

# Software License Agreement

THIS AGREEMENT is entered into as of \_\_\_\_\_ ("Effective Date") by  
and between;

\_\_\_\_\_,

\_\_\_\_\_

\_\_\_\_\_ ("LICENSOR")

and

\_\_\_\_\_,

\_\_\_\_\_

\_\_\_\_\_ ("LICENSEE").

Collectively referred to as the "Parties" or individually as a "Party."

WHEREAS, Licensee wishes to license Software for the purpose of  
\_\_\_\_\_ and the Licensor desires to license this software to licensee.

NOW THEREFORE, the parties hereto agree as follows:

## 1. Grant of License

Subject to the terms and conditions of the Agreement, the Licensor grants to Licensee a non-exclusive, non-transferable license to use the software ("the Software") identified below;

Licensee may use the Software in executable format for its own use, and may translate or modify the Software or incorporate them into other software. Licensee may not, however, transfer or sublicense the Software to any third party, in whole or in part, in any form, whether modified or unmodified.

Licensee may only use the Software for its internal business operations and shall not sell, sublicense, distribute, or transfer the Software to any third party without prior written consent from the Licensor.

## 2. Term

This Agreement shall commence on \_\_\_\_\_ and continue for an initial term of \_\_\_\_\_ unless terminated earlier as provided herein.

Upon the expiration of the initial term, this Agreement shall automatically renew for successive renewal terms of \_\_\_\_\_ each, unless either Party provides written notice of non-renewal at least \_\_\_\_\_ prior to the end of the then-current term.

## 3. Termination

Either Party may terminate this Agreement for any reason by providing \_\_\_\_\_ written notice to the other Party.

Either Party may terminate this Agreement immediately by providing written notice to the other Party if the other Party is in a material breach of any provision of this Agreement and fails to cure such breach within \_\_\_\_\_ after receiving written notice specifying the breach.

Upon termination of this Agreement, Licensee shall immediately cease all use of the Software and shall promptly return or destroy all copies of the Software in its possession or control. Any outstanding fees or amounts owed by Licensee shall become immediately due and payable. Licensee shall provide Licensor with written certification of compliance with the obligations set forth in this clause within \_\_\_\_\_ after termination. Termination shall not relieve either Party of any obligations or liabilities accrued prior to the Effective Date of termination.

## 4. Fees

Licensee shall pay, upon delivery of the Licensed Programs, the license fees set forth below:

The Licensee agrees that License fees do not include any shipping, duties, bank fees, sales, use, excise or similar taxes due. If Licensor is required to pay any such amounts, Licensee shall reimburse Licensor in full.

## 5. Payment Terms

Licensee shall make all payments in accordance with the following schedule:

Payment shall be made by \_\_\_\_\_.

If the Licensee fails to make the payment on time, Licensee shall be responsible for a late fee of \_\_\_\_\_ or the maximum amount allowed by law, whichever is lower. Licensor reserves the right to suspend or terminate access to the Software for non-payment if the outstanding fees remain unpaid for a period of \_\_\_\_\_ after the due date.

Licensee shall be responsible for any applicable taxes, duties, or other charges imposed by the relevant authorities in connection with the license and use of the Software. Licensee shall reimburse Licensor for such taxes or charges, as required by law.

Licensor may revise the fees upon \_\_\_\_\_ prior written notice to Licensee. Licensee shall have the right to terminate this agreement in the event of a price increase by providing written notice within \_\_\_\_\_ after receiving the price change notice.

## 6. Copies

The Licensee is permitted to create copies of the Software in executable code format as needed for Licensee's use and for backup or archival purposes. Licensee agrees to keep records of the location and purpose of each copy, whether it is a complete copy or a partial copy of the Software. The Software is protected by copyright but has not been published by the Licensor. Licensee agrees to include the Licensor's copyright notice and proprietary notice on all copies, in any form, that are created under this Agreement.

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## 9. Support and Maintenance

Licensor will provide to Licensee the following support with respect to the Software:

(i) If during the 1st year of this Agreement, Licensee notifies Licensor of a substantial program error respecting the Software, or Licensor has reason to believe that error exists in the Software and so notifies Licensee, Licensor shall at its expense verify and attempt to correct such error within \_\_\_\_\_ working days after the date of notification.

If Licensee is not satisfied with the correction, then Licensee may terminate this Agreement, but without refund of any amount paid to Licensor or release of any amounts due Licensor at the time of termination.

(ii) In the case that Licensee has technical questions in the use of the Software during the 1st year of this Agreement, Licensee may submit those questions to Licensor. Licensor shall provide consulting to answer such questions without charge to Licensee up to a maximum of \_\_\_\_\_ hours for each licensed program.

(iii) If License desires to continue the Software support specified in this section, Licensee shall pay to Licensor the maintenance fee(s) set forth below:

## **10. Delivery and Inspection of the Software**

The Licensor agrees to deliver the Software within \_\_\_\_\_ days after the Effective Date of this Agreement. The Licensor shall make reasonable efforts to deliver the Software to the Licensee in a timely manner, either electronically or physically, as specified in this Agreement or as otherwise agreed upon by the Parties.

Licensee acknowledges that the delivery dates or timelines provided by the Licensor are estimates and may be subject to change. The Licensor shall not be liable for any damages or losses resulting from delays in delivery, except to the extent caused by its gross negligence or willful misconduct.

Upon delivery, Licensee shall be responsible for inspecting the Software for any defects or non-conformities within \_\_\_\_\_ days. Licensee shall notify the Licensor in writing of any such defects or non-conformities within \_\_\_\_\_ days from the date of delivery.

If the Licensee fails to provide notice of defects or non-conformities within the specified timeframe, it shall be deemed to have accepted the Software in its delivered condition.

In the event of a valid notice of defects or non-conformities, the Licensor shall, at its sole discretion, either rectify the defects or non-conformities, replace the Software, or refund the fees paid by Licensee for the defective Software.

## **11. Warranty Disclaimer**

The Licensor licenses, and Licensee accepts the licensed programs "AS IS." NEAR PROVIDES NO WARRANTIES AS TO THE FUNCTION OR USE OF THE SOFTWARES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE IS WITH LICENSEE. LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE LICENSED PROGRAMS WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE LICENSED PROGRAMS WILL BE UNINTERRUPTED OR ERROR FREE.

## **12. Limitation of Liability**

LICENSOR'S LIABILITY TO LICENSEE UNDER ANY PROVISIONS OF THIS AGREEMENT FOR DAMAGES FINALLY AWARDED SHALL BE LIMITED TO THE AMOUNTS ACTUALLY PAID HEREUNDER BY LICENSEE TO NEAR. IN NO EVENT SHALL NEAR BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF USE, LOSS OF PROFITS OR INTERRUPTION OF BUSINESS, HOWEVER CAUSED OR ON ANY THEORY OF LIABILITY.

## **13. Confidentiality**

Licensee acknowledges that the Software, including any accompanying documentation, technical information, trade secrets, and proprietary materials provided by the Licensor, are confidential and proprietary information. The Licensee agrees to keep all confidential information received from the Licensor strictly confidential and to use it solely for the purpose of exercising its rights and fulfilling its obligations under this Agreement.

Licensee shall take reasonable measures to protect the confidentiality of the Software, including implementing and maintaining adequate technical and administrative security measures to prevent unauthorized access, use, or disclosure. Licensee shall not disclose, reproduce, distribute, or exploit the confidential information of the Licensor to any third party without the prior written consent of the Licensor.

Licensee may disclose the confidential information of the Licensor only to its employees, contractors, or agents who have a need to know and are bound by confidentiality obligations no less restrictive than those set forth in this agreement.

Licensee shall promptly notify the Licensor in writing in the event of any unauthorized access, use, or disclosure of the confidential information and shall cooperate with the Licensor in taking reasonable measures to mitigate or remedy such unauthorized access, use, or disclosure.

The obligations of confidentiality shall survive the termination or expiration of this agreement and shall continue for \_\_\_\_\_ years.

## 14. General Provisions

**Entire Agreement.** This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

**Severability.** In the event any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall remain in force as if such provision were not a part.

**Amendment and Modification.** This Agreement may only be amended by a written instrument executed by each of the Parties hereto.

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

**Governing Law.** This Agreement shall be governed and interpreted by the laws of the State of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ shall be the appropriate venue and jurisdiction for the resolution of any disputes hereunder. Both parties hereby consent to such personal and exclusive jurisdiction.

**Notices.** All notices in connection with this Agreement shall be in writing and may be given by certified, registered, or first class mail or personally delivered at the address set forth on the front page. For purposes of this Agreement, a notice shall be deemed effective upon personal delivery to the party or if by mail five days after proper deposit in a mailbox.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

**Licensee Signature**

**Licensor Signature**

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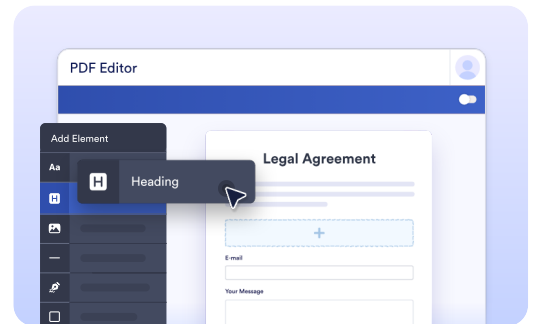
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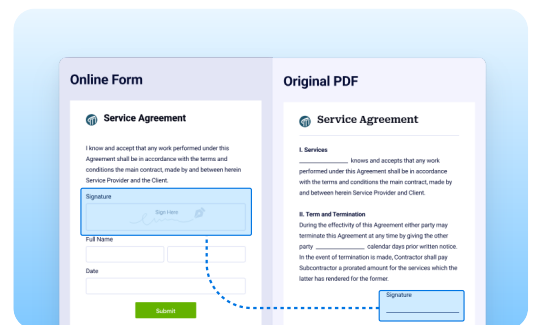
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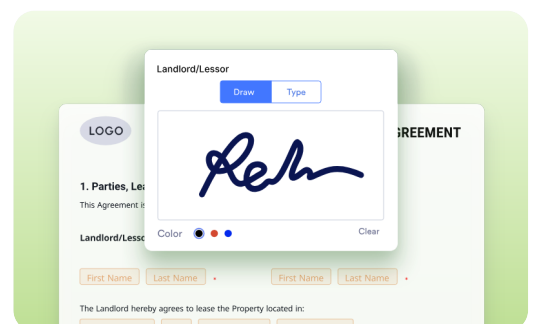
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