
SOFTWARE LICENSE AGREEMENT
FOR ACADEMIC AND/OR NON-PROFIT USERS

This agreement (“Agreement”) is effective _____ (“Effective Date”) by and between _____ having an address of _____ hereinafter referred to as “LICENSEE”, and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (“THE REGENTS”), a California corporation having its statewide administrative offices at 1111 Franklin Street, Oakland, California 94607-5200, and acting through its Office of Technology Management, University of California San Francisco, 600 16th Street, Suite S272, San Francisco, CA 94143.

This Agreement concerns the ER-DECON software and associated material as disclosed in, but not limited to UC Case No SF2014-080 (“SOFTWARE”) developed by Drs. David Agard, Muthevel Arigovindan, Eric Branlund, and John Sedat (“DEVELOPER”), at the University of California San Francisco, and while Dr. Agard was an employee of Howard Hughes Medical Institute (“HHMI”).

TERMS

1. Upon receipt of a copy of this license duly signed by LICENSEE, THE REGENTS will grant to the LICENSEE a non-exclusive, non-transferable, non-commercial license to install and host the SOFTWARE on computers located at LICENSEE’S organization. LICENSEE’S investigator shall retain control over SOFTWARE and further will not transfer the SOFTWARE to individuals not under LICENSEE’S investigator’s direct supervision without express advance written approval of THE REGENTS. Use of this SOFTWARE is restricted to the LICENSEE, and sale of the SOFTWARE or any services based on the SOFTWARE is expressly prohibited.
2. The LICENSEE acknowledges that the SOFTWARE is or may be the subject of a patent application. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the LICENSEE under any patents, patent applications, trade secrets or other proprietary rights of THE REGENTS.
3. The LICENSEE acknowledges that it has been informed that the SOFTWARE was developed, at least in part, by employees of HHMI and that HHMI has a paid up, non-exclusive, irrevocable worldwide license, sublicenseable to non-profit and governmental entities, to use the SOFTWARE for research purposes (the “HHMI License”). This license is explicitly made subject to the HHMI License.
4. THE REGENTS retains ownership of all materials delivered to the LICENSEE. Any modifications of or derivative works based on the SOFTWARE are considered part of the SOFTWARE and ownership thereof is retained by THE REGENTS. Annual reports of such modifications due January 30th are to be made to THE REGENTS addressed to DEVELOPER Dr. David Agard (or a designated alternate if DEVELOPER is no longer employed by THE REGENTS).

5. The LICENSEE shall not disclose in any form either the delivered SOFTWARE or any modifications of or derivative works based on the SOFTWARE to third parties.
6. The LICENSEE shall acknowledge the source of the SOFTWARE in any publications reporting use of it.
7. The LICENSEE may make a reasonable number of copies of the SOFTWARE for the purposes of backup, maintenance of the SOFTWARE or the development of derivative works based on the SOFTWARE. These copies will carry the copyright notice and will be controlled by this license, and will be destroyed by the LICENSEE upon termination of the license.
8. If the LICENSEE receives a request to furnish all or any portion of the SOFTWARE to any third party, the LICENSEE will not fulfill such a request and will refer it in writing to THE REGENTS to the attention of Director, Office of Technology Management, the University of California, San Francisco (UC Case No: SF2014-080).
9. Use of this SOFTWARE in contractual arrangements with third parties requires such parties to license the software directly from THE REGENTS.
10. **THE LICENSEE AGREES THAT THE SOFTWARE IS FURNISHED “AS IS” AND THAT THE REGENTS IN NO WAY WARRANTS THE SOFTWARE OR ANY OF ITS RESULTS AND IS IN NO WAY LIABLE FOR ANY USE LICENSEE MAKES OF THE SOFTWARE.**
11. This Agreement shall be governed by the laws of the State of California. Venue for any legal action commenced to interpret or enforce this agreement shall be the Courts of San Francisco County.
12. The parties intend that this Agreement is binding upon each of their respective heirs and assigns.
13. The license granted to LICENSEE hereunder may not be assigned or transferred to any other person or entity without the express written consent of THE REGENTS, which consent shall not be unreasonably withheld.
14. If any provision of this Agreement is held unenforceable, the remaining provisions shall remain in full force and effect.
15. This Agreement may not be amended or superseded except in writing signed by the parties.
16. This Agreement constitutes the entire agreement between the parties and supersedes all other previous or contemporaneous agreements or understandings between the parties, whether verbal or written, concerning the subject matter hereof.
17. Alterations of or additions to this Agreement shall be made in writing and duly executed by representatives of both parties.

18. The use of the SOFTWARE is restricted to the intended purpose and is not to be used for production purposes or reverse engineering.

19. The SOFTWARE will not be used in humans, including for purposes of diagnostic testing.

20. The LICENSEE will indemnify, hold harmless and defend THE REGENTS, HHMI and their respective officers, employees and agents and their employers against any and all claims, suits, losses, damage, costs, fees and expenses resulting from, or arising out of, this Agreement.

21. The term of this Agreement shall be for a period of 5 years ("Term"). The parties may extend the Term of the Agreement in writing. THE REGENTS shall have the right to terminate this Agreement in the event of a breach by LICENSEE. This Agreement may be terminated by either THE REGENTS or the LICENSEE upon thirty (30) days written notice to the other party.

22. Upon termination of the Agreement, LICENSEE shall discontinue all use of SOFTWARE and return or destroy all copies of SOFTWARE. Sections 10, 11, 20, and 22 shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in duplicate originals, by their respective officers hereunto duly authorized, as of the day and year first written above.

This Agreement may be executed in one or more counterparts. Delivery of an executed counterpart of this Agreement by facsimile or a PDF data file or other scanned executed counterpart by email shall be equally as effective as delivery of a manually executed counterpart of this Agreement. Each duplicate and counterpart of this Agreement shall be equally admissible in evidence, and each shall fully bind each party who has executed it. The parties agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes in respect of this Agreement for which the original signature may have been used. The parties agree that neither party will have any rights to challenge the use or authenticity of a counterpart of this Agreement based solely on that its signature, or the signature of the other party, on such counterpart is not an original signature.

LICENSEE:

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA:**

By: _____
(signature)

By: _____
(signature)

Name: _____
(please print)

Name: _____
(please print)

Title: _____

Title: _____
Office of Technology Management

Date: _____

Date: _____