

GENSCAN LICENSE AGREEMENT

Effective as of _____ (“Effective Date”), THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, a body having corporate powers under the laws of the State of California (hereinafter “STANFORD”), and _____, a corporation having a primary place of business at _____ (hereinafter “LICENSEE”), agree as follows:

1. BACKGROUND

- 1.1 Certain software, known as GENSCAN, was developed at STANFORD with grant support from the U.S. Government.
- 1.2 STANFORD wishes to grant licenses to GENSCAN in order that it become available for public use and benefit.
- 1.3 LICENSEE wishes to acquire a license to use GENSCAN pursuant to the terms of this agreement.
- 1.4 STANFORD has distributed GENSCAN to certain organizations with no provision for support on a nonexclusive, nontransferable basis.
- 1.5 STANFORD has certain rights to the mark “GENSCAN” based on STANFORD’s use of the mark to identify GENSCAN.

2. DEFINITIONS

- 2.1 “GENSCAN” means the object code in binary form known as GENSCAN provided to LICENSEE pursuant to this Agreement.
- 2.2 “Licensed Field of Use” means internal research purposes only. GENSCAN may not be transferred.

3. GRANT

- 3.1 STANFORD grants, and LICENSEE accepts a worldwide, nonexclusive license to use, copy, and modify GENSCAN in the Licensed Field of Use.
- 3.2 STANFORD shall provide GENSCAN to LICENSEE within thirty (30) days of receipt of payment per Section 5.1.
- 3.3 STANFORD retains all intellectual property rights provided to LICENSEE.
- 3.4 LICENSEE acknowledges that GENSCAN is a research tool still in the development stage and that it is being supplied “as is,” without any accompanying services or improvements from STANFORD.
- 3.5 LICENSEE agrees:
 - (a) To maintain the quality of GENSCAN and otherwise to do such things as are reasonably necessary for the protection and maintenance of the “GENSCAN” mark in connection with its use thereof;
 - (b) To affix an appropriate notice of copyright to all copyrightable materials licensed under Paragraph 3.1 hereof, and to do such things as are reasonable to protect and preserve STANFORD’s rights in such copyrights;

- (c) To exercise due care in protecting GENSCAN from disclosure to third parties, at least to the degree it exercises care in protecting its own proprietary information; and
- (d) To take appropriate action with its employees and consultants to satisfy its obligation under this Agreement with respect to maintaining the above degree of protection for GENSCAN.

However, LICENSEE shall have no confidentiality obligations with respect to any information if the same or similar information is or becomes within the public domain through no act of LICENSEE in breach of this Agreement, is independently developed by LICENSEE, or is received unrestricted from another source who was not under an obligation of confidentiality to STANFORD.

3.6 LICENSEE agrees that the object code is for internal use only and that LICENSEE will not distribute or transfer the object code outside of LICENSEE.

4. GOVERNMENT RIGHTS

STANFORD may distribute all of GENSCAN, for such use or further distribution as may be reserved, required, or permitted by said U.S. Government grants or any applicable law or regulation or contractual obligation of STANFORD relating thereto, and LICENSEE agrees to take all action necessary on its part as licensee of STANFORD to enable STANFORD to comply with such obligations. LICENSEE is not otherwise required by this Agreement to provide any services related to such distribution.

5. ROYALTIES

5.1 In consideration of the licenses granted herein, LICENSEE shall pay to STANFORD a license issue royalty of Thirteen Thousand Dollars (\$13,000).

5.2 Beginning one year from the Effective Date of this Agreement and each anniversary thereafter, LICENSEE also shall pay a nonrefundable annual royalty of Thirteen Thousand Dollars (\$13,000).

5.3 Payments to STANFORD shall be in U.S. Dollars and shall be net of all non-U.S. taxes.

6. NEGATION OF WARRANTIES

6.1 Nothing in this Agreement shall be construed as:

- (a) 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 patents, copyrights, and trademarks of third parties;
- (b) Conferring rights to use in advertising, publicity, or otherwise any trademark or the name of "STANFORD"; or
- (c) Granting by implication, estoppel, or otherwise any licenses or rights under patents of STANFORD.

6.2 Except as expressly set forth in this Agreement, STANFORD MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE SOFTWARE WILL NOT INFRINGE ANY PATENT, COPYRIGHT, OR TRADEMARK, OR OTHER RIGHTS OR ANY OTHER EXPRESS OR IMPLIED WARRANTIES.

7. INDEMNITY

7.1 LICENSEE agrees to indemnify, hold harmless, and defend STANFORD, and Stanford Health Services and their respective trustees, officers, employees, students, and agents against any and all claims for death, illness, personal injury, property damage, and improper business practices arising out of the use of SOFTWARE by LICENSEE.

7.2 STANFORD shall not be liable for any indirect, special, consequential, or other damages whatsoever, whether grounded in tort (including negligence), strict liability, contract, or otherwise.

7.3 LICENSEE shall at all times comply, through insurance or self-insurance, with all statutory workers' compensation and employers' liability requirements covering any and all employees with respect to activities performed under this Agreement.

8. PROMOTIONAL ADVERTISING

LICENSEE agrees not to identify STANFORD in any promotional advertising or other promotional materials to be disseminated to the public or any portion thereof or to use the name of any nonconsenting STANFORD faculty member, employee, or student, or any trademark, service mark, trade name, or symbol of STANFORD or the Stanford Health Services, or that is associated with either of them, without STANFORD's prior written consent. Any use of either party's name shall be limited to statements of fact and shall not imply endorsement of the other's products or services.

9. TERMINATION

9.1 This Agreement may be terminated by LICENSEE upon thirty (30) days written notice to STANFORD.

9.2 This Agreement may be terminated by STANFORD if after at least thirty (30) days written notice by STANFORD as to the nature of noncompliance to any terms of this Agreement, LICENSEE is still in noncompliance.

9.3 Surviving any termination are:

- (a) LICENSEE's obligation to pay royalties accrued or accruable;
- (b) The provisions of Articles 6, 7 and 8; and
- (c) Any cause of action or claim of LICENSEE or STANFORD, accrued or to accrue, because of any breach or default by the other party.

9.4 Concurrent with termination by either LICENSEE or STANFORD, LICENSEE agrees to return, or destroy, all copies of GENSCAN in its possession.

10. MISCELLANEOUS

10.1 Export: LICENSEE warrants that LICENSEE will not export or reexport, directly or indirectly, to any country except when such export or reexport is authorized in full compliance with the laws and regulations of the United States of America.

10.2 Assignment: This Agreement may not be assigned.

10.3 Notices: All notices shall be deemed to have been fully given when done in writing and deposited in the United States mail, registered or certified, and addressed as follows:

To STANFORD: Office of Technology Licensing
Stanford University
1705 El Camino Real
Palo Alto, CA 94306
Attention: Director

To LICENSEE: _____

Attention: _____

Either party may change its address upon written notice to the other party.

10.4 Waivers: None of the terms, covenants, and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

10.5 Scope of the Agreement: This Agreement is the only Agreement between the parties pertaining to the subject matter hereof and supersedes all prior negotiations, documents, agreements, and representations.

10.6 Applicable Law: This Agreement shall be construed, interpreted, and applied in accordance with the laws of the State of California.

10.7 Electronic Copy: The parties to this document agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The parties further waive any right to challenge the admissibility or authenticity of this document in a court of law based solely on the absence of an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate originals by their duly authorized officers or representatives.

THE BOARD OF TRUSTEES OF THE LELAND STANFORD
JUNIOR UNIVERSITY

Signature _____
Name _____
Title _____
Date _____

LICENSEE

Signature _____
Name _____
Title _____
Date _____