

Licence and Support Agreement

Agreement Number: 11066/2015/1

THIS AGREEMENT is made on 16/09/2015

BETWEEN

The Cambridge Crystallographic Data Centre (a company limited by guarantee and registered in England and Wales with company number 2155347, registered charity number 800579) of 12 Union Road, Cambridge CB2 1EZ, UK (Licensor) AND

University of California San Diego, Serials Acquisitions, Geisel Library, 9500 Gilman Drive, 0175E, La Jolla, 92093-0175, United States of America (Licensee)

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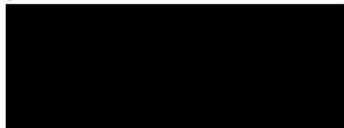
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7. The Licensor does not warrant that the products will be entirely free of errors and bugs. The Licensee will report such errors and bugs as they become apparent, whereupon the Licensor will make all reasonable efforts to correct errors and fix bugs. The Licensee agrees that the Licensor and its appointed agents exclude all indirect and consequential loss incurred through use or misuse of the products. The Licensor's liability to the Licensee shall be limited to direct losses only and the Licensor's maximum aggregate liability to the Licensee shall in no circumstances exceed the fees paid to the Licensor by the Licensee. Neither party excludes or limits its liability to the other in negligence in respect of death or personal injury or otherwise insofar as any exclusion or limitation of its liability is void, prohibited or unenforceable by applicable law.
8. Technical and scientific support will be provided to the Licensee through appropriate mechanisms and at a level appropriate to the products concerned, as deemed by the Licensor. The Licensor will consider entering into separate confidentiality agreements with the Licensee to facilitate support or collaborative work, where appropriate.
9. The Licensor may from time to time provide updated versions of the products to the Licensee. Suitable notice (usually six months) will be given in the event of changes which are likely to substantially affect the Licensee's use of the products, for example, platform support or data format changes.
10. The Licensor may from time to time, at its discretion, permit usage of products by the Licensee for a limited period of time at no charge for the purposes of evaluation with a view to purchase. On these occasions, all terms of this agreement apply as they stand except for the following variations, namely: (a) clauses (1) and (4) shall not apply; (b) the cap on the Licensor's liability in clause (7) shall be reduced to £100; and (c) the use of products in paid work for clients is not permitted.
11. Notice of termination of this agreement may be given at any time in writing by the Licensee, that termination becoming effective at the end of the paid period for any then-current products as defined in (1), with no refund of fees paid. Notice of termination of this agreement may be given at any time in writing by the Licensor, in the case of breach of any of the terms and conditions herein, that termination becoming effective immediately with no refund of fees paid. In either case, all copies of the products and any derived data or products held by the Licensee will be destroyed or finally deleted within one month of the termination becoming effective, with the Licensor notified of this in writing. Otherwise this agreement remains in place until superseded or amended. Any sub-licensed software provided as part of a product or product suite may be withdrawn at any time if the Licensor's right to distribute it is terminated.
12. In all cases, copyright in the products and other intellectual property rights remain vested in the Licensor or its licensors. In the case of derived products for external distribution, the matter of ownership and use of any new intellectual property in such derived products will be subject to negotiation between the Licensee and Licensor, for agreement as described in (6).
13. This agreement supersedes all previous agreements between the Licensee and its predecessor and subsidiary companies, and the Licensor and its subsidiary companies and agents. No person who is not a party to this Agreement shall have any rights to enforce or enjoy the benefits of this Agreement whether under the Contracts (Rights of Third parties) Act 1999 or otherwise. The Licensee shall not without the Licensor's prior written consent assign any of the Licensee's rights and obligations under this Agreement.
14. Interpretation of this agreement shall be subject to the laws of England and Wales. Disputes may be handled by another jurisdiction, if mutually acceptable to both parties.

AGREED:

For the Licensor:



Position: Executive Director

Date: 18/12/2015

For the Licensee:



Signature:

Name:

Position:

ALL Collection Services

Date:

12/22/15

Addendum to Licence and Support Agreement

Agreement Number: 11066/2015/1

Addendum Number: 11066/2015/2

THIS AGREEMENT is made on 22/12/2015

BETWEEN

The Cambridge Crystallographic Data Centre (a company limited by guarantee and registered in England and Wales with company number 2155347, registered charity number 800579) of 12 Union Road, Cambridge CB2 1EZ, UK (Licensor) **AND**

University of California San Diego, Serials Acquisitions, Geisel Library, 9500 Gilman Drive, 0175E, La Jolla, 92093-0175, United States of America (Licensee)

1. The Licensor and Licensee agree to replace clause 2 with the following:

Usage shall be restricted to the geographical sites specified on the quotation, and to permanent or temporary employees of and contractors working on behalf of the Licensee who are normally based at those sites, or any employees of regulatory authorities to whom the Licensee is subject. If the Licensee is an academic institution, these "Authorized Users" include faculty, staff, postgraduate or undergraduate students permanently or temporarily working at those geographical sites and also includes occasional visitors to the sites' libraries. Use on laptops and other mobile devices is permitted provided that the access to the products is through a secure campus network, which is only accessible to authorized users, or is a device over which the Licensee takes responsibility in the context of this Licence Agreement. Access to associated internet resources is permitted from any location and device through access control mechanisms to be stipulated by and managed by the Licensor.

2. The Licensor and Licensee agree to replace clause 3 with the following:

The Licensee shall not sub-lease or assign use of the products to any third party not included in the quotation site list, or in any way (physically or online) redistribute or promulgate the products or any of their contents (including data and documentation) without the written and signed agreement of the Licensor. The production of copies for internal distribution and for back-up purposes is permitted.

3. The Licensor and Licensee agree to replace clause 11 with the following:

Notice of termination of this agreement may be given at any time in writing by the Licensee, that termination becoming effective at the end of the paid period for any then-current products as defined in (1), with no refund of fees paid. Notice of termination of this agreement may be given at any time in writing by the Licensor, in the case of breach of any of the terms and conditions herein. If the Licensee fails to remedy the breach within thirty (30) days of notification, that termination becoming effective immediately with no refund of fees paid. In either case, all copies of the products and any derived data or products directly held by the Licensee will be destroyed or finally deleted within one month of the termination becoming effective, with the Licensor notified of this in writing. Otherwise this agreement remains in place until superseded or amended. Any sub-licensed software provided as part of a product or product suite may be withdrawn at any time if the Licensor's right to distribute it is terminated.

4. The Licensor and Licensee agree to replace clause 13 with the following:

This agreement supersedes all previous agreements between the Licensee and its predecessor and subsidiary companies, and the Licensor and its subsidiary companies and agents. The Licensee shall not without the Licensor's prior written consent assign any of the Licensee's rights and obligations under this Agreement.

5. The Licensor and Licensee agree to strike out clause 14.

All other clauses in the Agreement remain unchanged

AGREED:

For the Licensor:

Signature:



Position:

Executive Director

Date:

21st JANUARY 2016

For the Licensee:

Signature:



Name:

Position:

Aut Collection Services

Date:

12/22/15