

This License Agreement is for the UCLA “SERp Commercial Server”.

Ready-to-Sign agreements are for designated UCLA technologies (patents, copyrights, or tangible research materials) available for licensing with standard terms and conditions.

In order to receive a license, please follow the steps below:

1. Download the license agreement file.
2. Print out one (1) copy of the license agreement. Fill in all underlined blank sections of the agreement. Please also fill in the LICENSEES notices section with your company's address and the appropriate contact.
3. Have the appropriate officer of the company sign the agreement.
4. Email a **color PDF** to copyrights@research.ucla.edu.
5. Upon execution, a color PDF of the fully executed agreement will be forwarded for your file to the address and contact noted on the agreement.
6. OIP will generate an invoice for the upfront fee. Once the payment of the upfront fee is received by OIP, any tangible property associated with the agreement will be sent to the licensee.

If you have any questions about completing the agreement, please send us an e-mail or call (310) 794-0558. The favorable licensing royalties included in the Ready-to-Sign Agreements apply only if no negotiation is required. If you would like to discuss changes to the Ready-to-Sign agreement, there will be an increase in the upfront license fee.

Thank you for your interest in UCLA technology.

NON-EXCLUSIVE LICENSE AGREEMENT

This Non-Exclusive License Agreement and the attached Appendix A (collectively, the "**Agreement**") is made and is effective this _____ day of _____ (the "**Effective Date**") between **THE REGENTS OF THE UNIVERSITY OF CALIFORNIA** ("**The Regents**"), a California corporation having its corporate offices located at 1111 Franklin Street, Oakland, California 94607-5200, acting through The Office of Intellectual Property – Industry Sponsored Research of the University of California, Los Angeles, located at **11000 Kinross Avenue, Suite 200, Los Angeles, CA 90095-1406**, and _____ ("**Licensee**"), a _____ corporation having a principal place of business at _____.

RECITALS

WHEREAS, a certain work (the "**Work**"), generally characterized as

“SERp Server” (UCLA Case No. 2008-774)

was made in the course of research at the University of California, Los Angeles by Lukasz Goldschmidt, an employee of The Regents, and by Dr David Eisenberg, an employee of the Howard Hughes Medical Institute ("**HHMI**"), (collectively, "**Inventors**"), and claimed in Regents' Copyright Rights as defined below; and

WHEREAS, Lukasz Goldschmidt is an employee of The Regents and as such is obligated to assign his right, title and interest in and to the Work to The Regents;

WHEREAS, Dr. David Eisenberg is an employee of HHMI and HHMI assigned its rights in the Work to The Regents under the terms of the interinstitutional agreement with HHMI having UC Control No. 1986-18-0017 ("**HHMI Interinstitutional Agreement**"), and accordingly, The Regents has the authority to license the entire interest in the Work;;

WHEREAS, under the terms of the HHMI Interinstitutional Agreement, HHMI has reserved nonexclusive, paid-up, royalty-free, irrevocable licenses, with no right to sublicense others, to make and use Work for research purposes;

WHEREAS, Licensee desires to use Work for purposes of research; and

WHEREAS, The Regents wishes that Regents' Copyright Rights be developed and utilized to the fullest extent so that the benefits can be enjoyed by the general public.

The parties agree as follows:

1. DEFINITIONS

1.1 "**Regents' Copyright Rights**" means The Regents' interest in any of the Works listed in Appendix A (REGENTS' COPYRIGHT RIGHTS) attached to this Agreement and assigned to The Regents (**UCLA Case No. 2008-774**); and any Derivative Works created therefrom; all of which will be automatically incorporated in and added to Appendix A (REGENTS' COPYRIGHT RIGHTS) and made a part of this Agreement.

- 1.2 “**Derivative Work(s)**” shall mean any revision, enhancement, modification, translation, abridgement, condensation, or expansion created by Licensee that is based upon the Work or a portion thereof that would be a copyright infringement if prepared without the authorization of the copyright owners of the Work or portion thereof.
- 1.3 "**Licensed Product**" means any work or a derivative thereof covered by Regents' Copyright Rights or whose use, manufacture, production, reproduction, display, or sale would, absent the license granted under this Agreement, constitute an infringement, inducement of infringement, or contributory infringement, of any claim within Regents' Copyright Rights. If the Licensed Product is a component of another product or work, such product or work is deemed to be the Licensed Product for purposes of this Agreement.
- 1.4 The "**Field of Use**" means protein modeling for crystallization studies for Licensee’s internal research purposes.

2. GRANT

- 2.1. Subject to the limitations set forth in this Agreement, The Regents hereby grants to Licensee a non-exclusive license (the "**License**") under Regents' Copyright Rights, in jurisdictions where Regents' Copyright Rights exist, to reproduce, display, or distribute the Licensed Products in the Field of Use to the extent permitted by law. The Licensee will not use, reproduce, display, or distribute the Licensed Products outside the Field of Use.
- 2.2. The Licensee will not make Derivative Works of the Licensed Products.
- 2.3. The Regents will not be responsible for ongoing maintenance of the Licensed Product and will not be responsible for customization of the Licensed Product for Licensee’s specific installation.
- 2.4. The License is subject to all the applicable provisions of any license to the United States Government executed by The Regents and is subject to any overriding obligations to the United States Federal Government under 35 U.S.C. §§200-212 and applicable governmental implementing regulations.
- 2.5. The Regents and HHMI expressly reserves the right to: (a) use Regents' Copyright Rights and associated technology for educational and research purposes, clinical research, and research sponsored by commercial entities (b) to publicly disclose research results, and (c) allow other non-profit research institutions to use Regents' Copyright Rights and associated technology for the same purposes as (a) and (b).
- 2.6. The License granted hereunder is also subject to the paid-up, non-exclusive, irrevocable licenses reserved by HHMI to make and use the Work for its research purposes. Such licenses reserved by HHMI specified in the recitals and the immediately prior sentence do not include the right to sublicense others. Moreover, the Licenses granted to Licensee hereunder also are subject to HHMI's statement of policy on research tools. Note: HHMI’s policy can be found at <http://www.hhmi.org/about/research/policies.html#sharing>.

3. SUBLICENSES

3.1. Sublicenses are not allowed under this License.

4. FEES

- 4.1. In consideration for the License, Licensee will pay to The Regents a fee of **Ten Thousand Dollars (\$10,000.00)** within thirty (30) days of the Effective Date.
- 4.2. All monies due The Regents must be paid in United States funds.

5. LIFE OF THE AGREEMENT

- 5.1. Unless otherwise terminated by operation of law or by acts of the parties in accordance with the terms of this Agreement, this Agreement is in force from the Effective Date recited on page one and remains in effect for one (1) year.
- 5.2. Upon termination of this Agreement, Licensee will have no further right to reproduce, display, or distribute the Licensed Products in the Field of Use.
- 5.3. Any expiration or termination of this Agreement will not affect the rights and obligations set forth in the following Articles:

- Article 9 USE OF NAMES AND TRADEMARKS;
- Article 10 LIMITED WARRANTY;
- Article 11 INDEMNIFICATION;
- Article 17 FAILURE TO PERFORM;
- Article 18 GOVERNING LAWS; and
- Article 23 HHMI THIRD-PARTY BENEFICIARY STATUS

6. TERMINATION BY THE REGENTS

6.1. If Licensee violates or fails to perform any material term of this Agreement, then The Regents may give written notice of the default ("**Notice of Default**") to Licensee. If Licensee does not repair the default within sixty (60) days after the effective date of the Notice of Default, then The Regents has the right to terminate this Agreement and the License by a second written notice ("**Notice of Termination**") to Licensee. If The Regents sends a Notice of Termination to Licensee, then this Agreement automatically terminates on the effective date of the notice of termination. Termination does not relieve Licensee of its obligation to pay any royalty or fees owing at the time of termination and does not impair any accrued right of The Regents.

7. TERMINATION BY LICENSEE

7.1. Licensee has the right at any time to terminate this Agreement in whole or with respect to any portion of Regents' Copyright Rights by giving written notice to The Regents. This notice of termination will be subject to Article 12 (NOTICES) and will be effective ninety (90) days after the effective date of the notice of termination.

- 7.2. Any termination in accordance with Paragraph 7.1 does not relieve Licensee of any obligation or liability accrued prior to termination. Nor does termination rescind anything done by Licensee or any payments made to The Regents prior to the effective date of termination. Termination does not affect in any manner any rights of The Regents arising under this Agreement prior to termination.

8. USE OF NAMES AND TRADEMARKS

- 8.1. The Licensee will not use any name, trade name, trademark or other designation of The Regents' or its employees (including contraction, abbreviation or simulation of any of the foregoing) in advertising, publicity or other promotional activity. Unless required by law, Licensee is expressly prohibited from using the name "The Regents of the University of California" or the name of any campus of the University of California in advertising, publicity, or other promotional activity, without written permission of The Regents.
- 8.2. Licensee may not use the name of HHMI or of any HHMI employee (including Dr. David Eisenberg) in a manner that reasonably could constitute an endorsement of a commercial product or service; but that use for other purposes, even if commercially motivated, is permitted provided that (a) the use is limited to accurately reporting factual events or occurrences, and (b) any reference to the name of HHMI or any HHMI employees in press releases or similar materials intended for public release is approved by HHMI in advance.

9. LIMITED WARRANTY

- 9.1. The Regents warrants that it has the lawful right to grant this License to Licensee.
- 9.2. This License and the associated Work are provided **WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. THE REGENTS MAKE NO REPRESENTATION OR WARRANTY THAT ANY LICENSED PRODUCT WILL NOT INFRINGE ANY PATENT OR COPYRIGHT OR OTHER PROPRIETARY RIGHT.**
- 9.3. **IN NO EVENT WILL THE REGENTS BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM EXERCISE OF THIS LICENSE OR THE USE OF THE INVENTION OR LICENSED PRODUCTS OR THE USE OR THE PRACTICE OF LICENSED METHODS.**
- 9.4. Nothing in this Agreement will be construed as:
- 9.4.1. A warranty or representation by The Regents as to the validity or scope of any Regents' Copyright Rights.
- 9.4.2. A warranty or representation that anything made, used, sold or otherwise disposed of under any license granted in this Agreement is or will be free from infringement of copyrights of third parties.
- 9.4.3. Obliging The Regents to bring or prosecute actions or suits against third parties for copyright infringement.

- 9.4.4. Conferring by implication, estoppel or otherwise any license or rights under any rights of The Regents other than Regents' Copyright Rights as defined herein.
- 9.4.5. Obligating The Regents to furnish any know-how not provided in Regents' Copyright Rights.

10. INDEMNIFICATION

- 10.1. Licensee will indemnify, hold harmless and defend The Regents, its officers, employees, and agents, the sponsors of the research that led to the work, the authors of the copyrights and copyright applications in Regents' Copyright Rights and their respective employers from and against any and all liability, claims, suits, losses, damages, costs, fees and expenses resulting from or arising out of the exercise of this Agreement. Indemnification includes but is not limited to products liability. If The Regents, in its sole discretion, believes that there will be a conflict of interest or it will not otherwise be adequately represented by counsel chosen by Licensee to defend The Regents in accordance with this Paragraph 10.1, then The Regents may retain counsel of its choice to represent it, and Licensee will pay all expenses for such representation.
- 10.2. The Regents shall notify Licensee in writing of any claim or suit brought against The Regents in respect of which The Regents intends to invoke the provisions of this Article 10 (INDEMNIFICATION). Licensee shall keep The Regents informed on a current basis of its defense of any claims under this Article 10 (INDEMNIFICATION).
- 10.3. HHMI and its trustees, officers, employees, and agents (collectively, “**HHMI Indemnitees**”) will be indemnified, defended by counsel acceptable to HHMI, and held harmless by Licensee from and against any claim, liability, cost, expense, damage, deficiency, loss, or obligation of any kind or nature (including, without limitation, reasonable attorneys’ fees and other costs and expenses of defense) based on, resulting from, arising out of, or otherwise relating to this Agreement, or the exercise of this license, including without limitation any cause of action relating to product liability (collectively, “**Claims**”). The previous sentence will not apply to any Claim that is determined with finality by a court of competent jurisdiction to result solely from the gross negligence or willful misconduct of an HHMI Indemnitee. For clarity, acts conducted under the retained rights and licenses set forth in Paragraph 2.5 and 2.6 above are not subject to this indemnification obligation of Licensee. If HHMI, in its sole discretion, believes that there will be a conflict of interest or it will not otherwise be adequately represented by counsel chosen by Licensee to defend the HHMI Indemnitees in accordance with this Paragraph 10.3, then HHMI may retain counsel of its choice to represent the HHMI Indemnitees, and Licensee will pay all expenses for such representation.
- 10.4 Licensee, at its sole cost and expense, must insure its activities in connection with the work under this Agreement and obtain, keep in force and maintain Commercial Form General Liability Insurance (contractual liability included) with limits as follows:

10.2a	Each occurrence	\$1,000,000.
10.2b	Products/completed operations aggregate	\$5,000,000.
10.2c	Personal and advertising injury	\$1,000,000.
10.2d	General aggregate	\$5,000,000.

- 10.5 If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination or expiration of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the Effective Date of this Agreement.
- 10.6 Licensee will obtain, keep in force and maintain Worker's Compensation Insurance as legally required in the jurisdiction in which Licensee is doing business.
- 10.7 Licensee expressly understands, however, that the coverages and limits in Paragraph 10.4 do not in any way limit Licensee's liability. Licensee must furnish The Regents with certificates of insurance evidencing compliance with all requirements within thirty (30) days of the execution of the Agreement. Licensee's insurance must:
 - 10.7a Provide for thirty (30) day advance written notice to The Regents of any modification.
 - 10.7b Indicate that The Regents of the University of California and HHMI are endorsed as an insured under the coverages listed in Paragraph 10.4.
 - 10.7c Include a provision that the coverages will be primary and will not participate with nor will be excess over any valid and collective insurance or program of self-insurance carried or maintained by The Regents or HHMI.

11. LIMITATIONS OF LIABILITY

- 11.1. **THE REGENTS WILL NOT BE LIABLE FOR ANY LOST PROFITS, COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST BUSINESS, ENHANCED DAMAGES FOR INTELLECTUAL PROPERTY INFRINGEMENT OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER SPECIAL DAMAGES SUFFERED BY LICENSEE, SUBLICENSEES, JOINT VENTURES, AFFILIATES OR DEVELOPMENT PARTNERS ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE REGENTS WILL NOT BE LIABLE FOR ANY CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY) EVEN IF THE REGENTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

12. NOTICES

- 12.1. Any notice or payment required to be given to either party must be sent to the respective address given below and is effective: (a) on the date of delivery if delivered in person, (b) five (5) days after mailing if mailed by first-class certified mail, postage paid, or (c) on the next business day if sent by overnight delivery. Either party may change its designated address by written notice.

For Licensee: _____

Attention: _____

For The Regents: **The Regents of the University of California
University of California, Los Angeles
Office of Intellectual Property Administration
11000 Kinross Avenue, suite 200
Los Angeles, CA 90095-1406**

Attention: Director
Ref: UC Case No. 2008-774

12.2 Licensee shall furnish to The Regents the completed licensee contact information form attached hereto as “**EXHIBIT A**” concurrent to execution of the Agreement and incorporated herein by this reference, showing:

12.2a The Financial Contact (i.e. the contact responsible for ensuring that payments are made under this Agreement to The Regents).

13. ASSIGNABILITY

13.1. This Agreement is binding upon and inures to the benefit of The Regents, its successors and assigns. But it is personal to Licensee and assignable by Licensee only with the written consent of The Regents. The consent of The Regents will not be required if the assignment is in conjunction with the transfer of all or substantially all of the business of Licensee to which this License relates.

14. LATE PAYMENTS

14.1. For fees not received by The Regents when due, Licensee must pay to The Regents a simple interest charge of 10% per annum to be calculated from the date payment was due until it was actually received by The Regents.

15. WAIVER

15.1. The waiver of any breach of any term of this Agreement does not waive any other breach of that or any other term.

16. FAILURE TO PERFORM

16.1. If either party takes legal action against the other because of a failure of performance due under this Agreement, then the prevailing party is entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

17. GOVERNING LAW

17.1. **THIS AGREEMENT IS TO BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA**, but the scope and validity of any copyright will be governed by the applicable laws of the country of the copyright registration.

18. GOVERNMENT APPROVAL OR REGISTRATION

- 18.1. If this Agreement or any associated transaction is required by the law of any nation to be either approved or registered with any governmental agency, Licensee will assume all legal obligations to do so. Licensee will notify The Regents if it becomes aware that this Agreement is subject to a United States or foreign government reporting or approval requirement. Licensee will make all necessary filings and pay all costs including fees, penalties, and all other out-of-pocket costs associated with such reporting or approval process.

19. COMPLIANCE WITH LAWS

- 19.1. The Licensee will comply with all applicable international, national, state, regional, and local laws and regulations in performing its obligations hereunder and in its use, manufacture, sale or import of the Licensed Products or practice of the Licensed Methods. The Licensee will observe all applicable United States and foreign laws with respect to the transfer of Licensed Products and related technical data and the provision of services using Licensed Methods to foreign countries, including and without limitation, the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations. The Licensee will manufacture Licensed Products and practice the Licensed Methods in compliance with all applicable government importation laws and regulations of a country into which Licensed Products are imported.

20. FORCE MAJEURE

- 20.1 Except for the Licensee's obligation to make any payments to The Regents hereunder, the parties shall not be responsible for any failure to perform due to the occurrence of any events beyond their reasonable control which render their performance impossible or onerous, including, but not limited to: accidents (environment, toxic spill, etc.); acts of God; biological or nuclear incidents; casualties; earthquakes; fires; floods; governmental acts; orders or restrictions; inability to obtain suitable and sufficient labor, transportation, fuel and materials; local, national or state emergency; power failure and power outages; acts of terrorism; strike; and war.
- 20.2 Either party to this Agreement, however, will have the right to terminate this Agreement upon thirty (30) days' prior written notice if either party is unable to fulfill its obligations under this Agreement due to any of the causes specified in Paragraph 20.1 for a period of one (1) year.

21. CONFIDENTIALITY

- 21.1. If either party discloses confidential information to the other party, the disclosing party will designate this information as confidential by appropriate legend or instruction, and the receiving party will:
- 21.1.1. Use the same degree of care to maintain the secrecy of the confidential information as it uses to maintain the secrecy of its own information of like kind.
 - 21.1.2. Use the confidential information only to accomplish the purposes of this Agreement.

- 21.2. Neither party will disclose confidential information received from the other party except to its employees, customers, distributors and other agents who are bound to it by similar obligations of confidence and only as required to accomplish the purposes of this Agreement.
- 21.3. Neither party will have any confidentiality obligation with respect to the confidential information belonging to or disclosed by the other party that:
- 21.3.1. the receiving party can demonstrate by written records was previously known to it.
 - 21.3.2. the receiving party lawfully obtained from sources under no obligation of confidentiality.
 - 21.3.3. is or becomes publicly available other than through an act or omission of the receiving party or any of its employees.
 - 21.3.4. the receiving party can demonstrate by written records that it was independently developed by the receiving party;
 - 21.3.5. Is required to be disclosed under the California Public Records Act, governmental audit requirement or other requirement of law.
- 21.4. The provisions of this Article will continue in effect for five (5) years after expiration or termination of this Agreement.
- 21.5. The Regents is free to release to the Authors, senior administrators employed by The Regents, senior administrative officials employed by HHMI, and individual trustees of HHMI the terms and conditions of this Agreement. If such release is made, then The Regents shall give notice of the confidential nature and shall request that the recipient not disclose such terms and conditions to others. If a third party inquires whether a license to Regents' Copyright Rights is available, then The Regents may disclose the existence of this Agreement and the extent of the grant in Articles 2 (Grant) to such third party, but will not disclose the name of Licensee or any other negotiated terms or conditions of this Agreement, except where The Regents is required to release information under the California Public Records Act, a governmental audit requirement, or other applicable law.

22. HHMI THIRD-PARTY BENEFICIARY STATUS

- 22.1 HHMI is not a party to this Agreement and has no liability to Licensee or user of anything covered by this Agreement, but HHMI is an intended third-party beneficiary of this Agreement and certain of its provisions are for the benefit of HHMI and are enforceable by HHMI in its own name.

23. MISCELLANEOUS

- 23.1 The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of, this Agreement.
- 23.2 This Agreement is not binding upon the parties until it has been signed below on behalf of each party, in which event it becomes effective as of the date recited on page one.
- 23.3 No amendment or modification of this Agreement will be valid or binding upon the parties unless made in writing and signed by each party.

23.4 This Agreement and Appendix A (REGENTS' COPYRIGHT RIGHTS) embodies the entire understanding of the parties and supersedes all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof.

23.5 If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable as long as a party's rights under this Agreement are not materially affected. In lieu of the unenforceable provision, the parties will substitute or add as part of this Agreement a provision that will be as similar as possible in economic and business objectives as was intended by the unenforceable provision.

Both The Regents and Licensee have executed this Agreement in duplicate originals by their authorized officers on the dates written below:

COMPANY NAME:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By _____
Signature

By _____
Signature

Name: _____

Name: _____

Title _____

Title _____

Date _____

Date _____

APPENDIX A

REGENTS' COPYRIGHT RIGHTS

- 1) Copyrighted work entitled “SERp Commercial Server,” (UCLA Case No.2008-774) by David Eisenberg and Lukasz Goldschmidt, and assigned to The Regents.

EXHIBIT A
AGREEMENT MANAGEMENT – CONTACT INFORMATION

Licensee Name: _____ **UC Control No:** _____

FINANCIAL CONTACT:

LAST NAME, FIRST NAME: _____

COMPANY TELEPHONE: _____

TITLE: _____

COMPANY NAME: _____

COMPANY FAX: _____

ADDRESS: _____

ADDRESS: _____

EMAIL: _____

CITY, STATE, ZIP: _____

CODE, COUNTRY