

Supplementary Non Commercial Source Code Licence Agreement v1.0

This document is the Supplementary Licence described in the CSIRO Non-Commercial Source Code Licence Agreement, a copy of which can be found below.

The Software being licensed is [Non-Commercial Source Code Licence]

The Software will be made available for download from [Github, Zenodo, data.csiro.au & stash.csiro.au]

Third Party Components

The following third party components and licences are either distributed with or required to run the Software. You agree to comply with the terms for these components as part of accessing the Software. Other third party software may also be identified in separate license files distributed with the Software.

[

MPI: <https://www.open-mpi.org/>

The Open MPI Project is an open source Message Passing Interface implementation that is developed and maintained by a consortium of academic, research, and industry partners.

2004-2024 The Open MPI Project

Open MPI is distributed under the 3-clause BSD license.

]

CSIRO Non-Commercial Source Code Licence Agreement v1.0

The terms of this agreement are legally binding. Your acceptance of all of these terms is indicated by accessing and continuing to access the Software. The licence granted under this agreement is only given on your acceptance of all of its terms and will be subject to your continued compliance with them.

If you intend to access the Software in connection with your employment or as an agent for a principal, you should only accept this agreement if you have been authorised to do so by your employer or principal (as applicable). By accepting this agreement, you are warranting to CSIRO that you are authorised to do so on behalf of your employer or principal (as applicable).

The Software may contain third party material obtained by CSIRO under license. Your rights to such material as part of the Software under this agreement is subject to any separate licence terms

identified by CSIRO as part of the Software release - including as part of the Supplementary Licence, or as a separate file. Those third party license terms may require you to download the relevant software from a third party site, or may mean that the third party licensor (and not CSIRO) grants you a licence directly for those components of the Software. It is your responsibility to ensure that you have the necessary rights to such third party material.

The only rights granted by CSIRO to access the Software are as set out in this agreement. If CSIRO has entered into a separate written agreement with you for the Software, its development or support, the two agreements will operate concurrently, but that separate agreement will apply to the extent of any inconsistency with this agreement.

1. Meaning of words

The following words have their defined meaning when used in this agreement:

'access' means to access, install, download, copy, adapt, modify, further develop, use, or otherwise benefit from the source code or functionality of the original Software. Access to the Software includes carrying out one or more of these actions, either personally or via an agent or employee.

'CSIRO' means the Commonwealth Scientific and Industrial Research Organisation ABN 41 687 119 230 of Limestone Ave, Campbell, ACT, Australia.

'distribute' means to make the Software or any part of it (including with New Material) available to another person.

'New Material' means any adaptations, modifications, further developments, additional features or other computer programs that modify the functionality of the Software, or were created based in part on access to the Software.

'Software' means any source code or executable code version of the computer program that are made available by CSIRO under this agreement, including as identified in the Supplementary Licence. It includes any updates or additional features that CSIRO may make available to you unless they are provided with separate licence and/or warranty terms and conditions. Software includes any copies of all or part of the Software you may receive from another person.

'Supplementary Licence' means the Supplementary Non Commercial Source Code Licence Agreement identified as such that is distributed with the Software.

'you' means each person that accesses the Software, and also includes your employer or principal when you have authority to act on their behalf. 'your' has a corresponding meaning.

2. Limited licence – Non-Commercial Use Only

In accordance with this agreement any conditions notified, CSIRO grants you a non-exclusive and non-transferable licence to access and distribute the Software. You are not permitted to sublicense your rights.

This license is for non-commercial use only. You must not:

- (a) access or distribute the Software;

- (b) provide or make available New Material to a third party; or
- (d) deliver a service in connection with your access or distribution of the Software, or any New Material (including providing third parties access to the Software or New Material over a web portal),

where you gain a financial benefit (directly or indirectly) from a third party. If you want to engage in such activities, you must first obtain a commercial use license to the Software from CSIRO.

3. Distribution

Each time you distribute the Software:

- (a) CSIRO offers to the recipient(s) a licence to the Software on the same terms and conditions as this agreement; and
- (b) you must include a copy of this agreement (including any Supplemental License) with the Software.

CSIRO make no claim to ownership of any New Material under this Agreement. You may license any New Material under any terms, provided they do not modify CSIRO's rights and obligations under this agreement. If you make any New Material available to CSIRO or a third party (including as part of a distribution):

- (c) you automatically grant CSIRO a perpetual, irrevocable, royalty free license to the New Material on the terms of the BSD 3-Clause License template, a copy available at: <http://opensource.org/licenses/BSD-3-Clause>. You must provide to CSIRO upon request a copy of any New Material you have distributed; and
- (d) you must include prominent notices to ensure that recipients know that they are not receiving the original Software. Such notice must state (as applicable):
 - (i) how you have changed the Software;
 - (ii) the date of any changes; and
 - (iii) that the terms of this agreement continue to apply to the original Software.

4. Third party content

The Software may allow you to access and interoperate with third party websites, software applications, or data services. Your access to and use of any third party offering, including any goods, services or information, is governed by the relevant third party's terms and conditions applying to such offerings. Third party offerings are not owned, provided, or endorsed by CSIRO and you access such third party offerings entirely at your own risk.

5. Updates and New Releases

Where you access any updates or new releases for the Software, the terms of this agreement apply to those updates and new releases as part of the Software. CSIRO may impose additional conditions

on access to those updates and new releases, in accordance with any terms provided with the update or new release, or posted on a website from which it is available.

6. No warranty or representations

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT AND TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE IS PROVIDED "AS-IS". CSIRO MAKES NO REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS REGARDING THE CONTENTS OR ACCURACY OF THE SOFTWARE, OR OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, THE ABSENCE OF LATENT OR OTHER DEFECTS, OR THE PRESENCE OR ABSENCE OF ERRORS, WHETHER OR NOT DISCOVERABLE.

TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL CSIRO BE LIABLE ON ANY LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, IN AN ACTION FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE) FOR ANY CLAIM, LOSS, DAMAGES OR OTHER LIABILITY HOWSOEVER INCURRED. WITHOUT LIMITING THE SCOPE OF THE PREVIOUS SENTENCE THE EXCLUSION OF LIABILITY SHALL INCLUDE: LOSS OF PRODUCTION OR OPERATION TIME, LOSS, DAMAGE OR CORRUPTION OF DATA OR RECORDS; OR LOSS OF ANTICIPATED SAVINGS, OPPORTUNITY, REVENUE, PROFIT OR GOODWILL, OR OTHER ECONOMIC LOSS; OR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ACCESS OR DISTRIBUTION OF THE SOFTWARE OR ANY OTHER DEALINGS WITH THE SOFTWARE OR NEW MATERIAL, EVEN IF CSIRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM, LOSS, DAMAGES OR OTHER LIABILITY.

APPLICABLE LEGISLATION SUCH AS THE AUSTRALIAN CONSUMER LAW MAY APPLY REPRESENTATIONS, WARRANTIES, OR CONDITIONS, OR IMPOSES OBLIGATIONS OR LIABILITY ON CSIRO THAT CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED TO THE FULL EXTENT SET OUT IN THE EXPRESS TERMS OF THIS CLAUSE ABOVE "CONSUMER GUARANTEES". TO THE EXTENT THAT SUCH CONSUMER GUARANTEES CONTINUE TO APPLY, THEN TO THE FULL EXTENT PERMITTED BY THE APPLICABLE LEGISLATION, THE LIABILITY OF CSIRO UNDER THE RELEVANT CONSUMER GUARANTEE IS LIMITED (WHERE PERMITTED AT CSIRO'S OPTION) TO ONE OF FOLLOWING REMEDIES OR SUBSTANTIALLY EQUIVALENT REMEDIES:

- (a) THE REPLACEMENT OF THE SOFTWARE, THE SUPPLY OF EQUIVALENT SOFTWARE, OR SUPPLYING RELEVANT SERVICES AGAIN;
- (b) THE REPAIR OF THE SOFTWARE;
- (c) THE PAYMENT OF THE COST OF REPLACING THE SOFTWARE, OF ACQUIRING EQUIVALENT SOFTWARE, HAVING THE RELEVANT SERVICES SUPPLIED AGAIN, OR HAVING THE SOFTWARE REPAIRED.

IN THIS CLAUSE, CSIRO INCLUDES ANY THIRD PARTY AUTHOR OR OWNER OF ANY PART OF THE SOFTWARE OR MATERIAL MADE AVAILABLE WITH IT. CSIRO MAY ENFORCE ANY RIGHTS ON BEHALF OF THE RELEVANT THIRD PARTY.

7. Termination

This agreement, including the licence to the Software granted under it, is effective until terminated. CSIRO may terminate the agreement at will by any of the following means:

- (a) notifying you in writing; or
- (b) by posting a notice on the download website nominated in the Supplementary License, or where you obtained the Software from.

The effective date of termination will be 30 days after notice is posted or given, except that CSIRO may terminate immediately where you are in breach of this agreement.

On termination, all your rights to access and distribute the Software cease and you must destroy or permanently delete all copies of the Software in your possession or control. You must confirm you have done this in writing if requested by CSIRO.

If you are in breach of your obligations under this agreement for more than 30 days (even if CSIRO has not notified you of such breach), or do not take reasonable steps to ensure ongoing compliance with your obligations, you agree that CSIRO may terminate this agreement retrospectively. The effective date of such retrospective termination will be 30 days after your first breach of the terms, or such later date notified by CSIRO.

Termination does not affect CSIRO's ability to claim damages or other compensation for breach of this agreement or of CSIRO's rights at law, including for access to or distribution of the Software without a valid licence.

You agree that damages may not be appropriate as an exclusive remedy in respect of all breaches of this agreement and CSIRO will be entitled to seek and obtain an injunction (including on an interim basis) to prevent any alleged breach of this agreement or its rights to the Software, in addition to any right to recover damages.

8. No use of CSIRO name

You must not use the name, any trade mark or logo of CSIRO to claim any sponsorship, endorsement, approval or affiliation or other association with CSIRO by virtue of this agreement or your access to or distribution of the Software, unless you have express written permission from an authorised officer of CSIRO.

9. Privacy

By accessing the Software you may be submitting information, including personal information as defined in the *Privacy Act 1988* (Cth), to CSIRO and other third parties over the Internet. This may include an automatic connection to the Internet to check for the availability of updates, or in order to process other automated requests. CSIRO is required to treat your personal information in accordance with the *Privacy Act 1988* (Cth). You should review the specifications (if any) and other information provided with the Software to obtain further information regarding the type of information that CSIRO or third parties may collect as part of your access to the Software, and the scope of permitted use.

10. Resolving disputes

In any dispute arising out of or in connection with this agreement or the Software, you agree to first negotiate in good faith with CSIRO to resolve it. If the dispute is not resolved by those negotiations within 30 days, you will notify CSIRO before taking any court or other legal proceedings, and either party may refer the dispute to the Australian Commercial Dispute Centre Limited ('ACDC') for

resolution by mediation in accordance with the ACDC Guidelines on Mediation. However, this does not limit CSIRO's rights under the agreement or prevent CSIRO from seeking any urgent interlocutory relief.

11. Entire agreement

All international conventions that might import contractual terms into this agreement are excluded, including the United Nations Convention on Contracts for the International Sale of Goods.

This agreement is to be read subject to any laws (to the extent they are applicable in the circumstances) that cannot be excluded, so that the agreement will as far as possible be valid and enforceable by CSIRO in the relevant circumstance.

12. The governing law

This agreement is governed by and construed in accordance with the laws of New South Wales, Australia and you agree to submit to the exclusive jurisdiction of the courts in that State.