

# NEURAL MAGIC TRIAL LICENSE AGREEMENT

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**PDF:** Neural Magic Trial License Agreement 10.24.22 [download link]

NEURALMAGIC, INC. ("NEURAL MAGIC" OR "WE") IS WILLING TO PROVIDE CERTAIN SOFTWARE TO YOU AS THE INDIVIDUAL, THE COMPANY, OR THE LEGAL ENTITY (REFERENCED BELOW AS "YOU" OR "YOUR" OR "LICENSEE") THAT ENTERS INTO AN ORDER FORM, REGISTRATION FORM OR SIMILAR DOCUMENT WITH NEURAL MAGIC THAT REFERENCES THIS AGREEMENT (EACH "REGISTRATION FORM") ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS TRIAL LICENSE AGREEMENT ("AGREEMENT"). READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE INSTALLING AND USING ANY SOFTWARE FROM NEURAL MAGIC. THIS IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN YOU AND NEURAL MAGIC. BY ENTERING INTO A REGISTRATION FORM WITH NEURAL MAGIC THAT REFERENCES THIS AGREEMENT, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

FOR THE SAKE OF CLARITY, IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF (AND FOR USE ON BEHALF OF) A COMPANY OR OTHER ENTITY (A "CORPORATE ENTITY"), YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH CORPORATE ENTITY TO THE TERMS OF THIS AGREEMENT AND YOU ACKNOWLEDGE THAT THE TERM "YOU" OR "LICENSEE" REFERENCED BELOW REFERS TO SUCH CORPORATE ENTITY.

This Agreement sets forth the terms and conditions governing the Licensee's use of Neural Magic's Software Product set forth on the Registration Form and its related documentation (hereinafter, the "Product").

- 1. Right to Use Product.** Neural Magic grants to Licensee a non-exclusive, non-transferable, royalty-free, revocable, time-based license during the Term, to use the current release (in object code form) of the Product solely for the purpose of evaluating the Product.
- 2. Restrictions on Use of Product.** Except as expressly permitted in this Agreement, Licensee shall not, and shall not permit others to, (a) use, modify, copy, or otherwise reproduce the Product in whole or in part; (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Product; (c) distribute, sublicense, assign, share, timeshare, sell, rent, lease, grant a security interest in, use for service bureau purposes, or otherwise transfer the Product or Licensee's right to use the Product; or (d) remove any proprietary notices or labels on the Product. There are no implied rights. The Product may be installed solely on one server located on the premises of the Licensee and may be used only by Licensee and its employees.
- 3. Term of Agreement; Termination.** Your use of the Product shall commence on the date set forth in the Registration Form and shall expire on the last day of the term as indicated in the Registration Form. Either party may terminate this Agreement at any time and for any reason upon ten (10) days written notice to the other party. Upon termination or expiration of this Agreement, the Licensee shall cease using the Product. Within thirty (30) days after termination or expiration of this Agreement, Licensee will, at Neural Magic's request, furnish a certificate certifying that all copies of Neural Magic's Confidential Information have been destroyed or returned and that Licensee has erased any such Confidential Information from any storage element or apparatus. Sections 2 through 7 will survive termination or expiration of this Agreement.
- 4. Proprietary Rights.** Neural Magic and its licensors shall have sole and exclusive ownership of all right, title, and interest in and to the Product, including all associated intellectual property rights. Licensee acknowledges that the Product constitutes the valuable trade secret of Neural Magic or its licensors and is a copyrighted work owned by Neural Magic or its licensors and protected by federal and international copyright laws. Licensee agrees that all intellectual property rights and all other ownership in any ideas, modifications, or suggestions it proposes, creates, or authors relating to the Product ("Suggestions") are hereby assigned to Neural Magic and shall be the sole and exclusive property of

Neural Magic. Neural Magic will have sole discretion as to whether and how to implement any such Suggestions into the Product.

**5. Disclaimer of Warranty; Disclaimer of Liability.**

(a) THE PRODUCT IS PROVIDED “AS IS” AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED AND DISCLAIMED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USE OF TRADE.

(b) EXCEPT FOR ANY VIOLATION OF THE OTHER PARTY’S INTELLECTUAL PROPERTY RIGHTS (INCLUDING ANY BREACH OF SECTION 2 ABOVE BY LICENSEE) IN NO EVENT WILL NEURAL MAGIC, LICENSEE OR THEIR RESPECTIVE LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, INCIDENTAL, EXEMPLARY, COVER OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR REVENUE, LOST BUSINESS OPPORTUNITIES, LOST SAVINGS, LOST DATA, OR COMPUTER FAILURE, EVEN IF NEURAL MAGIC OR LICENSEE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**6. Confidentiality.** For the purpose of this Agreement, “**Confidential Information**” means non-public information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access or any other information which a reasonable person would consider confidential and/or which is marked “confidential” or “proprietary” or some similar designation by the disclosing party or which is of a confidential nature even though not specifically so designated. The Product shall constitute Neural Magic’s Confidential Information. Confidential Information will not, however, include any information that (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party, as shown by the receiving party’s files and records; (iv) is obtained by the receiving party from a third party without a breach of the third party’s obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party’s Confidential Information, as shown by documents and other competent evidence in the receiving party’s possession. Each of the parties agrees: (a) not to disclose any of the other party’s Confidential Information to any third parties except as mandated by law and except to those agents, advisors, or subcontractors who have a reasonable need to access such information, and who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (b) not to use any of the other party’s Confidential Information for any purposes except carrying out such party’s rights and responsibilities under this Agreement; and (c) to keep the other party’s Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; provided, however, that such party shall use at least reasonable care. If a party is required by law to disclose the other party’s Confidential Information, it will promptly notify the other party (providing notice prior to disclosure if permitted by law), and provide reasonable assistance in seeking protection of such Confidential Information. Upon termination or expiration of this Agreement, the receiving party will promptly return or destroy all of the disclosing party’s Confidential Information in its possession. This section shall survive termination of this Agreement.

**7. Miscellaneous.**

(a) **Assignment.** Neither this Agreement nor any interest herein may be assigned or otherwise transferred (by operation of law or otherwise) in whole or in part by Neural Magic or Licensee provided that either party may assign this Agreement as part of a corporate reorganization, consolidation, merger, or sale of all or substantially all of its assets.

(b) **Notices.** Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) on the delivery date if delivered personally to the party to whom the same is directed; (ii) one (1) business day after deposit with a nationally recognized overnight carrier, with written verification of receipt, (iii) five (5) business days after the mailing date whether or not actually received, if sent by U.S. certified mail, return receipt requested, postage and charges prepaid or any other means of rapid mail delivery for which a receipt is available, to the address of the Party set forth on the applicable Sales Order

or (iv) when receipt is electronically confirmed, if transmitted by e-mail. Either party may change its address by giving written notice of such change to the other party.

(c) **Waiver**. No waiver of any breach of any provision of this Agreement constitutes a waiver of any prior, concurrent or subsequent breach of the same or any other provisions, and will not be effective unless made in writing and signed by an authorized representative of the waiving party.

(d) **Severability**. If any provision or portion of this Agreement is held to be unenforceable or invalid, the remaining provisions and portions shall nevertheless be given full force and effect, and the parties agree to negotiate, in good faith, a substitute valid provision which most nearly effects the parties' intent in entering this Agreement.

(e) **Governing Law**. This Agreement shall be governed by and construed under the laws of the Commonwealth of Massachusetts, USA without regard to principles of conflicts of laws, and both parties hereby waive objection to the jurisdiction and venue of the state and federal courts thereof. Application of the U.N. Convention of Contracts for the International Sale of Goods is expressly excluded.

(f) **Entire Agreement**. This Agreement is the entire agreement of the parties, and supersedes all prior and contemporaneous agreements and communications, whether oral or in writing, between the parties with respect to the subject matter of this Agreement, and no amendment or modification of this Agreement shall be effective unless made in writing and duly signed by authorized representatives of Neural Magic and Licensee. Neural Magic is not obligated to provide any support for, upgrades to, or new releases of the Product to Licensee.

(g) **Export; Government Restricted Rights**. Licensee acknowledges that the export of any Product is subject to export or import control and Licensee agrees that any Product or the direct or indirect product thereof will not be exported (or re-exported from a country of installation) directly or indirectly, unless Licensee obtains all necessary licenses from the U.S. Department of Commerce or other agency as required by law. The Product has been developed at private expense and are sold commercially. They are provided under any U.S. government contracts or subcontracts with the most restricted and the most limited rights permitted by law and regulation. Whenever so permitted, the government and any intermediate buyers will obtain only those rights specified in Neural Magic's standard commercial license. Thus, the Product referenced herein, and the documentation provided by Neural Magic hereunder, which are provided to any agency of the U.S. Government or U.S. Government contractor or subcontractor at any tier shall be subject to the maximum restrictions on use as permitted by FAR 52.227- 19 (June 1987) or DFARS 227.7202-3(a) (Jan. 1, 2000) or successor regulations.

(h) **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(j) **Headings**. The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction, or meaning of any provision of or the scope or intent of this Agreement, nor in any way affect the Agreement.

Licensing questions about this Product should be directed to [license@neuralmagic.com](mailto:license@neuralmagic.com).

Neuralmagic, Inc.'s Legal Policies <https://www.neuralmagic.com/legal>