CCP-EM PROGRAM SUITE

LICENCE AGREEMENT

(Academic Use)

THIS LICENCE AGREEMENT is made **BETWEEN**:

1. **THE SCIENCE AND TECHNOLOGY FACILITIES COUNCIL**, **AS PART OF UNITED KINGDOM RESEARCH AND INNOVATION** whose principal office is at Polaris House, North Star Avenue, Swindon, Wiltshire SN2 1FL; ("**STFC**") and

2. **[*INSERT NAME OF ACADEMIC/RESEARCH INSTITUTION*]** whose administrative offices are at [*insert address*] ("the **Licensee**").

    BACKGROUND

    STFC has assembled the CCP-EM suite of software applications and libraries with support from the Medical Research Council, as part of the Collaborative Computational Project for Electron cryo-Microscopy.

    The CCP-EM Software Suite comprises:

    a) applications and libraries distributed in source code, that the Licensee may use free of charge for Academic Purposes, subject to the terms of clauses 2.1-2.3 of this Agreement;

    b) applications and libraries distributed in source code, that the Licensee may use, free of charge, subject to the terms of Open-Source Software licenses; and

    c) third party software that is included in the CCP-EM suite of programs and that is licensed by a third party on that third party's terms and conditions.

1. **DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement the following expressions have the meaning set opposite:

Academic Purposes:	fundamental or basic research or academic teaching, including any fundamental research that is funded by any public or charitable body, but not any purpose that generates revenue (as opposed to grant income) for the Licensee or any third party. Any research that is wholly or partially sponsored by any profit making organisation or that is carried out for the benefit of any profit-making organisation is not an Academic Purpose;
an Application:	a software program designed to provide a specific function for the user;
the CCP-EM Software:	the Libraries and Applications distributed by STFC from time to time as part of the CCP-EM Software Suite, except the Open-Source Software and the Third Party Software;
the CCP-EM Website:	the website with the URL www.ccpem.ac.uk and any website that from time to time replaces that website

the Current Release:	The current version 1.0 of the Software, and all later versions that STFC decides may be used under this Agreement;
a Derived Work:	any modification of, or enhancement or improvement to, any of the Software and any software or other work developed or derived from, or based on, any of the Software, or that incorporates any of the Software;
a Harmful Element:	any virus, worm, time bomb, time lock, drop dead device, trap and access code or anything else that might disrupt, disable, harm or impede the operation of any information system, or that might corrupt, damage, destroy or render inaccessible any software, data or file on, or that may allow any unauthorised person to gain access to, any information system or any software, data or file on it;
Intellectual Property:	patents, trade marks, service marks, registered designs, copyrights, database rights, design rights, know-how, confidential information, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;
a Library:	a collection of reusable programming routines, software functions or data that may be linked to, or used with, an Application;
the Licence Period:	the period beginning when the Licensee posts or faxes the completed and signed copy of this Agreement to STFC in accordance with clause 5.1, and ending on the termination of this Agreement under clause 5.2;
the Open-Source Software:	the open source Libraries and Applications that are listed on the CCP-EM Website from time to time as being subject to, respectively, the terms of the relevant open-source licenses listed on the CCP-EM Website;
the Software:	the suite of programs known as CCP-EM, comprising the Open-Source Software, the CCP-EM Software and the Third Party Software; and
the Third Party Software	the third party Libraries and Applications that are listed on the CCP-EM Website from time to time as being subject to, respectively, the terms of the relevant third partylicenses listed on the CCP-EM Website.

2.   **LICENCE**

The CCP-EM Software

2.1   STFC grants the Licensee a non-exclusive, non-transferable, royalty free licence to use and copy the CCP-EM Software during the Licence Period on the terms and conditions of this Agreement provided that:

2.1.1 the Licensee may not distribute any CCP-EM Software or any Derived Work based on any CCP-EM Software to any third party, or share their use with any third party (whether free of charge or otherwise); and

2.1.2 the Licensee may not copy any CCP-EM Software except for the purposes of making a reasonable number of back-up copies, nor may the Licensee modify any CCP-EM Software or create any Derived Work based on any CCP-EM Software except for the purpose of error correction. The Licensee will provide STFC with a copy of any correction made by the Licensee (in source code) within one year after it was made.   The licensee grants STFC an irrevocable, indefinite licence to make that correction available to any third party on such terms and conditions as STFC may from time to time decide.

2.2   The CCP-EM Software and any Derived Work based on any part of the CCP-EM Software may be used by the Licensee and its employees and registered students for Academic Purposes only.

2.3   The licences granted in this clause 2 relate only to the Current Release.   The Licensee must acquire a new licence for any future version of the Software that STFC decides requires a new or further licence.

The Open-Source Software

2.4   The Open-Source Software is supplied to the Licensee on the terms and conditions of the open-source software licenses as indicated on the CCP-EM Website from time to time.   By entering into this Agreement the Licensee agrees to comply with the terms of the open-source software licenses as so indicated.

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2.5   The Third Party Software is supplied to the Licensee on the terms and conditions imposed by the third party owner or licensor as indicated on the CCP-EM Website from time to time.   By entering into this Agreement the Licensee agrees to comply with those terms and conditions.

The Software

2.6   The Licensee will not tamper with or remove any copyright or other proprietary notice or any disclaimer that appears on or in any part of the Software, and will reproduce the same in all copies of any of the Software and in all Derived Works.

3.   **WARRANTIES AND LIABILITY**

3.1   The Software is provided for Academic Purposes at no cost.   Therefore STFC and its licensors give no warranty and make no representation in relation to the Software or any assistance or advice that STFC may give in connection with the Software.   **The Licensee, its employees and students and anyone to whom the Licensee makes the Software or any Derived Work available, use them at their own risk.**   The Licensee will indemnify STFC against any claim made by any third party to whom the Licensee has made the Software or any Derived Work available.

3.2   Before using any of the software, the Licensee will check that the Software does not contain any Harmful Element.   Neither STFC nor its licensors warrants that the Software will run without interruption or be error free, or free from any Harmful Element.   STFC is not obliged to provide any support or error correction service, assistance or advice in relation to the Software.   If it does provide that sort of service, assistance or advice, subject to clause 3.7, STFC will not be liable for any loss or damage suffered by the Licensee as a result.

3.3   Neither STFC nor any of its licensors will be liable to the Licensee to the extent that any loss or damage is caused by the Licensee's failure to implement, or the Licensee's delay in implementing, any upgrade, update, new release, revision, version or modification of, or advice in relation to, the Software that would have remedied or mitigated the effects of any error, defect, bug or deficiency.

3.4   The Licensee acknowledges that proper use of the Software and any Derived Work is dependent on the Licensee, its employees and students exercising proper skill and care in inputting data and interpreting the output provided by the Software or that Derived Work.   STFC and its licensors will not be liable for the consequences of decisions taken by the Licensee or any other person on the basis of that output.   STFC does not accept any responsibility for any use which may be made by the Licensee of that output, nor for any reliance which may be placed on that output, nor for advice or information given in connection with that output.

3.5   Subject to clause 3.7, STFC's liability for any breach of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement, will not extend to any incidental or consequential damages

or losses, or any loss of profits, loss of revenue, loss of data, loss of contracts or opportunity, whether direct or indirect, even if the Licensee has advised STFC of the possibility of those losses arising or if they were or are within STFC's contemplation. STFC's licensors will not be liable to the Licensee for any loss or damage, however caused (including by negligence) and whether direct or indirect.

3.6 Subject to clause 3.7, the aggregate liability of STFC for any breach of this Agreement, any negligence or arising in any other way out of the subject matter of this Agreement will not exceed £50,000.

3.7 Nothing in this Agreement (including without limitation the Open Source Software licences, as applicable) limits or excludes STFC's liability for death or personal injury caused by its negligence or for any fraud, or for any sort of liability that, by law, cannot be limited or excluded.

3.8 In addition to the terms and conditions of the Open-Source Software licences, and the terms that apply to any Third Party Software, the terms of this clause 3 apply as between STFC and the Licensee, and the validity of any part of this clause 3 will not be affected by any part of the Open-Source Software licences or the terms that apply to any Third Party Software being held to be invalid by any court.

3.9 The express undertakings given by STFC in this Agreement and the terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations on the part of STFC, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way.   All of these are excluded to the fullest extent permitted by law.

4. **INTELLECTUAL PROPERTY RIGHTS AND ACKNOWLEDGEMENTS**

4.1 Nothing in this Agreement assigns or transfers any Intellectual Property Rights in any of the Software. Those rights are reserved to STFC or its licensors.

4.2 The Licensee will ensure that, if any of its employees or students publish any article or other material resulting from, or relating to, a project or work undertaken with the assistance of any part of the Software, that publication will contain a proper acknowledgement or citation as indicated from time to time on the CCP-EM Website.

5. **TERMINATION**

5.1 This Agreement will take effect and the Licence Period will start when a completed copy of this Agreement, signed on behalf of the Licensee, has been posted to the Secretary to CCP-EM, R92, Research Complex at Harwell, at STFC Rutherford Appleton Laboratory, Chilton OX11 0FA, U.K., or faxed to: +44 1235 567720 (or to any other address or fax number given for this purpose on the CCP-EM website at the time the Licensee downloads this form of Licence Agreement from that website).

5.2 This Agreement will terminate immediately and automatically if:

5.2.1 the Licensee is in breach of this Agreement; or

5.2.2 the Licensee becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of its assets, or if it makes any arrangement with its creditors.

5.3 The Licensee's right to use the Software will cease immediately on the termination of this Agreement, and the Licensee will destroy all copies of the Software that it or any of its employees or students holds.

5.4 Clauses 1, 2.1.2, 2.2, 2.3, 2.4, 2.5, 2.6, 3, 4, 5.3, 5.4, 5.5 and 6 will survive the expiry of the Licence Period and the termination of this Agreement, and will continue indefinitely.

5.5 STFC may withdraw any of the Software from the CCP-EM Suite at any time. If any third party owner of the Intellectual Property in any of the Software withdraws STFC's right to distribute that software, the Licensee's rights under this Agreement in relation to that software will immediately terminate, and the Licensee will cease using that part of the Software

6. **GENERAL**

6.1 **Headings:** The headings in this Agreement are for ease of reference only; they do not affect its construction or interpretation.

6.2 **Assignment etc:** The Licensee may not assign or transfer this Agreement as a whole, or any of its rights or obligations under it, without first obtaining the written consent of STFC.

6.3 **Illegal/unenforceable provisions:** If the whole or any part of any provision of this Agreement is void or unenforceable in any jurisdiction, the other provisions of this Agreement, and the rest of the void or unenforceable provision, will continue in force in that jurisdiction, and the validity and enforceability of that provision in any other jurisdiction will not be affected.

6.4 **Waiver of rights:** If STFC fails to enforce, or delays in enforcing, an obligation of the Licensee, or fails to exercise, or delays in exercising, a right under this Agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver by STFC of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

6.5 **Entire agreement:** This Agreement constitutes the entire agreement between the parties relating to its subject matter. The Licensee acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement. The Licensee waives any claim for breach of, or any right to rescind this Agreement in respect of, any representation which is not an express provision of this Agreement. However, this clause does not exclude any liability which STFC may have to the Licensee (or any right which the Licensee may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment before the signing of this Agreement.

6.6 **Amendments:** No variation of, or amendment to, this Agreement will be effective unless it is made in writing and signed by each party's representative.

6.7 **Third parties:** No one except a party to this Agreement has any right to prevent the amendment of this Agreement or its termination, and no one except a party to this Agreement may enforce any benefit conferred by this Agreement, unless this Agreement expressly provides otherwise.

6.8 **Governing law:** This Agreement is governed by, and is to be construed in accordance with, English law. The English Courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of or in connection with this Agreement, except that STFC may bring proceedings against the Licensee or for an injunction in any jurisdiction.

SIGNED for and on behalf of ………..:

Name:

Position:

Signature:

Date:

SIGNED for and on behalf of STFC:

Name:

Position:

Signature:

Date: