UCSC Genome Browser LiftOver Tool End User License Agreement

This is a legal agreement between you and The Regents of the University of California on behalf of its Santa Cruz campus (“Regents”). By ACCEPTING this agreement, you agree to be bound by the terms of this Non-Exclusive License Agreement. When you check the box for acceptance and start using the UCSC Genome Browser (GB) LiftOver tool, you will still be bound by the terms of this Non-Exclusive License Agreement.

This Agreement is for the use of the UCSC Genome Browser LiftOver tool in an educational, research, clinical, non-profit, governmental, or for-profit, and corporate setting.

1. Background.

The Genome Bioinformatics Group at UCSC (“Laboratory”), has developed and is owner of the UCSC Genome Browser LiftOver tool (“Licensed Product”). Howard Hughes Medical Institute (“HHMI”) had an ownership in the Licensed Work and assigned that interest to UC, subject to a paid-up, non-exclusive, irrevocable license to use the Licensed Work for HHMI’s research purposes. Licensee desires to obtain the Licensed Work to be installed on a single computer of Licensee.

2. Definitions: The following definitions apply herein:

(a) “Copyright” means as described in the “Copyright Law of the United States of America” and related laws contained in Title 17 of the United States Code.

(b) “Licensee” or, alternatively, “You” means the individual or entity who is accepting this Agreement and completing the Licensee Information section.

(c) "Licensed Products" means the “UCSC Genome Browser LiftOver tool” (the “Work”), which was made in the course of research at the University of California, Santa Cruz and is claimed in The Regents’ Copyright Rights, and is generally referred to as "UCSC Genome Browser LiftOver tool”.

(d) “Derivative Work(s)” means any changes, revision, enhancement, modification, translation, abridgement, condensation, or expansion created by Licensee that is based upon the Work or a portion thereof that would be a copyright infringement if prepared without the authorization of the copyright owners of the Work, or portion thereof.

(e) "User Limitations" means the way the Work can be used by the user, as set forth in section 3.

(f) “Accept” means ACCEPTING this agreement, enabled by checking (i.e., Clicking on) the “Agree” button.
(g) "License Fee" means the non-refundable license fee as specified on UCSC Genome Browser online store website.

(h) “Patents” means as described and governed by Title 37 – United States Code of Federal Regulations Patents, Trademarks, and Copyrights and the laws and regulations of the World Intellectual Property Organization pertaining to Patent Cooperation Treaty (PCT)

3. Limited License Grant
The UCSC Genome Browser LiftOver tool is licensed to you under the terms of this Agreement and subject to these User Limitations.

User Limitations:
   a. Field of use – UCSC Genome Browser LiftOver tool for private use
   b. Individual single point of use application (i.e., Laptop or desktop computer)

Subject to the terms, and conditions of the Agreement, The Regents hereby grants to you the non-exclusive right to copy Licensed Products, subject to the User Limitations listed above.

- Licensee shall not have the right to create Derivative Works of the Licensed Products.
- Licensee shall not have the right to sublicense, sell, transfer, or assign the Licensed Products.
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- Licensee shall not alter the Licensed Products without the prior written consent of Licensor, other than to add its own instructions to the Licensed Products as long as the added instructions do not alter any of the existing text of the Licensed Products.
- If translations of the Licensed Products are needed, please contact Licensor before translating.

The Regents reserves all rights not expressly granted to you under this Agreement.

Fees. In consideration for the License, Licensee, by way of the UCSC Genome Browser online store, will pay to The Regents a non-refundable license fee.

4. Care for Data
You will use reasonable care in keeping the Licensed Products confidential; using at least the same degree of care you exercise in protecting your own proprietary information of a similar nature but at a minimum reasonable care. You shall comply with all applicable federal and state laws regarding the confidentiality of health information, including the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) at all times.

5. Effective Date
This Agreement becomes effective the date that you ACCEPT this Agreement ("Effective Date"). The Regents shall make the Licensed Products available for electronic delivery promptly following enabling (i.e., clicking on) the “agree” button of the Agreement.
6. Support
Licenser may, at its sole discretion, offer limited support, future enhancements or upgrade versions to Licensee without cost. Licensor may offer extended support to Licensee at a price that will be determined on a case-by-case basis.

7. Term and Termination
The rights and licenses granted herein shall continue for an initial term of one (1) year commencing on the Effective Date. The Agreement may be renewed for successive terms by following the same aforementioned procedure. Either party may terminate this Agreement with written notice upon the occurrence of a default or breach by the other party in any of its obligations under this Agreement, provided such default or breach continues for more than thirty (30) days after receipt by such other party of notice; provided, however, there shall be no such cure period with respect to any breach of Licensee's obligation under Section 9 hereto. Upon termination of this Agreement under this Section 7, Licensee agrees to cease using the Licensed Products and to destroy all such Licensed Copies.

8. Limited Warranty
The Regents warrants that it has the lawful right to grant this license to Licensee.

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EXERCISE OF THIS LICENSE OR THE USE OF THE WORK OR LICENSED PRODUCTS. THE REGENTS WILL NOT BE LIABLE FOR ANY CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, AND BREACH OF WARRANTY) EVEN IF THE REGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Your Indemnity
Licensee shall indemnify, defend with counsel acceptable to UC, and hold harmless The Regents of the University of California and the developers of the Licensed Work, their successors, agents, officers, and employees, either in their individual capacities or by reason of their relationship to UC (collectively, “UC Indemnitees”), with respect to any claim, liability, cost, damage, deficiency, loss, or obligation, of any kind or nature (including, without limitation, reasonable attorney’s fees and other costs and expenses of defense) (collectively, “Claims”), including without limitation any cause of action relating to product liability, any incidental or consequential damage either direct or indirect, whether incurred, made or suffered by Licensee or any third party, in connection with, or in any way arising out of, the furnishing, performance, possession or use of the Licensed Work or in connection with the exercise of this Agreement. 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 a UC Indemnitee. This provision shall survive termination of this Agreement.

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, “HHMI 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 HHMI 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. Notwithstanding any other provision of this Agreement, Licensee’s obligation to defend, indemnify and hold harmless the HHMI Indemnitees under this paragraph will not be subject to any limitation or exclusion of liability or damages or otherwise limited in any way. This provision shall survive termination of this Agreement.

10. Protection of Licensed Products
Except as expressly provided herein, You receive no rights to and will not sell, assign, lease, market, transfer, encumber, or otherwise allow any third person, firm, corporation, or other entity to use, copy, or reproduce in whole or in part in any manner the Licensed Products. You shall ensure that no unauthorized copy, in whole or in part, in any form shall be made of the Licensed Products. You shall not permit any user to modify any part of the Licensed Products.
11. Assignment
Except as expressly provided herein, you may not assign, sublicense, or otherwise transfer the rights, duties, or obligations under this Agreement to any other party or entity, in whole or in part, without the prior written consent of The Regents.

12. Notices
Notices to Licensee shall be sent to the address specified beneath Licensee's signature below and to Licensor to:

The Regents of the University of California
University of California, Santa Cruz
Office for Management of Intellectual Property
1156 High Street, m/s OR
Santa Cruz, Ca, 95064
Technology@ucsc.edu

Attention: Licensing Officer
Ref: UCSC GB LiftOver tool

Notice shall be effective: (a) on the date of delivery if delivered in person, (b) five (5) days after mailing if mailed by first-class certified mail, postage paid, or (c) on the next business day if sent by overnight delivery. Either party may change its designated address by written notice.

13. Miscellaneous
(a) 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. No modification or amendment to this Agreement will be valid or binding unless reduced to writing and duly executed by the party or parties to be bound thereby;

(b) Licensee will not use any name, trade name, trademark, or other designation of The Regents’ or its employees (including contraction, abbreviation, or simulation of any of the foregoing) in advertising, publicity, or other promotional activity. Unless required by law, Licensee is expressly prohibited from using the name "The Regents of the University of California" or the name of any campus of the University of California in advertising, publicity, or other promotional activity without written permission of The Regents. Licensee acknowledges that under HHMI policy, Licensee may not use the name of HHMI or of any HHMI employee in a manner that reasonably could constitute an endorsement of a commercial product or service; but that use for other purposes, even if commercially motivated, is permitted provided that (1) the use is limited to accurately reporting factual events or occurrences, and (2) any reference to the name of HHMI or any HHMI employees in press releases or similar materials intended for public release is approved by HHMI in advance;

(c) THIS AGREEMENT IS TO BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, but the scope and validity of any copyright will be governed by the applicable laws of the country of the copyright registration;
(d) The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of, this Agreement;

(e) The waiver of any breach of any term of this Agreement does not waive any other breach of that or any other term;

(f) If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable as long as a party's rights under this Agreement are not materially affected. In lieu of the unenforceable provision, the parties will substitute or add as part of this Agreement a provision that will be as similar as possible in economic and business objectives as was intended by the unenforceable provision;

(g) No provisions of this Agreement are intended or shall be construed to confer upon or give to any person or entity other than The Regents, HHMI, the HHMI Indemnitees and the Licensee any rights, remedies, or other benefits under, or by reason of, this Agreement;

(h) In performing their respective duties under this Agreement, each of the parties will be operating as an independent contractor. Nothing contained herein will in any way constitute any association, partnership, or joint venture between the parties hereto or be construed to evidence the intention of the parties to establish any such relationship. Neither party will have the power to bind the other party or incur obligations on the other party’s behalf without the other party’s prior written consent.

(i) 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. This provision shall survive termination of this Agreement.

UCSC GENOME BROWSER LIFTOVER TOOL LICENSE: Contact the UCSC Office for Management of Intellectual Property, at technology@ucsc.edu, for questions concerning this Agreement.