuring that all information protection principles which establish minimum requirements for the processing of personal information under applicable privacy and protection of personal information laws and all the measures that give effect to such principles are complied with.

### **6. Fractal Labs Warranties**

- 6.1. Fractal Labs warrants in relation to the Solution/s that –
  - 6.1.1. it is entitled to and has the rights necessary to grant the licence contemplated in this EULA; and
  - 6.1.2. the Solution/s will substantially comply with its published functional specifications when used in accordance with the terms of this EULA and with the documentation such as installation and operating instructions, user and support manuals and technical literature pertaining to the Solution/s as supplied by Fractal Labs. Where features and functionalities are not documented at all or are partially documented, you assume full responsibility for the use of said functionality and any associated results.
- 6.2. Save for the above warranties, the Solution/s, is provided "as is" and we and our directors, members, employees, content providers, agents and affiliates exclude, to the fullest extent permitted by applicable law, any warranty, express or implied, including, without limitation, any implied warranties of

merchantability, satisfactory quality, or fitness for a particular purpose. We will not be liable for any damages of any kind arising from the use of the Solution/s or the unavailability of the same, including, but not limited to, lost profits and direct, indirect, incidental, punitive, special, and consequential damages. The functions embodied on or in the Solution/s are not warranted to be uninterrupted or without error. You, not us, assume the entire cost of all necessary servicing, repair, or correction due to your use of the Solution/s. We make no warranty that the Solution/s is free from infection by viruses or anything else that has contaminating or destructive properties.

- 6.3. You acknowledges and agree that the Solutions and any results or deliverables they produce rely on information and data provided by you or inputted by you onto the Solution, and that Fractal Labs shall have no obligation or liability for, or arising from, any possible falsity, inaccuracy, incompleteness or unavailability of such information or data or any deliverables or results based on such data or information or the incorrect input thereof onto the Solution. You shall remain solely responsible for the information or data you provide to or on the Solution, and the results or deliverables they produce.

## **7. Disclaimer**

- 7.1. The Site Content and the User Content are provided “as is” and we and our directors, members, employees, content providers, agents and affiliates exclude, to the fullest extent permitted by applicable law, any warranty, express or implied, including, without limitation, any implied warranties of merchantability, satisfactory quality, or fitness for a particular purpose. We will not be liable for any damages of any kind arising from the use of the Site Content or the User Content, or the unavailability of the same, including, but not limited to, business interruption, loss of business information, loss of data, loss of profits and any direct, indirect, incidental, punitive, special, or consequential damages.
- 7.2. We use reasonable efforts to ensure the accuracy, correctness, and reliability of the Site Content, but we make no representations or warranties as to the Site Content’s accuracy, adequacy, correctness, quality, or reliability. You bear all risks from any use or results of using any information, the Site Content or the Services and are solely responsible for validating the integrity of any information received from the Solution/s, the Site Content, and the Services.
- 7.3. We have no direct control over User Content, make no representations or warranties whatsoever in respect thereof and expressly disclaim any liability in connection therewith.
- 7.4. For the purposes hereof:
  - 7.4.1. “Site Content” shall refer to all of the content featured or displayed on the Solution/s, including, but not limited to information in any form, text, graphics, data, photographic images, moving images, sound, illustrations, software, and the selection and arrangement thereof; and
  - 7.4.2. “User Content” shall, to the extent applicable, mean any message, comment, data, document, file, information, text, music, sound, photos, graphics, code, or other material that you post, upload, download, transmit, distribute, store, create or otherwise publish through or on the Solution/s.

## **8. Limitation of Liability**

- 8.1. To the fullest the extent permitted by applicable law, Fractal Labs shall not be liable for any delay, failure, breakdown, damage, loss, costs, claim, penalty, fine or expense of any kind whatsoever and howsoever arising from –
  - 8.1.1. your access to, use of or reliance on the Solution/s otherwise than in accordance with the terms of this EULA and any other written agreement between us;
  - 8.1.2. you effecting any changes, modifications, or upgrades to the Solution/s without Fractal Labs’s prior written consent;
  - 8.1.3. operator error on the part of you or your personnel, or any fault in any hardware or third-party software supplied by Fractal Labs or software supplied to or obtained by you from any entity other than Fractal Labs;

- 8.1.4. the intentional or negligent act or omission of any person who is not a member of Fractal Labs's personnel;
  - 8.1.5. your negligence or wilful misconduct;
  - 8.1.6. the actions or omissions of any telecommunications authority or a supplier of telecommunications services;
  - 8.1.7. the actions or omissions of any upstream data providers or suppliers of network services; or
  - 8.1.8. any other cause beyond our reasonable control, including the failure or fluctuation of electrical supplies, accidents, or natural disasters.
- 8.2. In no event shall our aggregate liability, whether in contract, warranty, delict (including negligence, whether active, passive, or imputed), product liability, strict liability, or other theory, arising out of or relating to the use of the Solution/s exceed any compensation you pay, if any, for access to or use of the relevant Solution/s..

## **9. Indemnification**

To the fullest extent permitted by applicable law, you hereby defend, indemnify and hold us harmless, as well as our subsidiaries, affiliates, licensors, directors, employees, agents, sponsors, third-party information providers and independent contractors, against any and all claims, damages, costs, liabilities and expenses (including, but not limited to, attorneys' fees) arising out of or related to your conduct, your breach or alleged breach of this EULA, your incorrect or unauthorised access to and/or use of the Solution/s, or your violation of any rights of another.

## **10. Accuracy of Information**

The information provided on the Solution/s is believed by Fractal Labs to be generally accurate and correct. However, in no event shall Fractal Labs, its directors, officers, agents, or employees be liable for errors, omissions or inaccuracies of any kind in the information, and you will be responsible for verifying the accuracy and correctness of the information. While Fractal Labs will take every precaution to avoid the uploading of corrupt or faulty data, Fractal Labs is not responsible for any inaccuracy of data, reports or displays or malfunction resulting from you or any of your users uploading corrupt or incorrect data (or uploading data incorrectly) to your/their account. No warranty of any kind is given regarding the information, the same being provided as is, where is and with all faults and any guarantees or warranties, express or implied, are excluded.

## **11. Effect of Termination**

On termination, cancellation, or expiry of this EULA for any reason (including as a result of termination of any associated or underlying agreement between us), the licence granted to you hereunder shall automatically and immediately terminate. Provided that you have settled all outstanding amount owed to Fractal Labs, on termination your data will be available for download from Fractal Labs for a period of 30 (thirty) days from date of termination; in the event that you require the data after a period of 30 (thirty) days, Fractal Labs will make that data available to you for a fee determined by the volume of the data and the period from date of termination.

## **12. Dispute Resolution and Governing Law**

- 12.1. This EULA will be governed, construed, and take effect in all respects in accordance with the laws of the Republic of South Africa.
- 12.2. Any dispute relating in any way to your use of the Solution/s shall be submitted to confidential arbitration to be held in Johannesburg under the rules of the Arbitration Foundation of Southern Africa (or its successor in title), to which arbitration you hereby consent; except that, to the extent you have in any manner violated or threatened to violate our intellectual property rights, we may seek interdictory, injunctive or other appropriate relief in any applicable court in the Republic of South the Africa, and you

consent to exclusive jurisdiction and venue of such courts. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under this EULA shall be joined to an arbitration involving any other party subject to this EULA, whether through class arbitration proceedings or otherwise.

### **13. Miscellaneous Provisions**

- 13.1. This EULA (as varied from time to time in accordance with clause 14 below) constitutes the sole record of the agreement between you and us in relation to your use of the Solution/s. Neither you nor we shall be bound by any express, tacit, or implied representation, warranty, promise or the like not recorded herein. Unless otherwise specifically stated, this EULA supersedes and replaces all prior commitments, undertakings, or representations, whether written or oral, between you and us in respect of your use of the Solution/s. Notwithstanding the foregoing, you may be granted access to the Solution/s by virtue of a separate written agreement with Fractal Labs or its permitted licensees. If this applies to you, this EULA must be read in conjunction with such agreement.
- 13.2. Failure or neglect by us to enforce at any time any of the provisions of this EULA shall not be construed as a waiver of its rights. Any waiver of any provision of this EULA will be effective only if in writing and signed by us.
- 13.3. If any clause in this EULA is found to be unenforceable, wherever possible this will not affect any other clause, and each will remain in full force and effect unless the contrary is explicitly state in the other agreement in writing and is signed in-line on the agreement by Fractal Labs.
- 13.4. Any rights not expressly granted herein are reserved.

### **14. Changes to EULA**

- 14.1. Fractal Labs reserves the right to change any of the terms and conditions contained in this EULA at any time and in its sole discretion. When Fractal Labs makes changes, we will revise the "Last Updated" date at the top of this EULA. A copy of the latest EULA will always be available on the official [www.fractallabs.net](http://www.fractallabs.net)