



EMBEDDED CRYOSPARC LIVE LICENSE AGREEMENT

Last Updated: November 22, 2022

This Embedded cryoSPARC Live™ License Agreement (the “Agreement”) is an agreement between the Licensee (as defined below) and Structura Biotechnology Inc. (the “Licensor”). This Agreement is applicable to your access to and use of the Embedded cryoSPARC Live™ Software (the “Licensed Software”). By installing, accessing or using the Licensed Software, the Licensee acknowledges that it understands and agrees to be bound by this Agreement. If Licensee does not understand or agree to be bound by this Agreement, do not install, access or use the Licensed Software.

If you are an agent or employee of another legal entity, “Licensee” means the legal entity that you represent, and you represent and warrant that you are duly authorized to accept this Agreement on behalf of such entity. If you are not an agent or employee of another legal entity, “Licensee” means you. The Licensor and the Licensee are each a “Party”, and are collectively referred to as the “Parties”. The date of your acceptance of this Agreement is the “Effective Date”.

BACKGROUND:

- A. Licensee has purchased a Commercial Subscription (as defined below) or a Research Subscription (as defined below) to the Licensed Software from FEI Company or its affiliate (“Thermo Fisher”) pursuant to an agreement between Licensee and Thermo Fisher (the “Thermo Fisher Agreement”); and
- B. Licensor is the owner of the Licensed Software, and Licensee’s use of and access to the Licensed Software is subject to this Agreement, as well as the Thermo Fisher Agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. GRANT OF LICENSE

- 1.1 Term of Agreement. This Agreement comes into force on the Effective Date and will terminate on the Expiry Date (as defined in Subsection 1.4 hereof).
- 1.2 License. For purposes of this Agreement a “Research Subscription” means a subscription to use the Licensed Software solely for Nonprofit Academic Research (as defined below), and a “Commercial Subscription” means a subscription to use the Licensed Software that is not limited solely to Nonprofit Academic Research use (as defined below). “Subscription” means a Research Subscription or a Commercial Subscription. Licensor hereby grants to Licensee a non-exclusive, non-transferable, revocable (for material breach only) license (the “License”) to install and use the Licensed Software on the Thermo Fisher system(s), as specified in the Thermo Fisher Agreement, during the License Term (as defined below), for the purposes of processing electron microscopy data to yield structural information about macromolecules and organizing and visualizing the computed results (the “Intended Purpose”). For purposes of this Agreement, “Licensed Software” includes the executable computer programs, code and any related printed, electronic and online documentation, manuals, training aids, user guides, system administration documentation and any other files that may accompany the code, and any updates to any of the foregoing that Licensor may provide to Licensee, but excludes the human-readable source code.
- 1.3 License Term. The term of the License shall commence on the start date for the Subscription specified in the Thermo Fisher Agreement, and shall, unless terminated earlier in accordance with the terms of this Agreement, remain in effect for the period of the Subscription Term specified in the Thermo Fisher Agreement plus one month (the “License Term”).
- 1.4 Expiry. This Agreement and the License shall expire automatically at the completion of the License Term (the “Expiry Date”) unless otherwise renewed for an additional Subscription term.

- 1.5 Discontinue Use. On termination of this Agreement, whether by reason of expiry or otherwise, Licensee shall promptly discontinue use of the Licensed Software.

2. RESTRICTIONS

- 2.1 Restrictions based on License Type. If Licensee purchased a Research Subscription, then Licensee can use the Licensed Software solely for Nonprofit Academic Research. “Nonprofit Academic Research” means practicing, making, using, improving upon, importing and exporting (but not selling, leasing or otherwise monetizing) academic or scholarly research for academic institutional research purposes in good faith, and expressly excludes, without limitation, Commercial Use. “Commercial Use” means use that is intended to (or results in, whether by intent or otherwise): (a) create a commercial advantage for any person or entity; (b) generate monetary compensation for products or services; (c) generate commercialization rights for any person or entity; (d) be used in an ongoing business concern; or (e) result in an ongoing business concern obtaining any Intellectual Property Rights in any research or results linked to Nonprofit Academic Research.
- 2.2 General Restrictions. Licensee may not: (i) modify, enhance, reverse-engineer, decompile, disassemble or create derived forms of the Licensed Software; (ii) copy the Licensed Software; (iii) sell, license, sub-license, lease, transmit, distribute or otherwise transfer rights in/to the Licensed Software; (iv) allow use of the Licensed Software on systems other than the Thermo Fisher system, as specified in the Thermo Fisher Agreement; or (v) pledge, hypothecate, alienate or otherwise encumber the Licensed Software to any third party. **Use of the Licensed Software is restricted to the Intended Purpose only, and, for the avoidance of doubt, the Licensed Software shall not be used in any clinical setting or in connection with the provision of healthcare. Licensee shall comply with all applicable law in connection with its use of the Licensed Software.**

3. SOFTWARE “AS IS”

- 3.1 Exclusion of Warranty. Licensor makes no representations or warranties or covenants to Licensee, either express or implied, with respect to the Licensed Software or with respect to any Confidential Information (as defined herein) disclosed to Licensee. Licensor specifically disclaims any implied warranty or condition of non-infringement, merchantable quality or fitness for a particular purpose.
- 3.2 Disclaimer. Licensor is not responsible for installation or activation of the Licensed Software.
- 3.3 No Future Entitlement. Nothing in this Agreement shall be construed as creating any obligation on Licensor to continue to develop, commercialize, offer, make available or support (i) the Licensed Software; or (ii) any feature, functionality or Improvement as may be encompassed in the Licensed Software from time to time during the License Term, beyond the duration of the License Term.

4. RIGHTS IN THE SOFTWARE

- 4.1 Title. Licensor retains title to and ownership of the Licensed Software and all modifications, enhancements improvements and updates to the Licensed Software.
- 4.2 Intellectual Property. Subject to the express rights and licenses granted by Licensor to Licensee in this Agreement, Licensor reserves and retains all of its right, title and interest in and to all Intellectual Property, Intellectual Property Rights arising from or related to the Licensed Software. “Intellectual Property” includes, without limitation, all technical data, designs, specifications, software, data, know-how, drawings, plans, reports, patterns, models, prototypes, demonstration units, practices, inventions, methods and related technology, processes or other information, and all rights therein, including, without limitation, patents, copyrights, industrial designs, trade-marks and any registrations or applications for the same and all other rights of intellectual property therein, including any rights which arise from the above items being treated by the Parties as trade secrets or confidential information (the rights being “Intellectual Property Rights”).

5. CONFIDENTIAL INFORMATION

- 5.1 Confidential Information. “Confidential Information” means any and all confidential or proprietary information of Licensor or Licensee which may be exchanged between the Parties in connection with this Agreement at any time during the term of this Agreement, including, without limitation, business and

marketing information, technology, know-how, ideas, reports, techniques, methods, processes, uses, composites, skills, and configurations of any kind. Without limiting the generality of the foregoing, Licensor's Confidential Information includes: (i) the Licensed Software, including its features, functionality, performance, application and use; (ii) the computer code underlying the Licensed Software, including source and compiled code and all associated documentation and files (and for greater certainty, Licensee will not receive source code); (iii) information relating to the performance or quality of the Licensed Software; (iv) the details of any technical assistance provided to Licensee during the term of this Agreement; (v) any other products or service made available to Licensee by Licensor during the term of this Agreement; and (vi) information regarding Licensor's business operations or research and development activities.

- 5.2 General Obligations. Neither Party shall: (i) disclose, either directly or indirectly, any Confidential Information or any part thereof belonging to the other Party, to any person; or (ii) use any Confidential Information or any part thereof belonging to the other Party, for any purpose except for the purpose of exercising its rights and performing its obligations under this Agreement.
- 5.3 Exception. The obligations of confidentiality set forth herein shall not apply to the extent that the information: (i) was already known to the receiving Party without restriction at the time the information was disclosed to such Party; (ii) was generally available to the public or otherwise was part of the public domain at the time of its disclosure to the receiving Party; (iii) became generally available to the public or otherwise part of the public domain after its disclosure to the receiving Party through no act or omission of the receiving Party in violation of this Section 5; or (iv) was disclosed to the receiving Party without restriction by a third party who had no obligation not to disclose such information.
- 5.4 Terms Confidential. Each Party shall keep confidential and shall not disclose the contents of this Agreement or the transactions contemplated hereby, without the written consent of the other Party, except as otherwise specifically contemplated in this Agreement. The foregoing notwithstanding, the Parties acknowledge and agree that contents of this Agreement will be accessible to users of the Licensed Software and Licensee shall (a) use reasonable efforts to ensure that such users comply with the confidentiality obligations set forth herein; and (b) be responsible and liable for any breach of the confidentiality obligations herein by such users.
- 5.5 Authorized Disclosure. Each Party hereto may, with the consent of the disclosing Party, disclose Confidential Information to the extent reasonably necessary to comply with applicable government regulations or if it otherwise becomes legally required to disclose any Confidential Information, provided that, to the extent legally permitted to do so, it provides the other Party with prompt notice of such requirement so that the other Party may seek a protective order or other appropriate remedy.
- 5.6 Injunctive Relief. The Parties acknowledge and agree that the extent of damages to a Party in the event of a material breach by the other Party of this Section 5 would be difficult or impossible to ascertain and that there is and will be available to the non-breaching Party no adequate remedy at law in the event of such a material breach. Consequently, each Party agrees that in the event of such a material breach or threatened breach, the non-breaching Party shall be entitled, in addition to any other remedies it may have at law, to enforce any or all of the covenants contained this Section 5 by an injunction or other equitable relief.
- 5.7 Termination. Upon request, each Party will return or destroy the other Party's Confidential Information.

6. FEEDBACK

- 6.1 Feedback. Licensee may communicate to Licensor, whether or not at Licensor's request, suggestions and comments regarding the Licensed Software, including but not limited to performance, user interface, experiment results, and errors (collectively, "Feedback"). Licensor shall have worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully-paid up rights to use such Feedback. Without limiting the generality of the foregoing, Licensor shall have the unencumbered right to make, use, copy, modify, sell, distribute, sub-license, and create derivative works of/incorporating the Feedback as part of any product, technology, service, specification or other documentation and to publicly perform or display, import, broadcast, transmit, distribute, license, offer to sell, and sell, rent, lease or lend copies of the Feedback (and derivative works thereof) as part of any product.

7. ANALYTICS

7.1 Data and Analytics. Licensor may collect and use performance and use data relating to Licensee's installation and use of the Licensed Software during the License Term for the purposes of administering the Software License, and improving the Licensed Software and licensing models. Data which Licensor may collect includes, without limitation: (i) license status and validation; (ii) job completion status; (iii) project creation and data flow; (iv) processing workflow steps and amount of intermediate data created; (v) user account activity including the number of active user accounts; (vi) error information; (vii) performance data and hardware utilization; (viii) user experience information. For greater certainty, no proprietary or identifying information of Licensee (e.g., regarding specific targets or ligands) will be collected, and Licensor shall own all such data collected by Licensor.

8. TERMINATION

8.1 Event of Default. Licensor may give Licensee written notice that an "Event of Default" has occurred if Licensee has materially breached this Agreement. Where Licensee fails to rectify an Event of Default within thirty (30) days following notice thereof, Licensor may terminate this Agreement forthwith and may immediately exercise any one or more of the remedies available to it under the terms of this Agreement, in addition to any remedy available at law.

8.2 Other Rights of Termination. Licensor may terminate this Agreement, upon written notice to Licensee, if the Thermo Fisher Agreement is terminated.

9. LIMITATION OF LIABILITY

9.1 Limitation of Liability. IN NO EVENT WILL LICENSOR, OR ITS AGENTS', LICENSORS', SUPPLIERS' AND SUBCONTRACTORS' AND EACH OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "RELEASED PARTIES") BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (I) LOST PROFITS, LOST REVENUE, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, AGGRAVATED, OR PUNITIVE DAMAGES; (II) INCREASED COSTS; (III) LOSS OF GOODWILL OR REPUTATION; (IV) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (V) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT SHALL THE RELEASED PARTIES' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED USD\$50,000, IN EACH CASE REGARDLESS OF WHETHER LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

10. GENERAL PROVISIONS

10.1 Governing Law. This Agreement is made in Ontario and governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Parties attorn to the exclusive jurisdiction of the courts located in the Province of Ontario in Toronto, Ontario.

10.2 Survival. Any termination of this Agreement shall be without prejudice to any obligation by either Party which shall have accrued and then be owing. Following any termination of this Agreement the applicable provisions of Subsections 1.5, 2.2, 3.1, 4.1-4.2, 5.1 – 5.7, 6.1, 7.1, 9.1 and 10.1-10.13 shall remain in full force and effect in accordance with their terms.

10.3 Amendment and Waiver. Amendments to this Agreement, including any schedule or attachment hereto, shall be enforceable only if in writing and signed by authorized representatives of both Parties. No waiver of any breach of any terms or provisions of this Agreement is effective or binding unless made in writing and signed by the authorized representative of the Parties.

- 10.4 Assignment: Licensee may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of Licensor. Licensor may assign this Agreement at any time without Licensee's consent. Upon any such assignment, Licensor shall be fully released from its obligations hereunder and the assignee shall assume the rights and obligations of Licensor as if the assignee were an original party to this Agreement.
- 10.5 Enurement. This Agreement enures to the benefit of and is binding on the Parties and their respective successors and permitted assigns.
- 10.6 Entire Agreement: This Agreement including all schedules hereto, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior or collateral agreements, communications, representations, understandings, negotiations and discussions, oral or written, including any Licensee purchase order.
- 10.7 Headings: Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.
- 10.8 Number and Gender. Words importing the singular mean the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa.
- 10.9 Severability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the Parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
- 10.10 No Agency. No provision of this Agreement or action by the Parties will establish or be deemed to establish any partnership, joint venture, principal-agent or employer-employee relationship in any way, or for any purpose, between Licensor and Licensee.
- 10.11 Notices. Any notice required to be given pursuant to this Agreement shall be in writing and delivered by postage-paid mail, personally, by prepaid courier, or by electronic mail, addressed to the appropriate Party to such address as each Party may from time to time designate to the other in writing. Any notice given is deemed to have been received on the date on which it was delivered if a business day, failing which, on the next business day, or if mailed, on the fifth (5th) business day following the mailing thereof.
- 10.12 Authority to Execute Agreement. The Parties and their representatives accepting this Agreement hereby acknowledge and represent that the representatives accepting this Agreement are duly authorized agents of the Parties and have full authority to enter into this Agreement on behalf of the Party for whom they are signing.
- 10.13 Counterparts. This Agreement may be entered into originally or electronically and may be executed in counterparts, each of which when so accepted shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.