

## Institute for Systems Biology (ISB) Non-Profit Software License

### PREAMBLE

This License is for Covered Software that creates digital “fingerprints” that preserves distances between the source data without preserving other identifiable features.

The Covered Software is offered under this License at no cost to Non-Profit Organizations (hereinafter “**NPOs**”) for their internal use and modification. NPOs may also distribute the Covered Software, including Modifications, to other NPOs under this License and may make publicly available libraries of fingerprints, whether created using the Original Software or Modifications. In order to insure the ability to compare fingerprints in different libraries, any organization modifying the Original Software or Covered Software must provide a copy of the Modifications to ISB, who may then use, sublicense, copy or modify those Modifications.

This License does not permit the distribution of the Covered Software to for-profit organizations or the performing of services for for-profit organizations using the Covered Software. Please contact ISB for licenses of the Covered Software to or for the benefit of for-profit organizations.

This License states the complete agreement between ISB and User for the Covered Software and User agrees to carefully read this License before downloading, installing, accessing or using the Covered Software. By downloading, installing, accessing or using the Covered Software, you are agreeing to the terms of this License. If you are not willing to be bound by this License, then you must not download, install, access, or use the Covered Software.

### 1. DEFINITIONS

1.1 “**Covered Software**” shall mean the Original Software, Modifications and the combination of the Original Software and Modifications, in each case including portions thereof, whether Source Code or in any other form.

1.2 “**Modifications**” shall mean any addition to or deletion from the substance or structure of either the Original Software or any previous Modifications. When Covered Software is used as a series of files, a Modification includes (a) any addition to or deletion from the contents of a file containing Original Software or previous Modifications, or (b) any new file that operates with Covered Software or previous Modifications, whether or not it contains any part of the Original Software or previous Modifications.

1.3 “**Non-Profit Organization**” or “**NPO**” shall mean an entity organized and operated exclusively for charitable, scientific, or educational purposes, and of which no part of the net earnings inure to the benefit of any private shareholder or individual.

1.4 “**Original Software**” shall mean the software, including Source Code, released by ISB with the attached notice in Exhibit A.

1.5 “**Source Code**” shall mean any form of the Covered Software for making modifications to it, including all modules it contains, plus any associated interface definition files, scripts used to control compilation and installation of an executable, or source code differential comparisons against either the Original Software or another well known, available Covered Software of the User's choice. The Source Code can be in a compressed or archival form, provided the appropriate decompression or de-archiving software is widely available for no charge.

1.6 “**Trigger Date**” shall mean the first to occur of: (a) the provision to any third party of access to any Modification; or (b) the provision to any third party or public release of data or other materials produced in whole or in part by a Modification.

1.7 **“User”** shall mean a NPO or an individual employed by or working on behalf of a NPO exercising rights under, and complying with all of the terms of, this License.

## 2. LICENSES

2.1 **License to User.** ISB hereby grants User, and User accepts, a worldwide, royalty-free, non-exclusive license to the Original Software and a worldwide, royalty-free, non-exclusive sublicense to the Modifications licensed to ISB under Section 2.3, each of which includes the right to use, reproduce, and modify the Original Software and such Modifications, and to sublicense the Original Software with or without Modifications to other NPOs generally and as identified in Section 3.1 under this License.

2.2 **License is Non-Commercial.** The license granted in Section 2.1 is limited solely to non-commercial uses by User. User shall not reproduce, sublicense, or otherwise distribute the Covered Software to or for the benefit of a for-profit organization or any entity that would not qualify as a User under this License.

2.3 **License of Modifications.** Upon the Trigger Date, User hereby grants ISB, and ISB accepts, a worldwide, royalty-free, non-exclusive license to use, reproduce, modify, create derivative works of, publish, distribute, and sublicense any and all Modifications of User. The foregoing license and any sublicense shall include any intellectual property rights the User has the power to license whether at the time of the Trigger Date or thereafter, including, without limitation, copyrights, patent rights, trade secrets and trademarks.

2.4 **No Other Rights.** Nothing contained in this License or ISB's performance hereunder shall be construed as conferring upon any other party any right, title or interest under any property right, except for those rights expressly granted in Sections 2.1 and 2.2, and none shall be implied. All rights, titles and interests are expressly reserved by ISB. Nothing in this License shall grant User any rights to use any of the trademarks of ISB, even if such trademarks are included in Covered Software or its documentation.

## 3. ADDITIONAL USER OBLIGATIONS

3.1 **Application of License.** Modifications which User creates or to which User contributes are governed by the terms of this License. Covered Software may be distributed by User only under the terms of this License, and User agrees to include a copy of this License and the Required Notices set forth on Sections 3.3 and 3.5 with every copy of Covered Software that User distributes. User may not offer or impose any terms on the Covered Software that alters or restricts this License or the recipients' rights hereunder.

3.2 **Delivery of Source Code for Modifications.** User must provide to ISB a copy of all Source Code for any Modification of User that is subject to the license in Section 2.3. Such Source Code shall be delivered to ISB no later than five (5) days after the Trigger Date by uploading to <https://github.com> and emailing to [gustavo@systemsbiology.org](mailto:gustavo@systemsbiology.org).

3.3 **Description of Modifications.** User must cause all Modifications to contain a file documenting the changes User made and the date of any change.

### 3.4 Intellectual Property Matters.

(a) **Third Party Claims.** If User has knowledge that a license under a third party's intellectual property may be required to exercise the rights granted under Section 2.3, User must include a text file with the Source Code titled “LEGAL” which identifies the third party and its intellectual property in sufficient detail that ISB or another User will know whom to contact. If User obtains such knowledge after the Modification is made available as described in Sections 2.3 and 3.2, User shall promptly modify the LEGAL file in all copies User makes available thereafter and

shall take other steps (such as notifying appropriate mailing lists or newsgroups) reasonably calculated to inform those who received the Covered Software, including ISB.

(b) **Representations.** User represents that, except as disclosed pursuant to Section 3.4(a) above, User believes that its Modifications are User's original creation(s) and User has sufficient rights to grant the rights conveyed by this License.

3.5 **Required Notices.** User must duplicate the notice in Exhibit A in each file of the Source Code of Covered Software it distributes. If it is not possible to put such notice in a particular Source Code file, then User must include such notice in a location (such as a relevant directory) where a User would be likely to look for such a notice. User must also duplicate this License in any documentation for the Source Code where User describes recipients' rights or ownership rights relating to Covered Software.

4. **FEDERAL FUNDING** User understands that patent rights of ISB or Original Software may have been conceived or first actually reduced to practice, or following the first date upon which User downloads, installs, accesses or uses software may be first actually reduced to practice with funding from the U.S. government. All rights granted in this License shall be limited by and subject to the rights of the United States government, including those set forth in 35 U.S.C. §200 et seq. ("Bayh-Dole Act"). User agrees to comply and permit ISB to comply with the Bayh-Dole Act, including to provide the reporting required and to substantially manufacture in the United States, unless waived.

## 5. **DISCLAIMER OF WARRANTY**

COVERED SOFTWARE IS PROVIDED UNDER THIS LICENSE ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THAT COVERED SOFTWARE IS FREE OF DEFECTS, BUGS, MALICIOUS CODE OR ERRORS, MERCHANTABILITY, FIT FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. USER AGREES TO SAFEGUARD IMPORTANT DATA, TO USE CAUTION, AND NOT RELY IN ANY WAY ON THE CORRECT FUNCTIONING OR PERFORMANCE OF COVERED SOFTWARE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE COVERED SOFTWARE IS WITH USER. SHOULD ANY COVERED SOFTWARE PROVE DEFECTIVE IN ANY RESPECT, USER SHALL ASSUME THE COST OF ANY NECESSARY SERVICING, REPAIR OR CORRECTION. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS LICENSE.

## 6. **TERMINATION**

6.1 This License and the rights granted hereunder shall terminate automatically if User fails to comply with the terms herein and fails to cure such breach within 30 days of becoming aware of the breach. Provisions which, by their nature, must remain in effect beyond the termination of this License to fulfill their purpose shall survive, including Sections 2.2–2.4, 3.1–3.5, 4, 5, 7, 8, 9.

6.2 If User initiates litigation by asserting a patent infringement claim (excluding declaratory judgment actions) against ISB alleging that the Original Software directly or indirectly infringes any patent, then any rights granted to User under this License shall automatically terminate.

6.3 If it becomes impossible for User to comply with any term of this License, User must provide written notice to ISB within ten (10) days of discovering such impossibility. Upon receiving written notice from User, ISB may terminate this License with respect to User.

## 7. **LIMITATION OF LIABILITY**

USER ASSUMES ALL RISK AND RESPONSIBILITY FOR USING COVERED SOFTWARE AND FOR USE OF THE RESULTS OBTAINED, INCLUDING FOR ANY DAMAGE RESULTING THEREFROM AND THE COST OF ANY NECESSARY SERVICING, REPAIR AND/OR CORRECTIONS. USER AGREES TO BEAR THE ENTIRE RISK AS TO ITS USE OF COVERED SOFTWARE, INCLUDING ITS QUALITY AND PERFORMANCE, AND LOSS OF DATA ATTRIBUTED THERETO. NOTWITHSTANDING ANYTHING ELSE HEREIN, ALL LIABILITY OF ISB UNDER THIS LICENSE OR OTHERWISE RELATED TO COVERED SOFTWARE SHALL BE LIMITED TO TEN DOLLARS (\$10). IN NO EVENT SHALL ISB BE LIABLE FOR LOSS OF PROFITS, LOSS OF USE, LOST DATA, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **8. MISCELLANEOUS**

This License is governed by the laws of state of Washington without regard to any conflicts of laws principles. Any claim or dispute arising in connection with this License shall be finally resolved in the state or federal courts for Seattle, Washington, and the parties consent to jurisdiction and venue in such courts. This License is the complete and only agreement between User and ISB with respect to the Covered Software and supersedes all other communications, proposals, representations, understandings and agreements not specifically incorporated herein. This License may not be amended except in a writing signed by User and an authorized representative of ISB. The delay or failure to exercise a right is not a waiver thereof. If a provision is unenforceable it shall be reformed by ISB to be enforceable and the remaining terms shall be unaffected. User may not assign this License. This License shall be binding on each party's permitted successors and assigns. The Covered Software may be subject to export control laws and regulations, with which User agrees to comply.

## **9. RESPONSIBILITY FOR CLAIMS**

As between ISB and User, each party is responsible for claims and damages arising, directly or indirectly, out of its utilization of rights under this License and User agrees to work with ISB to distribute such responsibility on an equitable basis. Nothing herein is intended or shall be deemed to constitute any admission of liability.

## **EXHIBIT A**

The contents of this file are subject to the Institute for Systems Biology Non-Profit License (the "License"). User must be a NPO and User shall not download, install, access, or otherwise use the contents of this file except in compliance with the License.

You may obtain a copy of the License at [www.systemsbiology.org/nonprofitlicense](http://www.systemsbiology.org/nonprofitlicense). Software distributed under the License is distributed on an "AS IS" basis, WITHOUT WARRANTY OF ANY KIND, either express or implied. See the License for the specific language governing rights and limitations under the License.