



Cold Spring Harbor Laboratory

P.O. Box 100, Cold Spring Harbor, NY 11724

Office of Technology Transfer

NON-EXCLUSIVE LICENSE AGREEMENT

FirstEF Software

Cold Spring Harbor Laboratory, , in the United States of America, having a principal place of business at One Bungtown Road, Cold Spring Harbor, NY 11724 (hereinafter "CSHL") and _____ having a principal place of business at _____ (hereinafter "INSTITUTION") agree as follows:

1. BACKGROUND

1.1 In the course of a fundamental research program at CSHL, useful software was developed by Dr. Michael Zhang, Ramana V. Davuluri and Ivo Grosse, (the "Inventors").

1.2 CSHL is the sole owner of such software, and CSHL desires to grant non-exclusive, restricted-use licenses for in-house use.

1.3 INSTITUTION is interested in obtaining such a non-exclusive license and agrees to comply with the terms and conditions in this Agreement.

2. DEFINITIONS

"SOFTWARE" shall mean an executable version of the promoter and exon searching software program entitled "FirstEF" developed at CSHL by the Inventors which shall be provided to INSTITUTION and its Affiliates pursuant to Article 5 of this Agreement.

"IN-HOUSE USE" shall mean use only in conjunction with INSTITUTION and its Affiliates' own internal research and development programs at the INSTITUTION and shall not include the offering for sale or providing of services to or for others.

"DERIVATIVES" shall mean modifications of the SOFTWARE and any derivative works made from the SOFTWARE.

"EFFECTIVE DATE" shall mean the date the last party hereto has executed this Agreement.

3. GRANT

3.1 CSHL hereby grants INSTITUTION and its Affiliates a non-exclusive, non-transferable license under CSHL's copyright to use the SOFTWARE solely for IN-HOUSE USE subject to the payment of the processing and licensing fees set forth in Article 4. All right and title to the SOFTWARE and any copyrights therefor reside with CSHL.

3.2 INSTITUTION and its Affiliates are further granted the right to make derivative works and modify the SOFTWARE thereby producing DERIVATIVES. However, such DERIVATIVES may only be utilized for IN-HOUSE USE consistent with the scope of the license granted in Paragraph 3.1 and only as long as this Agreement is in effect. Neither the SOFTWARE nor DERIVATIVES may be transferred to a third party.

4. DELIVERY OF SOFTWARE

4.1 Within thirty (30) days from the execution of this Agreement, CSHL shall deliver to INSTITUTION the SOFTWARE. INSTITUTION may make a reasonable number of copies of the SOFTWARE for the purpose of backup, maintenance of the software or the development of DERIVATIVES. All copies of such SOFTWARE shall contain the appropriate copyright notice of CSHL.

4.2 INSTITUTION and its Affiliates shall not distribute or sell the SOFTWARE and/or DERIVATIVES to any third party without the prior written permission of CSHL. Furthermore, INSTITUTION and its Affiliates agree to maintain the SOFTWARE and DERIVATIVES as confidential.

4.3 Upon termination or expiration of this Agreement, INSTITUTION and its Affiliates agree to return all SOFTWARE and DERIVATIVES to CSHL.

5. ACKNOWLEDGEMENT

5.1 Licensee and/or its scientist shall acknowledge Ramana V. Davuluri, Ivo Grosse and Michael Zhang as the authors of FirstEF and CSHL as its source in any publication discussing FirstEF or results obtained using it.

5.2 Licensee and/or its scientist shall cite the following publication in any abstract, paper, or presentation referencing FirstEF: Davuluri, RV, Grosse, I and Zhang MQ, Computational identification of promoters and first exons in the human genome. Nature Genetics **29**:412-417 (2001).

6. MISCELLANEOUS

6.1 INSTITUTION and its Affiliates agree to comply with all governmental laws and regulations applicable to the use and production of the SOFTWARE and any DERIVATIVES. The SOFTWARE and/or DERIVATIVES shall not be used in any way for the diagnosis or treatment of humans.

6.2 INSTITUTION and its Affiliates accept the SOFTWARE "AS IS". NO WARRANTIES EXPRESSED OR IMPLIED ARE OFFERED, INCLUDING NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE SOFTWARE AND DERIVATIVES OR THEIR SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY. CSHL DOES NOT WARRANT THE MERCHANTABILITY OR FITNESS OF THE SOFTWARE AND DERIVATIVES OR THAT THEY MAY BE EXPLOITED WITHOUT INFRINGING THE COPYRIGHTS, PATENT RIGHTS OR PROPERTY RIGHTS OF OTHERS. Additionally, INSTITUTION and its Affiliates agree to indemnify, defend and hold harmless CSHL, their present and former trustees, officers, inventor of SOFTWARE, agents, employees, faculty and students from any claims, costs, damages or losses arising out of this Agreement and from INSTITUTION'S use of the SOFTWARE or DERIVATIVES provided in this Agreement. This indemnity shall survive termination of this Agreement.

6.3 INSTITUTION and its Affiliates shall not use the name of Cold Spring Harbor Laboratory or any of its constituent parts, or any contraction or derivative thereof or the name of the inventor of SOFTWARE in any advertising, promotional, sales literature or fundraising documents without prior written consent from an officer of CSHL. INSTITUTION and its Affiliates shall allow at least seven (7) business days notice of any proposed public disclosure for CSHL's review and comment or to provide written consent.

6.4 This Agreement may not be assigned or sublicensed, nor the rights otherwise transferred by INSTITUTION and its Affiliates. As used in this Agreement "Affiliates" means and refers to any entity which controls or is controlled by, or is under the common control with INSTITUTION.

6.5 The construction, performance and execution of this Agreement shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF the respective parties hereto have executed this Agreement by their duly authorized officers on the date appearing below their signatures.

COLD SPRING HARBOR LABORATORY

LICENSEE (INSTITUTION)

Signature
Ph.D., MBA, CLP™
Assistant Director
Office of Technology Transfer

Signature of Authorized Institution Jason Wen,
Official

Name of Authorized Institution Official
(please print)

Title of Authorized Institution Official
(please print)

READ AND UNDERSTOOD BY:

Signature of Licensee's Scientist

Name of Licensee's Scientist (please print)

Title of Licensee's Scientist (please print)

Email Address

Phone and FAX Numbers

Phone and FAX Numbers

Date