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*SOFTWARE SUB-LICENSE AGREEMENT ONLY FOR*

*INTERNAL ACADEMIC RESEARCH PURPOSES*

*AND/OR REVIEW OF SCIENTIFIC PUBLICATIONS*

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OF THE LABORATORY « UMR MITOVASC – CNRS 6015 – INSERM 1083 – Université d'Angers,  
France »

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## **PREAMBLE :**

OUEST VALORISATION, is a French Technology Transfer Acceleration Company, created to protect and transfer the results from its shareholders and its beneficiary establishments located in the regions of Brittany and Pays de la Loire. As such, OUEST VALORISATION invests for the protection and maturation of the results from research, ensures the management of intellectual property rights and leads promotional activity to encourage their socioeconomic transfer. OUEST VALORISATION also handles the support to start-up creation coming from the research activities.

Mr. Floris CHABRUN, Mr. Xavier DIEU, Mrs. Delphine MIREBEAU-PRUNIER and Mr. Pascal REYNIER, from the Laboratory MITOVASC UMR 6214 (hereinafter the « Laboratory »), have developed the version 0.101 of a software called SPECTR to be used for assisting the medical practitioner in the interpretation of serum protein electrophoresis curves obtained by capillary electrophoresis as defined in the article 1 Definitions and hereinafter designated as the « Software ».

As per French Law the exploitation rights of the Software regarding the contribution of Floris CHABRUN, Mr. Xavier DIEU, Mrs. Delphine MIREBEAU-PRUNIER and Mr. Pascal REYNIER are owned by their employers and/or the public body in which they are doing their research, i.e. UNIVERSITE d'ANGERS and THE CHU D'ANGERS (hereinafter the "CO-OWNERS").

As per their general agreements with OUEST VALORISATION, the CO-OWNERS uses OUEST VALORISATION for the protection of their intellectual property rights and their valorization. Therefore, as per its agreements with the CO-OWNERS, OUEST VALORISATION has the right to sub-license the Software to third parties.

The User as defined in the article definitions below needs the SOFTWARE to perform its internal academic research and/or to review the scientific publications of the Laboratory.

In this purpose, OUEST VALORISATION agrees to grant to USER a written sub-license of the Software under the conditions detailed below.

## **THEREFORE OUEST VALORISATION AND USER AGREE TO THE FOLLOWING:**

### **ARTICLE 1. DEFINITIONS**

« Agreement »: means the present agreement and containing:

- the body of the present agreement;
- Its Annex which technically describes the Software.

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« Error, Bugs »: means the malfunctioning of the Software preventing the functionalities specified in the documentation of the Software to work, only due to a Software default and reproducible.

« Rights Granted »: means the rights granted in the Software by OUEST VALORISATION to the USER, under the condition defined in the Agreement.

« Software »: means the Source Code and the Executable Code of the Software as described in Annex 1 and if available, associated documentation and user documentation.

« Executable Code »: means any Software expressed in a machine language and executable on a computer."

« Source Code »: means any software expressed in a programming language understandable by a human being, comprising the information included in the source code.

« Derived Product(s) »: mean any system/machine comprising material elements and softwares, integrating all or part of the Software, or any work of authorship (including all software, software package and their associated documentation), derived or compiled, that the USER may develop from the Software.

« Partnership Project »: means any research collaboration, whether national, european or international, between the USER and one or several third party(ies) (companies or public organization), as set forth in a contract of any kind (research collaboration, european consortium.....).

« Software Sub-sub-granting of rights»: means the granting of sub-sub-license rights in the Software by the USER to a third party in accordance with the terms of the Agreement but which does not grant any sub-sub-license in the Software included in whole or in part in a Derived Product.

« Derived Product Sub-sub-license »: means the granting of sub-sub-license rights in a Derived Product by the USER to a third party in accordance with the terms of the Agreement.

« OUEST VALORISATION »: means a French « société par actions simplifiée » with a capital of € 1 000 000, having its corporate seat located at 14 C rue du Pâtis Tatelin 35000 Rennes, registered in the French trade and company register of Rennes under the # B 753 000 611, duly represented by its President, Mr. Vincent LAMANDE.

« Party » or « Party »: mean the USER and/or OUEST VALORISATION.

« USER »: means the person using the Software only to perform its internal academic research and/or to review the scientific publications of the Laboratory under the term and conditions of the Agreement and having accepted the Agreement as per article 3 below.

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## ARTICLE 2. PURPOSE

The purpose of the Agreement is to specify the terms and conditions under which OUEST VALORISATION grants the USER a right to non-exclusively use the Software for its internal academic research and/or to review the scientific publications of the Laboratory as detailed below.

## ARTICLE 3. ACCEPTANCE

The USER is deemed to have accepted the term and conditions of this Agreement by clicking on the “accept” button accessible at: <https://spectr.shinyapps.io/SPECTR> or at <https://spectronline.fr>. as per the date of such acceptance.

If the USER is using the Software within the frame of an employment mission/agreement, he/she shall make sure with his/her employer that he/she has full right to agree on the terms of this Agreement before clicking on the accept button.

## ARTICLE 4. GRANTED RIGHTS

### 4.1 Utilization Rights

OUEST VALORISATION grants the USER:

- the non-exclusive right to use the Software only for its internal academic research and/or to review the scientific publications of the Laboratory for the duration set forth in article 6 below and only for in the territory set forth in article 5 below (the “Utilization Rights”).

Only in connection and compliance with the above granted rights, the USER shall have the right:

- to translate, adapt, arrange and more generally modify the Software for performing its research and development works;
- to correct Error and Bugs.

All those granted rights shall be together designated below as the “Utilization Rights”.

It is specified that the Utilization Rights are granted by OUEST VALORISATION only via the platforms : <https://spectr.shinyapps.io/SPECTR> and/or <https://spectronline.fr> (hereinafter the « Platform(s) »)

### 4.2 Exclusions and Assistance

All rights not granted as per article 4.1. are expressly excluded from the Agreement.

In particular, the USER shall have no right:

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- to propose to any third party any agreements in connection with the Software or with Derived Products;
  - to integrate the Software in Derived Products;
  - to use the Software outside of academic research purposes and/or to review the scientific publications of the Laboratory, meaning notably no right to perform a clinical use of the Software. In addition, the interpretation of a SERUM PROTEIN ELECTROPHORESIS shall always be validated by a medical biologist with appropriate experience, with respect to the patient's history and their clinical and biological context;
  - to commercialize the Software;
  - to grant Software or Derived Product Sub-sub-licenses to any third party;
  - to use the Software in Partnership Project;
  - to propose any service concerning the Software to any third party.

This Agreement covers only the version 0.101 of the Software, any use by the USER of any subsequent version is not authorized as per the Agreement.

In addition, OUEST VALORISATION does not commit by this Agreement to transfer to the USER any know-how in connection with the Software.

#### 4.3 Uploading by USER of data on the Platforms

In addition, it is agreed by the USER that any data that the USER may upload on the Platforms shall be anonymized by the USER previously to any uploading on the Platform(s) and the USER expressly agrees to its processing by OUEST VALORISATION and/or the CO-OWNERS in the context of the use of the Software by the USER. Under no circumstances, OUEST VALORISATION and/or the CO-OWNERS shall be responsible for any uploading by the USER of any data not anonymized. In this regard, the USER is informed that the data the USER may upload on the Platforms shall be temporary stocked by OUEST VALORISATION and/or the CO-OWNERS only for analysis purposes only in connection with the use of the Software by the USER, such uploaded data shall be deleted by OUEST VALORISATION and/or the CO-OWNERS after performance of such analysis within thirty (30) days.

In particular, the USER shall make sure that the transfer of any personal data on the Platforms is made in compliance with applicable General Data Protection Regulation (EU) 2016/679.

#### ARTICLE 5. TERRITORY

The Sub-License is granted only in the territory where the employer of the USER has its head office located.

#### ARTICLE 6. DURATION

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The Agreement shall commence upon acceptance in accordance with article 3 above by the USER of this Agreement for a duration of three (3) years. The Agreement may only be renewed following new acceptance by the USER.

## **ARTICLE 7. TECHNICAL CONTACTS AND COOPERATION BETWEEN THEM**

At signature of the Agreement and for its performance, the Laboratory technical contact shall be: Mr. Pascal REYNIER (hereinafter the “Technical Contact”). OUEST VALORISATION may unilaterally modify the Technical Contact with the prior information of the USER.

The USER shall meet by teleconference the Technical Contact or any of its collaborators at least once a year for technical and/or research results review and for the USER to communicate to the Technical Contact or any of its collaborators its return of experience on the use of the Software during the Agreement. The diligent performance by the USER of this technical and/or research results review is a substantial condition for OUEST VALORISATION to grant this Agreement.

## **ARTICLE 8. INTELLECTUAL PROPERTY AND PUBLICATION**

### **8.1 Intellectual Property**

The copyright and all exploitation/use rights of the Software are and remain the property of the CO-OWNERS. In consequence, OUEST VALORISATION may grant sub-license to third parties.

This Agreement does not assign/transfer to the USER any property rights in the Software.

The modifications made by the USER to correct Bugs and Errors shall be integrated in the Software and therefore, the intellectual property rights in connection with such correction of Bugs and Errors shall be freely transferred to the CO-OWNERS.

Derived Software(s) made by the USER shall be the exclusive property of the USER subject to the property of the CO-OWNERS on the Software. The choice to develop Derived Software(s) shall belong to the USER. Notwithstanding the foregoing clause, the USER accepts that the CO-OWNERS and the other supervisory entity of the Laboratory may use the Derived Softwares for internal and collaborative research purposes with third parties.

In order to allow to apply the above clauses, the USER commits to deliver any Derived Software to Université d’Angers which will deliver it to the other supervisory entity of the Laboratory. The USER shall inform OUEST VALORISATION of any delivery made in this context.

The USER undertakes to maintain on any copy of the Software the following copyright notice: “developed by Université d’Angers and CHU d’Angers”.

In addition, the USER is informed that the Software uses third parties' softwares as listed in the tables below and having the licences indicated in the column "licence" of the tables below. Therefore, when using those third parties softwares, the USER shall comply with the terms of the licences listed in the tables below.

Name	License
<b>Back-end:</b>	
python 3.7.9	Python Software Foundation License 2.4.2
tensorflow 2.3.2	Apache License 2.0
Numpy 1.18.5	BSD 3.0
h5py 2.10.0	BSD 3.0
<b>Front-end:</b>	
R 4.0.3	GNU General Public License 2   3
Shiny 1.6.0	GNU General Public License 3
shinyJS 2.0.0	MIT License
shinyBS 0.61	GNU General Public License 3
RJSONIO 1.3	BSD 3.0
Ggplot2 2.2.1	MIT License
DT 0.17	GNU General Public License 3
Magick 2.6.0	MIT License
Reticulate 1.18	Apache License 2.0

## 8.2 Publication

Any publication of the USER in connection with results obtained by using the Software shall cite the Software and reference the publications of the Laboratory in connection with the Software. The USER undertakes to supply to the Laboratory with a copy of such publication one (1) month before its submission.

## ARTICLE 9. DELIVERY AND ERROR COMMUNICATION

9.1 Following acceptance of the Agreement by the USER, the Laboratory shall provide USER with access to the Software via the platform : <https://spectr.shinyapps.io/SPECTR> and/or <https://spectronline.fr>.

The USER shall use the Software and at its own risks.

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9.4 Starting on access to the Software, the USER shall communicate to the Laboratory all information he/she gets on Error while using the Software till the ending term of the Agreement.

#### **Article 10. THE USER'S OBLIGATIONS**

10.1 The USER commits to use the Software pursuant to this Agreement only in accordance with Article 4 above.

10.2 The USER commits to inform OUEST VALORISATION of any third party act of copyright infringement of which it has knowledge. If any copyright infringement action is filed against USER while using the Software, the USER commits to promptly inform OUEST VALORISATION and OUEST VALORISATION in link with the CO-OWNERS who shall communicate the elements within their possession for the USER's defence.

#### **Article 11. OUEST VALORISATION'S OBLIGATIONS**

##### **11.1 Warranty**

The USER acknowledges and agrees that the Software is a research prototype as it has been developed by employees of the CO-OWNERS for research purpose in the Laboratory. In this context, the Software has not received the necessary agreements and certification to be commercialized. In particular, the USER acknowledges and agrees that the Software has not received regulatory clearance for clinical use. Therefore, OUEST VALORISATION only warrants the delivery of the Software as it is. OUEST VALORISATION cannot warrant: (i) that the Software will fit with any of the purpose of the USER, and/or (ii) shall work in every operating environment, and/or (iii) will run uninterrupted or Error free and/or (iv) that any Error will be corrected or correctable.

##### **11.2 Liability**

Under no circumstances will OUEST VALORISATION and/or the CO-OWNERS be liable for any consequential, indirect or incidental damages or loss of profits, whether foreseeable or unforeseeable, based on claims of the USER (including, but not limited to, claims for loss of data, goodwill, use of money, interruption in use or availability of data) arising out of use of the Software by the USER or its clients.

#### **Article 11. ROYALTIES**

The Parties expressly agree that no royalty is due by the USER to OUEST VALORISATION for the Rights Granted as per article 4 above.

#### **Article 12. NON DISCLOSURE**



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Each party undertakes not to disclose, without the prior written consent of the other Party, to any third party any documentation or information including but not limited to the Source Code of the Software which it shall learn during the execution of this Agreement for its full duration and three years following the term of the Agreement.

This obligation of confidentiality doesn't apply on:

- information having been the subject of anterior publication of the present Agreement;
- had a public nature prior to its communication by the disclosing Party or fell within the public domain after such communication but though not fault or fraud of its own;
- is received from a third party without any breach of any secrecy obligation.

The Parties agree that they shall divulge the existence of this Agreement but they shall not divulge its terms unless expressly agreed in writing by the other Party. Notwithstanding the foregoing, OUEST VALORISATION shall be permitted to disclose the terms of this Agreement, without consent, to the CO-OWNERS, to its professional advisors, actual and potential investors and their professional advisors, provided that such third parties are subject to obligations of non-disclosure with respect to such terms.

### **Article 13. ASSIGNMENT**

This Agreement is executed in consideration of the nature of the research activities/review activities of the the USER Therefore, the USER shall not assign or transfer in whole or in part this Agreement to a third Party.

### **Article 14. TERMINATION**

This Agreement may be terminated by OUEST VALORISATION with a prior thirty (30) days written notice, If the the USER does comply with articles 4, or 7 or 12 and fails to remedy any of those breaches within two months (2) months of receipt of written notification of the breach by certified letter.

### **Article 15. MISCELLANEOUS PROVISIONS / GENERAL**

#### **15.1 Modifications**

This Agreement may not be modified except by an amendment in writing signed by a duly authorized representative of all the Parties.

#### **15.2 Entirety**

The Agreement contains the entirety of the terms and conditions agreed by the Parties. This Agreement cancels and replaces any prior declaration, negotiation, commitment between the Parties on the same object.

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### 15.3 Severability

In case of difficulties in the interpretation of the Agreement between any of the title of the clauses or of the articles or its stipulations, those titles shall be declared null and void.

If any provision of the Agreement is declared invalid, unlawful or unenforceable by any jurisdiction, it shall not affect the validity or enforceability of the remaining provisions and the Party shall seek when legally possible to find a replacement provision.

### **Article 16. GOVERNING LAW**

This Agreement will be governed and construed in accordance with the Laws of France.

### **Article 17. LITIGATION / DISPUTES**

This Agreement is written in English language. In the event of a dispute ensuing from the interpretation or the performance of this Agreement, the Parties undertake to initially seek a friendly solution. If such solution cannot be reached, the dispute will be for the exclusive competence of French courts.

Nothing in this Agreement shall limit the Parties' right to seek injunctive relief.

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## ANNEX

### Description of the Software

Only version 0.101 of the software called « SPECTR » dated June 15, 2021, developed in Python and R language, registered in France the 19/07/2021 in the agency for the protection of programs under the number IDDN.FR.001.30002.00.S.C.2021.000.31230.

SPECTR is an artificial intelligence designed for providing validation assistance for the interpretation of Serum Protein Electrophoresis (SPE) in medical laboratories. The algorithm allows the automated analysis of spectra obtained by electrophoresis, by integrating different clinical and biological data (serum total protein, age, sex). It performs all the steps of the analysis of the SPE: fractionation, quantitative measurement of the different fractions, quantitative and qualitative analysis of the curve, and restitution of results with the output of a biological interpretation comment. *This software allows a thorough customization of all thresholds and decision procedures by the medical biologist, and automatically updates its final interpretation based on the operator's input. SPECTR is not designed for clinical use, and should not be used outside of academic research purposes. In addition, it should be noted that the interpretation of a SPE should always be validated by a medical biologist with appropriate experience, with respect to the patient's history and their clinical and biological context.*