

## **Rosetta Software Site License – Commercial**

### **Instructions for filling out the license:**

1. Enter Licensee's legal name and full address at the top of the license agreement on Page 2.
2. Complete Attachment A and B. Enter the appropriate License fee based on the Licensee FTEs and the number of Sites.
3. Have an authorized representative of the Licensee sign the license and email the partially executed agreement to [license@u.washington.edu](mailto:license@u.washington.edu). Please note that UW does not review or accept changes to the license agreement. A purchase order may be provided by Licensee, if needed by Licensee.
4. UW will review the submitted license agreement and either countersign or contact you if there are issues to resolve before execution.
5. A fully executed agreement will be sent to Licensee via email, followed separately with an invoice via email.
6. UW will send confirmation upon receipt of payment. If you pay by wire transfer, a confirmation by facsimile of the wire transfer amount and date by the issuing bank will substitute for confirmation by UW.
7. Rosetta log-in credentials for downloading the Software will be sent to Licensee's signatory via email.

#### **Contact information:**

UW CoMotion

University of Washington

Phone: (206) 543-3970

Email: [license@u.washington.edu](mailto:license@u.washington.edu)

#### **Bank information:**

Account Number: 000062762208

Routing Number ACH/FT: 125000024

Routing Number DOM. Wires: 026009593

SWIF Code INTL Wires: BOFAUS3N

Account Name: University of Washington

#### **Tax Information:**

EIN: 91-6001537

## **Non-Exclusive Software Site License Agreement Rosetta Software**

The University of Washington, a public institution of higher education and an agency of the state of Washington (“UW”) and \_\_\_\_\_, having administrative offices in \_\_\_\_\_, herein “Licensee” (individually “Party” or collectively “Parties”) agree as follows:

### **Background**

UW has developed software code for the prediction and design of protein structures, protein folding mechanisms, and protein-protein interactions known as Rosetta with UW reference numbers 43186 and 43653. UW desires to publish and enable adoption of research software code in furtherance of its public interest mission. Distribution of research software code as a research tool is facilitated by licensing the code for development and use. Some of the code was supported in part by the following: Howard Hughes Medical Institute, National Institutes of Health, Damon Runyon Cancer Research Center, Human Frontier Science Program Grant, National Science Foundation, Office of Naval Research, Packard Foundation.

Licensee desires to obtain UW research software code and invest in the development, publication, validation and use of UW research software code at one or more of the Licensee’s sites.

### **1. Definitions**

- 1.1. “Agreement” means this Non-Exclusive Software Site License Agreement.
- 1.2. “Annual License Fee” means the annual amounts due by Licensee under Section 5 “Annual License Fee” and Attachment B.
- 1.3. “Copyright” means the rights in Software as ascribed in Sections 102 et seq. of the United States Copyright Act, amended from time to time, and International Treaty provisions, in effect from time to time, relating to the protection of copyrights worldwide.
- 1.4. “Effective Date” means the latest date upon which this Agreement is fully executed by Licensee and UW.
- 1.5. “Licensed Patent” means US Patent No. 7,574,306 with UW reference number 43186.03US5. 1.1.
- 1.6. “Licensee FTEs” means the number of full-time employees of the Licensee, globally.
- 1.7. “Licensing Contact” means the individual listed on Attachment A who is responsible for administering the financial terms of the Agreement and related correspondence from UW.
- 1.8. “Modifications” mean any additions, changes, or extensions introduced into the Software or otherwise based on or derived from the Software. Modifications may include, but are not limited to, corrections of program errors, translations, stylistic restructuring of the Software, addition or deletion of functions or enhancement of existing functions of the Software, changes or additions

required to integrate the Software into other applications or to allow the Software to run under alternative operating systems or computer hardware configurations, and other adaptations of the Software.

1.9. “Site(s)” means the distinct corporate office location(s) of Licensee listed on Attachment A and remote locations of Licensee employees that report to such corporate office location(s).

1.1. “Software” means the current versions of the Rosetta software code as available on the Effective Date, as available at the Rosetta Commons (<https://www.rosettacommons.org/software>), as well as official updates as released from time to time by UW and Rosetta Commons developers.

## **2. Grant**

2.1. Grant of Rights in Software Copyright. Commencing on the Effective Date, and provided that Licensee pays the Annual License Fee and conforms to the terms and conditions of this Agreement, UW hereby grants, and Licensee accepts, a limited, non-exclusive license under Copyright to use the Software at the Site(s), to modify the Software for use at the Site(s), to provide access to a cloud service provider for the sole purpose of installing the Software for use at the Site, and to make such copies of the Software in original or modified form as are necessary for use at the Site(s). The license grant herein is limited to Licensee’s use at the Site and does not authorize Software use by third parties via the Internet or any other means.

2.2. Grant of Rights in Licensed Patent. Subject to the terms and conditions of this Agreement, UW hereby grants to Licensee, and Licensee hereby accepts, a non-exclusive license, internal to Licensee, to make and/or use Software or other products or goods that are covered by one or more claims of Licensed Patent. The license granted in this Section 2.2 “Grant of Rights in Licensed Patent” is limited to the inventions that are expressly claimed in Licensed Patent. No provision of this Agreement grants Licensee, by implication, estoppel or otherwise, any rights other than the rights expressly granted it in this Agreement to Licensed Patent, or to any other UW-owned technology, patent applications, or patents. For the avoidance of doubt, Licensee is NOT granted, under this Agreement, any right in Licensed Patent to sell, have sold, lease, have leased, or otherwise dispose of Software or other products or goods that are covered by one or more claims of Licensed Patent.

2.3. Sublicensing and Assignment Not Permitted. UW does NOT hereby grant Licensee the right to grant sublicenses or to assign its rights under this Agreement.

2.4. No Licensee Ownership in Software. Licensee shall gain no ownership in the Software under this Agreement. Licensee acknowledges the right of UW to prepare and publish UW-prepared Modifications to Software that may be substantially similar or functionally equivalent to Licensee’s Modifications and improvements, and if Licensee obtains patent protection for any Modification or improvement to the Software, Licensee agrees not to allege or enjoin infringement of any of such patents by UW or UW’s licensees.

2.5. Proprietary Markings. Licensee shall not remove or alter in the Software, or in any Modifications, the proprietary notices and legends as provided by UW, including without restriction any copyright, trademark, patent notices and legends pertaining to attribution, source of developments, funding sources, and disclaimer of risk. At the request of UW, Licensee shall promptly modify such proprietary notices and legends to conform to UW’s reasonable

requirements.

2.6. Licensee Shall Not Distribute Software. Licensee shall not distribute, publish, transfer, allow to be transferred, or otherwise dispose of the Software or any Modifications or copies thereof, in whole or in part, without prior written permission of UW.

2.7. Software Updates. UW may, in its sole discretion, offer periodic, unofficial updates. If Licensee accepts these unofficial updates, such updates shall be covered under the terms of this Agreement.

### **3. Use of Names**

Licensee shall not use the name “University of Washington”, any abbreviation thereof, or any other means for identifying UW, or the names of any UW personnel or identifiers of the Software without prior written approval from UW, except as expressly authorized in this Agreement.

### **4. Delivery**

UW shall provide Licensee’s signatory with log-in credentials via email for downloading the software within 5 business days of execution of this Agreement and receipt of payment specified herein.

### **5. Annual License Fee**

Licensee shall pay to UW the Annual License Fee as set forth in Attachment B, the first Annual License Fee payment due within 30 days of the Effective Date of this Agreement and later Annual License Fee payment(s) due by each anniversary of the Effective Date during the remaining term of this Agreement. Licensee represents that it has used an accurate count of Licensee FTEs to select the price in Attachment B. Licensee shall be responsible for any charges, taxes and/or customs duties associated with payments made under this Agreement. Payment via wire transfer incurs an additional \$30 fee.

### **6. Term and Termination**

6.1. Term. This Agreement shall remain effective for a period of five years from the Effective Date, or until terminated as set forth herein. Following the five-year initial term, the Agreement may be renewed annually by UW invoicing Licensee, and Licensee paying such invoice.

6.2. Termination by Licensee. Licensee may terminate this Agreement at any time upon written notice to UW. The termination shall be effective 30 days from date of notice.

6.3. Termination by UW. UW, in sole discretion may terminate this Agreement upon notice i) if Licensee is determined to be in material breach of this Agreement or ii) to comply with all applicable US or other laws including but not limited to export laws. UW may suspend access to any Software Updates via log-in credentials until termination or cure occurs. The termination shall be effective 30 days from the date of notice. If the specified breach is cured before the effective date of termination, the Agreement shall not be terminated, and any

suspension of log-in credentials shall be restored, and the notice thereof shall have no effect.

6.4. No Limitation on Remedies. The provisions under which this Agreement may be terminated will be in addition to any and all other legal remedies which either Party may have for the enforcement of any and all terms hereof, and do not in any way limit any other legal remedy such Party may have.

6.5. Effect of Termination. Termination of this Agreement will terminate all rights and licenses granted to Licensee relating to the Software. Licensee shall certify in writing to UW within 10 days after termination that the Software, all copies made by Licensee including copies hosted on the cloud on behalf of the Licensee, during the term of this Agreement, and all Modifications thereof have been destroyed.

## **7. Warranties and Disclaimers**

7.1. Corporate Warranty. Each Party represents and warrants to the other Party that it has full corporate power and authority to execute, deliver, and perform this Agreement, and that no other corporate proceedings by such Party are necessary to authorize the Party's execution or delivery of this Agreement.

7.2. Software Provided "As-Is". THE SOFTWARE HAS BEEN DEVELOPED AS PART OF RESEARCH CONDUCTED AT UW AND IS PROVIDED AS A RESEARCH COURTESY. THE SOFTWARE IS EXPERIMENTAL IN NATURE AND IS AVAILABLE "AS IS," WITHOUT OBLIGATION BY UW TO PROVIDE LICENSEE SERVICES OR SUPPORT EXCEPT AS SPECIFIED IN THIS AGREEMENT. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE IS WITH LICENSEE.

7.3. General Disclaimer. UW EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, PERTAINING TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THE SOFTWARE DISCLOSED OR ANY OTHER MATERIALS OTHERWISE PROVIDED TO LICENSEE UNDER THIS AGREEMENT.

7.4. Damages Cap. Under no circumstances shall UW be liable in any lawsuit or other source of liability for more than payments received under this Agreement.

## **8. Indemnification**

Licensee shall indemnify, defend and hold harmless UW and its officers, regents, employees, students and agents, against any and all claims, suits, losses, damages, costs, fees and expenses (including, without limitation, reimbursing reasonable attorneys' fees and other costs and expenses of defense) resulting from Licensee's possession and/or use of the Software, including but not limited to any damages, losses or liabilities whatsoever with respect to death or injury to any person and damage to any property. This indemnification clause shall survive the termination of this Agreement.

## 9. HHMI License Terms

9.1. Third Party Beneficiary. The Howard Hughes Medical Institute (“HHMI”) is not a party to this Agreement and has no liability to any 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.

9.2. HHMI License. HHMI retains an institution-wide, paid-up, non-exclusive irrevocable license to use the Software for its research purposes, without the right to sublicense or assign.

9.3. Indemnification. 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) (collectively, “Claims”), based upon, arising out of, or otherwise relating to this Agreement, including without limitation any cause of action relating to product liability. 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. The HHMI indemnification and third-party beneficiary provisions shall survive termination of this Agreement. The HHMI provisions of this Agreement shall not be subject to arbitration.

## 10. General

10.1. Export Control. Licensee shall comply with all applicable laws and regulations relating to this Agreement and or Licensee’s activities hereunder. Licensee acknowledges and agrees that the rights and obligations of this Agreement are subject to United States laws and regulations (including without limitation the U.S. embargo regulations of the U.S. Treasury Department, the U.S. Export Administration Regulations of the U.S. Commerce Department, the International Traffic in Arms Regulations of the U.S. State Department, and the U.S.A. Patriot Act, and including all amendments thereof) controlling the export of technical data, computer software, laboratory prototypes, and other commodities. These laws and regulations prohibit or require a license for the export of certain types of products and technical data, including software, to certain countries, individuals and/or organizations. In no case shall Licensee take any action that would cause UW to be in violation of any applicable export control, import, or economic sanctions law or regulation. UW does not represent whether or not an export license will be required, does not represent whether or not any specific type of export license will be applicable, and does not represent that any applicable export license will be issued by any relevant agency or agencies.

10.2. Governing Law, Venue. This Agreement will be construed in accordance with, and its performance will be governed by, the laws of the state of Washington. Any suit, action, or proceeding arising out of or relating to this Agreement will be decided in King County, Washington. Licensee accepts the venue and jurisdiction of the Federal District Court of Washington, Seattle, or the King County Superior Courts and hereby waives any right to object to the governing law and venue provided herein.

10.3. No Waiver of Rights. No omission or delay by either Party hereto in requiring due and punctual fulfillment of the obligations of any other Party hereto shall be deemed to constitute a waiver by such Party of its rights to require such due and punctual fulfillment, or of any other of its remedies hereunder. Amendments to this Agreement must be in writing, reference this Agreement, and be signed by duly authorized representatives of UW and Licensee.

10.4. Enforceability. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions will not be in any way affected or impaired thereby.

10.5. No Assignment. This Agreement and the rights and benefits conferred upon Licensee hereunder may not be assigned or otherwise transferred by Licensee without the prior written consent of UW.

10.6. Force Majeure. In the event either Party hereto is prevented from or delayed in the performance of any of its obligations hereunder by reason of acts of God, war, strikes, riots, storms, fires or any other cause whatsoever beyond the reasonable control of the non-performing Party, the non-performing Party shall be excused from the performance of any such obligation to the extent and during the period of such prevention or delay.

10.7. Entire Agreement, Construction. This Agreement 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. Headings are provided for convenience only.

The Parties have signed below to indicate acceptance to the terms of this Agreement:

**Licensee**

**University of Washington**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment A**  
**Site and Contact Information**

Site(s) authorized to use Software:	
Site 1.	
Site 2.	
Site 3.	
Global (4+)	

Licensing Contact	
Name	
Title	
Email	
Phone	
Mailing Address	
City, State, Zip	



**Attachment B**  
**Annual License Fee**

Licensee shall pay to UW the Annual License Fee in US dollars per the terms of the license fee schedule below. Enter the appropriate License fee based on the Licensee FTEs and the number of Sites. Please include the wire transfer fee in the “Total Amount Due” total if you are paying by wire transfer. The count of Licensee FTEs includes all FTEs at your company globally, and is NOT the anticipated number of users of the Software.

Annual License Fee					
Licensee FTEs	Sites				Sub-total
	1-Site	2-Sites	3-Sites	Global	
500 or more	\$40,000	\$75,000	\$105,000	\$130,000	
Wire transfer fee: US \$30.00					
<b>Total Amount Due</b>					

The first Annual License Fee payment shall be paid within 30 days of the Effective Date, and Annual License Fee payment(s) for subsequent year(s) of the agreement’s term shall be paid prior to the anniversary of the Effective Date.