

Online Store

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Software Licence Agreement

PLEASE READ CAREFULLY BEFORE INSTALLING THE SOFTWARE:

This licence agreement (Licence) is a legal agreement between you (Licensee or you) and CrystalMaker Software Limited of Centre for Innovation & Enterprise, Begbroke Science Park Woodstock Road, Begbroke, Oxfordshire, OX5 1PF, United Kingdom, (Licensor, us or we) for:

- the software you have purchased a license to use (Software); and
- the online documentation (if paid for) (Documentation).

We licence use of the Software and Document to you on the basis of this Licence. We do not sell the Software or Documentation to you. We remain the owners of the Software and Documentation at all times.

IMPORTANT NOTICE TO ALL USERS:

- By installing the Software or clicking on the "accept" button you agree to the terms of this Licence which will bind you and if relevant to the licensing option you purchased, your employees, contractors and students (the users).
- If you do not agree to the terms of this Licence, we will not license the Software and Documentation to you and you must discontinue the installation process now.
- If you have purchased this Licence on behalf of your educational institution or company, you procure that all users will comply with the terms and conditions of this Licence.

You should print a copy of this Licence for future reference.

1. Grant and scope of licence

1.1. In consideration of you agreeing to abide by the terms of this Licence and the payment of the appropriate licence fee, we grant to you a non-exclusive, non-transferable licence to use the Software and the Documentation on the terms of this Licence.

1.2. You may:

- a. install and use the Software in accordance with the option you purchased (described further in the [Licensing Guide](#) page of our website (the Licensing Options));

b. provided you comply with the provisions in clause 2 make a reasonable number of copies of the Software for sole purposes of back-up and provided that you do not use the backup copies for any purpose except restoration of the Software after loss; and

c. use any Documentation which you have paid for in support of the use permitted under clause 1.2.

1.3. If you have an "education licence" and are using the Software for commercial use and/or business use, you must pay the additional licence fee to obtain a "commercial licence".

1.4. If you are using the Software beyond the rights granted by the Licensing Options, you must pay the additional licence fee to ensure that you are correctly licensed to use the Software. If you do not pay us the additional licence fee, without limit to our other rights and remedies we will terminate this Licence in which case you must (and procure all users) immediately cease to use the Software and Documentation. You acknowledge that we have the right to remotely terminate access and use of the Software to all users.

1.5. Additional licence fees for expanded use are set out in our website.

2. Restrictions

2.1. Except as expressly set out in this Licence or as permitted by law, you undertake:

- a. not to copy the Software or Documentation except where such copying is incidental to normal use of the Software or where it is necessary for the purpose of back-up;
- b. not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or Documentation;
- c. not to make alterations to, or modifications of, the whole or any part of the Software nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
- d. not to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Software unless it is essential to do so in order to achieve operability of the Software with another software program, and you have first requested us to provide the information necessary to achieve such operability and we have not made such information available. You acknowledge that we have the right to impose reasonable conditions and to request a reasonable fee before providing such information. Any information supplied by us or obtained by you, as permitted under this Licence, may only be used by you for the purpose described in this clause and may not be disclosed to any third party or used to create any software which is substantially similar to the expression of the Software;
- e. to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software
- f. to supervise and control use of the Software and ensure that the Software is used by your employees and representatives in accordance with the terms of this Licence;
- g. to include our copyright notice on all entire and partial copies of the Software in any form; and
- h. not to provide, or otherwise make available, the Software in any form, in whole or in part to any person other than permitted by the Licensing Option you have purchased.

2.2. You acknowledge that we have the right to remotely verify and audit your and users use of the Software.

3. Intellectual property rights

3.1. You acknowledge that all intellectual property rights in the Software and the Documentation throughout the world belong to us, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software or the Documentation other than the right to use them in accordance with the terms of this Licence.

3.2. You acknowledge that you have no right to have access to the Software in source code form or in unlocked coding.

3.3. The integrity of this Software is protected by technical protection measures (TPM) so that the intellectual property rights, including copyright, in our Software are not misappropriated. You must not attempt in any way to remove or circumvent any such TPM, nor to apply, manufacture for sale, hire, import, distribute, sell, nor let, offer, advertise or expose for sale or hire, nor have in your possession for private or commercial purposes, any means whose sole intended purpose is to facilitate the unauthorised removal or circumvention of such TPM.

3.4. You are permitted to use Software-generated media (graphics, video, web pages, etc.) in any of your publications without paying any additional licensing fee, provided that you acknowledge the use of the Software. A suitable example would be:

"Images and video generated using CrystalMaker®: a crystal and molecular structures program for Mac and Windows. CrystalMaker Software Ltd, Oxford, England (www.crystallmaker.com)"

3.5. If space is limited you can just list the application name, company name and web address. You must include the registered trademark symbol ® after the application name, as this is important, for legal reasons.

4. Limited warranty

4.1. We warrant that:

- a. the Software will, when properly used and on an operating system for which it was designed, perform substantially in accordance with the functions described in the Documentation; and
- b. that the Documentation correctly describes the operation of the Software in all material respects, for a period of 90 days from the date of installation of the Software (Warranty Period).

4.2. If, within the Warranty Period, you notify us in writing of any defect or fault in the Software as a result of which it fails to perform substantially in accordance with the Documentation, we will, at our sole option, either repair or replace the Software, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.

4.3. The warranty does not apply:

- a. if the defect or fault in the Software results from a user having modified or amended the Software; and
- b. if the defect or fault in the Software results from a user having used the Software in contravention of the terms of this Licence.

4.4. If you are a consumer, this warranty is in addition to your legal rights in relation to Software that is faulty or not as described.

4.5. You acknowledge that the Software will not operate entirely uninterrupted or error-free and is an off-the-shelf software package and not a bespoke program prepared to meet the user's individual requirements (even if we are aware of such requirements). It is therefore the responsibility of the user to ensure that the facilities and

functions described in the Documentation meet its requirements. We will not be liable for any material failure of the Software to provide any facility or function not specified in the Documentation.

4.6. We do not warrant, guarantee or make any representations regarding the results of the Software in terms of its correctness, accuracy, reliability or otherwise. The entire risk as to the results of the Software is assumed by the user.

4.7. If you are using a demo version of the Software, you acknowledge that the Software is provided "as is" without any warranties.

5. Limitation of liability if you are a business Customer user

5.1. For the purposes of this Licence a "business customer" means a person or entity who is not a consumer (as defined in clause 6.1).

5.2. If you are a business customer, we only supply the Software and Documentation for internal use by your organisation, and you agree not to use the Software or Documentation for any re-sale purposes.

5.3. We shall not under any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:

- a. loss of profits, sales, business, or revenue;
- b. business interruption;
- c. loss of anticipated savings;
- d. loss or corruption of data or information;
- e. loss of business opportunity, goodwill or reputation; and
- f. any indirect or consequential loss or damage.

5.4. Other than the losses set out in clause 5.3 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 100% of the licence fee you have paid. This maximum cap does not apply to clause 5.5.

5.5. Nothing in this Licence shall limit or exclude our liability for:

- a. death or personal injury resulting from our negligence;
- b. fraud or fraudulent misrepresentation; and
- c. any other liability that cannot be excluded or limited by English law.

5.6. This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Software and Documentation. Except as expressly stated in this Licence, there are no conditions, warranties, representations or other terms, express or implied, that are binding on us. Any condition, warranty, representation or other term concerning the supply of the Software and Documentation which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

6. Limitation of liability if you are a consumer user

6.1. For the purposes of this Licence a "consumer" means any natural person who is using the Software for a purpose outside his or her trade, business or profession.

6.2. If you are a consumer, we only supply the Software and Documentation for domestic and private use. You agree not to use the Software and Documentation for any commercial, business or re-sale purposes, and we have no liability to you for any:

- a. loss of profit;
- b. loss of business;
- c. business interruption;
- d. loss of business opportunity; and
- e. loss or corruption of data or information.

6.3. We are only responsible for loss or damage you suffer that is a foreseeable result of our breach of this Licence or our negligence up to the amount specified in clause 6.4, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we granted you the Licence.

6.4. Our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 100% of the licence fee you have paid. This does not apply to the types of loss set out in clause 6.5.

6.5. Nothing in this Licence shall limit or exclude our liability for:

- a. death or personal injury resulting from our negligence;
- b. fraud or fraudulent misrepresentation;
- c. any other liability that cannot be excluded or limited by English law.

7. Technical Support

7.1. We will use reasonable endeavours to provide technical support during normal office hours in England (Monday to Friday 9am to 5pm, excluding English statutory holidays) in respect of errors, defects and queries in relation to the Software. You acknowledge that support is intended to provide an initial advice service only and is provided on the following basis:

- a. the user contacts us in the manner stipulated on our website;
- b. the user is using the Software in accordance with the rights granted in the Licensing Option you have purchased;
- c. the user is using the latest Upgrade of the Software.

7.2. From time to time at our discretion we provide free Updates for the Software.

7.3. For an additional fee (which we will provide to you on request) and as set out in the upgrade eligibility section of our website, we provide Upgrades.

7.4. For the purposes of this Licence:

- a. Upgrade is a first-digit version change, e.g., CrystalMaker 8.x.y to CrystalMaker 9.a.b.; and
- b. Update is a second or third-digit version change, e.g., CrystalMaker 8.0 to 8.1, or 8.0.0 to 8.0.1.

8. Termination

8.1. We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after we have provided you written notice requiring you to do so.

8.2. Upon termination for any reason:

- a. all rights granted to you and users under this Licence shall cease;
- b. you must (and must procure that all users) cease all activities authorised by this Licence;
- c. you must (and must procure that all users) immediately delete or remove the Software from all computer equipment in your possession and certify to us that you have done so.

9. Communications between us

9.1. If you are a consumer, if you wish to contact us in writing, or if any clause in this Licence requires you to give us notice in writing, you can send this to us by e-mail or by pre-paid post to CrystalMaker Software Ltd., Centre for Innovation & Enterprise, Begbroke Science Park Woodstock Road, Begbroke, Kidlington, Oxfordshire, United Kingdom, OX5 1PF or by email to support@crystallmaker.com. We will confirm receipt of this by contacting you in writing, normally by e-mail.

9.2. If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your order for the Software.

9.3. If you are a business customer, please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

10. Other important terms

10.1. We may transfer our rights and obligations under this Licence to another organisation, but this will not affect your rights or our obligations under this Licence.

10.2. You may only transfer your rights or your obligations under this Licence to another person if we agree in writing.

10.3. If you are a business customer, this Licence and any document or webpage expressly referred to in it constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of the us which is not set out in this Licence or any document or webpage expressly referred to in it.

10.4. If we fail to insist that you perform any of your obligations under this Licence, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

10.5. Each of the clauses of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining clauses will remain in full force and effect.

10.6. If you are a consumer, please note that this Licence, its subject matter and its formation, are governed by English law. You and we both agree to that the courts of England and Wales will have non-exclusive jurisdiction. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are resident of Scotland, you may also bring proceedings in Scotland.

10.7. If you are a business customer, this Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.

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