

EVALUATION LICENSE AGREEMENT

BETWEEN:

Neuralmagic Inc.
240 Elm Street
2nd Floor
Somerville, MA 02144
("Neuralmagic")

And: Legal Company Name ("Licensee"): _____
Contact Person: _____
Address: _____
Effective Date: _____
Expiration _____ Date: _____
Software Product: Neuralmagic Software

This Evaluation License Agreement ("Agreement") sets forth the terms and conditions governing (a) Licensee's use of the Software Product listed above and its related documentation (hereinafter, the "Product") and (b) Neuralmagic's use of Licensee's technology platform, algorithms and data (hereinafter, the "Licensee Technology"). The term of this Agreement commences on the Effective Date set forth above and expires on the Expiration Date set forth above (the "Term"). If no Expiration Date is provided then the Term shall expire ninety (90) days after the Effective Date.

- Right to Use Product and the Licensee Technology.** Neuralmagic grants to Licensee a non-exclusive, non-transferable, royalty-free, revocable, time-based license during the Term, solely for use on one Licensee server, to use the current release (in object code form) of the Product solely for the purpose of evaluating and internally testing the Product. Licensee grants to Neuralmagic a non-exclusive, non-transferable, royalty-free, revocable, time-based license during the Term, solely for use on one Neuralmagic server, to use the Licensee Technology solely for the purpose of evaluating and internally testing the efficacy of Neuralmagic's Product with the Licensee Technology.
- Restrictions on Use of Product and Licensee Technology.** 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 at the address specified above, and may be used only by Licensee and its employees. Except as expressly permitted in this Agreement, Neuralmagic shall not, and shall not permit others to, (a) use, modify, copy, or otherwise reproduce the Licensee Technology in whole or in part; (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Licensee Technology; (c) distribute, sublicense, assign, share, timeshare, sell, rent, lease, grant a security interest in, use for service bureau purposes, or otherwise transfer the Licensee Technology or Neuralmagic's right to use the Licensee Technology; or (d) remove any proprietary notices or labels on the Licensee Technology. There are no implied rights. The Licensee Technology may be installed solely on one server located on the premises of Neuralmagic at the address specified above, and may be used only by Neuralmagic and its employees.
- Term of Agreement; Termination.** This Agreement shall commence upon the Effective Date and expire upon the earlier of (a) the Expiration Date or (b) termination by either party upon seven (7) days' written notice to the other party. Upon termination or expiration of this Agreement, Licensee shall cease using the Product and Neuralmagic shall cease using the Licensee Technology. Within thirty (30) days after termination or expiration of this Agreement, each Party will, at the other Party's request, furnish to such first Party at the address set forth above a certificate certifying that all copies of the other party's Confidential Information has been destroyed or returned, and that such first Party has erased any such Confidential Information from any storage element or apparatus. Sections 2 through 7 will survive termination or expiration of this Agreement.
- Proprietary Rights.** Neuralmagic 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 Neuralmagic or its licensors and is a copyrighted work owned by Neuralmagic 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 Neuralmagic and shall be the sole and exclusive property of Neuralmagic. Neuralmagic will have sole discretion as to whether and how to implement any such Suggestions into the Product. Licensee and its licensors shall have sole and exclusive ownership of all right, title, and interest in and to the Licensee Technology, including all associated intellectual property rights. Neuralmagic acknowledges that the

Licensee Technology constitutes the valuable trade secret of Licensee or its licensors and is a copyrighted work owned by Licensee or its licensors and protected by federal and international copyright laws. Neuralmagic agrees that all intellectual property rights and all other ownership in any ideas, modifications, or suggestions it proposes, creates, or authors relating to the Licensee Technology ("Suggestions") are hereby assigned to Licensee and shall be the sole and exclusive property of Licensee. Licensee will have sole discretion as to whether and how to implement any such Suggestions into the Licensee Technology.

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

(a) THE PRODUCT AND THE LICENSED TECHNOLOGY ARE 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 AN INTENTIONAL OR WILFUL VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS (INCLUDING AN INTENTIONAL OR WILFUL BREACH OF SECTION 2 ABOVE) IN NO EVENT WILL NEURALMAGIC, 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 NEURALMAGIC 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 Neuralmagic's Confidential Information and the Licensee Technology shall constitute Licensee'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 Neuralmagic 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 required to be provided pursuant to this Agreement shall be in writing and shall be deemed given (a) if by hand delivery, upon receipt thereof or (b) if mailed, three (3) days after deposit in the U.S. mails, postage prepaid, registered or certified mail, return receipt requested. A facsimile shall be deemed to be received upon completion of transmission, as verified by a printout showing satisfactory transmission, except that should a facsimile be sent on a nonbusiness day, receipt shall be deemed to occur on the next business day. All notices shall be addressed to the parties at the respective addresses set forth on the cover page. If Licensee is located in a country other than the U.S., all notices shall be sent by facsimile. Each party shall promptly notify the other party of any address change.

(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 Neuralmagic and Licensee. Neuralmagic is not obligated to provide any support for, upgrades to, or new releases of the Product to Licensee and Licensee is not obligated to provide Neuralmagic with any support for, upgrades to, or new releases of the Licensee Technology unless the parties enter into a separate written agreement for such services. This Agreement has been negotiated by the parties and their respective attorneys, and the language of this Agreement shall not be construed for or against either party.

(g) **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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Neuralmagic Inc.

Licensee

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title