

Software License Agreement

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To the extent that Deep Instinct is providing Licensee with support and maintenance services, support and maintenance services shall be provided in accordance with the support and maintenance terms and conditions specified in the following link <https://www.deepinstinct.com/pdf/support-services-guide>.

4. **PROFESSIONAL SERVICES**

Licensee may order certain professional services from Deep Instinct subject to the parties' separate written agreement (e.g., Purchase Schedule or statement of work) and in accordance with the terms as shall be set out and agreed therein.

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6. COMPLIANCE

Licensee shall comply, at its own expense, with all laws, policies, guidelines, regulations, ordinances, rules applicable to Licensee its business and the sale of the Products and orders of any governmental authority or regulatory body having jurisdiction over the subject matter hereof. Licensee shall comply with all the current policies, procedures and guidelines made available by Deep Instinct from time to time, including cooperation with any due diligence questionnaires or annual compliance certifications as requested by Deep Instinct.

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- 7.3. Data Protection Addendum. Each party agrees to comply with the Data Protection Addendum in the following link <https://www.deepinstinct.com/data-protection-addendum/>, in connection with its collection, access, use, storage, disclosure, transfer, and processing of Personal Data (as defined in the Data Protection Addendum).
- 7.4. Use of Analyses Data. Notwithstanding anything to the contrary herein, Licensee acknowledges and agrees that Deep Instinct may collect, compile, analyze, use, and store data and information related to the performance, operation, and use of the Software (such as usage data, metrics, and metadata), and data derived therefrom, in aggregated form (collectively, "**Analyses Data**") for security and operations management, product development and improvement, support and maintenance services, research and development purposes, and to create statistical analyses and contribute to analytical models used by Deep Instinct. Deep Instinct may disclose Analyses Data, provided that such Analyses Data does not incorporate Licensee Data itself, Licensee's Confidential Information, or Personal Data in a form that could serve to identify Licensee or any individual. Deep Instinct owns and retains all Intellectual Property Rights in all Analyses Data.

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- 8.2. Notwithstanding the foregoing, the following shall not be considered as Confidential Information: (a) information that was in the public domain at the time of its disclosure, or which becomes public domain property through no fault of the receiving party; (b) information that was rightfully in the receiving party’s possession without restriction prior to disclosure; (c) information that was rightfully disclosed to the receiving party by a third party without restriction; and (d) information that was independently developed by employees and/or contractors of the receiving party who did not have access to and without use of or reference to the disclosing party’s Confidential Information.
- 8.3. Each party agrees to use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (at all times exercising at least a commercially reasonable degree of care in the protection of such confidential information) not to use Confidential Information except to the extent necessary to perform its obligations or exercise its rights under this Agreement or as directed by the disclosing party in writing. Either party may disclose Confidential Information on a need-to-know basis to its Affiliates, contractors and service providers who are subject to confidentiality and non-use obligations at least as restrictive as those in this Section 8.3. Either party may disclose Confidential Information to the extent that such disclosure is required by law or order of a court or other governmental authority or regulation, provided that prior written notice of such disclosure is furnished to the disclosing party as soon as practicable in order to afford it an opportunity to seek a protective order.
- 8.4. The receiving party shall notify the disclosing party immediately upon discovery of any prohibited use or disclosure of the Confidential Information, or any breach of this Section 7.4 by the receiving party or anyone on its behalf and shall fully cooperate with the disclosing party to assist the disclosing party to prevent the further prohibited use or disclosure of the Confidential Information.

9. WARRANTIES; DISCLAIMERS

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- 10.2. Deep Instinct reserves the right to suspend Licensee's access to and/or use of the Software and or support and maintenance services if any undisputed payment is due but unpaid but only after Deep Instinct has provided Licensee a delinquency notice, and at least thirty (30) days have passed since the transmission thereof. Licensee agrees that Deep Instinct shall not be liable to Licensee or any third party (including any Authorized Partner) for any suspension pursuant to this Section 11.2.
- 10.3. Upon termination of this Agreement: (i) the license granted to Licensee in this Agreement shall immediately terminate and Licensee shall cease all further use of the Software and promptly, permanently, and securely uninstall and remove all instances and copies of the Software from its systems and Authorized Devices, and confirm such removal in writing to Deep Instinct; and (ii) each party shall promptly return to the other party, or at the other party's option, promptly, permanently and securely erase and destroy, all tangible property representing the other party's Confidential Information and all copies thereof. The Software will not provide any of its intended functionality upon expiration or termination of this Agreement, and Deep Instinct shall have no responsibility or liability for Licensee's failure to abide by its obligation to cease using, and delete all instances of, the Software.
- 10.4. The following provisions of this Agreement shall survive any termination of this Agreement: Sections 1, 1.8, 7, 7.4, 9, and 10 through 14.

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- 11.1. Deep Instinct's Obligations. Deep Instinct shall defend Licensee from and against any and all third-party claims made directly against Licensee to the extent the claim alleges that Licensee's use of the Software and/or Documentation in accordance with the terms of this Agreement infringes such third party's Intellectual Property Rights ("**Infringement Claim**"). Licensee may participate in the Infringement Claim with separate counsel at its own expense.
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11.5. Indemnification by Licensee. Licensee shall defend, hold harmless and indemnify Deep Instinct and its officers, agents, representatives and employees against any and all claims, actions, proceedings, fines, penalties, damages, costs, expenses or other liability whatsoever arising out of, resulting from or relating to: (i) Licensee's use of the Software, except to the extent such claim is covered by Deep Instinct's obligations under Section 10.1; (ii) Licensee's breach of this Agreement; (iii) Licensee's gross negligence or willful misconduct; or (iv) any misrepresentations or unauthorized statements made by Licensee with respect Deep Instinct or Deep Instinct's Software.

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12.3. IN THE EVENT OF A BREACH OF SECTION 7.4 OF THIS AGREEMENT OR THE DATA PROTECTION ADDENDUM, SUCH MAXIMUM AGGREGATE LIABILITY SHALL BE INCREASED TO THE TOTAL FEES PAID DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT OUT OF WHICH THE LIABILITY AROSE.

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14. GENERAL

- 14.1. Entire Agreement. This Agreement (including, for the avoidance of doubt, all Purchase Schedules, appendices and policies referenced herein) constitutes the entire agreement between the parties and governs Licensee's use of the Software. In the event of inconsistencies or conflicts between this Agreement and any other signed document, the terms and conditions of this Agreement will control, unless the applicable document expressly states that it supersedes a specifically identified provision in this Agreement. Notwithstanding the foregoing, Deep Instinct reserves the right to release updates, fixes and further developments of the Software and Licensee shall install such updates, fixes and further developments to continue use of the Software.
- 14.2. Severability. If a court of competent jurisdiction finds any provision of this Agreement to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of the Agreement shall continue in full force and effect.
- 14.3. Assignment. This Agreement shall inure to benefit and bind the parties hereto, their successors and permitted assigns, but neither party may assign this Agreement, in whole or in part, without written consent of the other, except that Deep Instinct may assign this Agreement without consent to an Affiliate or to the successor of all or substantially all of Deep Instinct's business or assets to which this Agreement relates. There are no third-party beneficiaries to this Agreement.
- 14.4. Governing law. If the Licensee that has purchased access and use of the Software in UK or EMEA, then this Agreement shall be governed by and construed in accordance with the laws of England and Wales, without regard to conflict of laws principles, and all claims arising out of, or relating to, this Agreement or the Software shall be brought exclusively in the courts of England and Wales; If the Licensee that has purchased access and use of the Software in Japan, then this Agreement shall be governed by and construed in accordance with the laws of Japan without regard to conflict of laws principles, and all claims arising out of, or relating to, this Agreement or the Software shall be brought exclusively in the courts of the Tokyo District Court; If the Licensee that has purchased access and use of the Software is located in any other country, then this Agreement shall be governed by and construed in accordance with the laws of the State of New York, notwithstanding its conflicts of law principles, and all claims arising out of or relating to this Agreement or the Software shall be brought exclusively in the federal or state courts located in New York. The parties waive any right to a jury trial in any litigation arising out of or relating to this Agreement or the Software. The parties agree that the UN Convention on Contracts for the International Sale of Goods (CISG, Vienna, 1980) shall not apply to this Agreement.
- 14.5. Export Control. Licensee is solely responsible for, and agrees to comply with, all applicable laws, statutes, ordinances, and regulations, however designated, with respect to the use of and access to the Products, including United States government laws, regulations, orders or other restrictions regarding export from the United States and re-export from other jurisdictions of software, technical data and information or derivatives of such software, or technical data and information. Licensee acknowledges that, unless prior requisite governmental approvals and authorizations are obtained from applicable governmental authorities, none of the Product or underlying information or technology may be downloaded, or otherwise exported, re-exported, or transferred to (i) any country or territory that is the subject of a U.S. government embargo or designated by the U.S. government as a state sponsor of terrorism (including, without limitation, Cuba, Iran, North Korea, Syria, the Crimea Region, and the Donetsk People's Republic and Luhansk People's Republic located in Ukraine) ("**Embargoed Countries**"); (ii) any party identified on a prohibited party list maintained by the U.S. government or other applicable governmental authorities, including, but not limited to, the Specially Designated Nationals and Blocked Persons List, Foreign Sanctions Evaders List, Russian Harmful

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- 14.6. Waiver. Any delay, omission or failure to exercise any right or remedy under this Agreement shall not constitute a continuing waiver of such right or remedy. The rights and remedies under this Agreement are cumulative and in addition to and, except where otherwise expressly provided in this Agreement, do not exclude, any rights and remedies provided by law (including equitable remedies) or otherwise.
- 14.7. No Joint Venture. This Agreement does not create any joint venture, partnership, agency, or employment relationship between the parties.
- 14.8. Force Majeure. No failure or omission by either Party to carry out or observe any of the terms and conditions of this Agreement (other than any payment obligation) shall give rise to any claim against such Party or be deemed a breach of this Agreement if such failure or omission arises from an act of God, an act of Government or any third party, any cause beyond the reasonable control of such Party, or any other circumstance commonly known as force majeure.
- 14.9. Publicity. Deep Instinct may list Licensee as a customer of Deep Instinct and a licensee of the Software on Deep Instinct’s website and marketing and other promotional materials.
- 14.10. Notices. All notices or other communications required or permitted to be given under this Agreement will be in writing and sent via commercial overnight courier to each party at the address specified on the Purchase Schedule or such other address as the party provides to the other in writing, except that operational communications regarding may be delivered by email.