

## AB-BLAST ACADEMIC/NONPROFIT “SITE” LICENSE AGREEMENT

This AB-BLAST “Site” License Agreement (this “**Agreement**”) is entered into and made effective as of \_\_\_\_\_, 2010 (the “**Effective Date**”), by and between Advanced Biocomputing, LLC, a Missouri corporation with its principal place of business in Creve Coeur, MO 63141 (“**Licensor**”), and \_\_\_\_\_, a \_\_\_\_\_ nonprofit organization with its principal place of business at \_\_\_\_\_ (“**Licensee**”).

### 1. DEFINITIONS.

1.1 “**Documentation**” means the standard user documentation for the Software that Licensor makes generally available to its customers.

1.2 “**Intellectual Property Rights**” means patent rights (including patent applications and disclosures), copyrights, trademarks, trade secrets, know-how and any other intellectual property rights recognized in any country or jurisdiction in the world.

1.3 “**Computing Platform**” means a specific combination of microprocessor instruction set and core operating system.

1.4 “**Software**” means Licensor’s bioinformatics software product known as AB-BLAST 3.0 Standard Edition and AB-BLAST 3.0 Enterprise Edition, solely in executable code form, including any error corrections, modifications, minor enhancements, new features, customizations, and updates thereto, and any related Documentation, that are provided by Licensor to Licensee under this Agreement.

1.5 “**Seat**” means one Software installation or one Software execution on a physical computer system containing one or at most two microprocessor packages—or on a virtual machine that is allocated one or at most two virtual CPUs. Each microprocessor package may itself contain or support multiple physical or logical execution units (sometimes called processor cores and/or hyperthreads). Computer systems on which the Software is installed and/or executable that contain three or more microprocessor packages—or configured with three or more virtual CPUs—will require one Seat license for each pair (or partial pair) of microprocessor packages or each pair of

virtual CPUs.

1.6 “**Compliance Count**” means the number of Seat licenses required for compliance with this Agreement, as determined using the description and accounting methods described in Section 1.5 and **Exhibit A**.

1.7 “**WashU**” means Washington University in St. Louis, a corporation of the State of Missouri having its principal office and place of business at One Brookings Drive, St. Louis, Missouri 63130.

1.8 “**Web Services**” means computing services delivered using conventional HTTP communications (hypertext transport protocol over TCP/IP port 80) and web pages intended for display in an ordinary web browser, such as Mozilla Firefox.

1.9 “**Bona Fide Collaboration Project**” means a development project for which Licensee has entered into a written agreement with a third party to conduct joint research and development and for which Licensee provides substantially more value than merely making the functionality of the Software available to the third party.

1.10 “**Bona Fide Collaborator**” means a third party with whom Licensee has entered into an agreement with respect to a Bona Fide Collaboration Project.

### 2. LICENSE.

2.1 **Grant of License.** Subject to Licensee’s compliance with the terms and conditions of this Agreement (including, without limitation, payment of the applicable fees in accordance with Section 5.1), Licensor grants to

Licensee a nonexclusive license solely during the Initial Term and each Renewal Term (each as defined in Section 10.1): (a) to use the Software only for Licensee's internal use in support of Licensee's own academic and research purposes, including for purposes of Licensee's Bona Fide Collaboration Projects, or for purposes of providing no-cost, unfettered, public access to Web Services that utilize the Software; (b) to limit use of the Software to the number of Seats declared in Section 5.1; and (c) to copy the Software solely as reasonably necessary to exercise the license rights granted in subsections (a) and (b), including making a reasonable number of copies for backup and archival purposes.

**2.2 License Restrictions.** Licensee has no right to transfer, sublicense or otherwise distribute the Software to any third party. Except as expressly authorized in this Agreement, Licensee will not copy or modify the Software, in whole or in part. Licensee will not lease, lend or rent the Software. Licensee acknowledges that the Software constitutes and contains trade secrets of Licensor and its licensors, and, in order to protect such trade secrets and other interests that Licensor and its licensors may have in the Software, Licensee agrees not to disassemble, decompile or reverse engineer the Software nor permit any third party to do so, except to the extent such restrictions are prohibited by law. Licensee acknowledges and agrees that the Software is neither designed nor qualified for medical diagnosis or clinical purposes and will deploy and use the Software solely in nonmedical or pre-clinical research settings and not allow the Software to be used otherwise by third parties.

**2.3 Limited Rights.** Licensee's rights in the Software will be limited to those expressly granted in this Agreement. Licensor reserves all rights and licenses in and to the Software not expressly granted to Licensee under this Agreement.

**2.4 Government Rights.** The Software and Documentation are respectively "commercial computer software" and "commercial computer software documentation", as such terms are used in FAR 12.212, DFARS 252.227-7014 and DFARS 227.7202. Any use, duplication or disclosure of the Software or the Documentation by or on behalf of

the U.S. Government is subject to restrictions as set forth in this Agreement.

**2.5 Rights Notices.** Licensee will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices appearing on or bundled with the Software as delivered to Licensee. Licensee will reproduce such notices on all copies it makes of the Software.

### 3. MAINTENANCE AND SUPPORT.

**3.1 Maintenance.** For so long as Licensee remains current in its payment of the applicable fees in accordance with Section 5, Licensor will provide to Licensee all error corrections, modifications and updates of the Software that Licensor makes generally available. Licensor will deliver such updates or notify Licensee that they are available for download within a reasonable period of time of the updates being made generally available. Licensee will be notified of Software availability and any updates using the technical contact information Licensee provides in **Exhibit B**. Some of the information provided in these notifications may be of a confidential nature, such as a confidential URL or password required to download the software. At Licensor's sole discretion and without any continuing obligation, Licensor may provide minor enhancements, new features, and customizations to the Software at no additional cost to Licensee. Licensor may require a separate agreement or an addendum to this Agreement for the provision of upgrades, new customizations or continued support for existing customizations; in exchange, Licensee may be required to pay additional, reasonable, mutually agreed upon fees to Licensor under terms outlined in Section 5.

**3.2 No Support.** Licensee acknowledges and agrees that this Agreement does not impose on Licensor any obligation to provide any support for the Software, and that except as set forth in Section 3.1 Licensor will have no obligation to respond to any technical issues with respect to Licensee's use of the Software, or to create or provide any error corrections, modifications, updates or new versions or releases of the Software.

#### 4. **21-DAY TRIAL PERIOD.**

4.1 **Delivery.** Licensor will deliver to Licensee on electronic media or make available for Internet download (“**Software Delivery**”) the then-current version of the Software and standard Documentation for that version (if any) within five (5) days of the Effective Date. Any shipping and handling charges will be invoiced with shipment. Download instructions may be provided via e-mail addressed to an appropriate employee of Licensee as indicated in Exhibit B, in which case Software Delivery will be deemed effective upon receipt of the instructions.

4.2 **Free Trial Period.** For a period of twenty-one (21) days from the date of Software Delivery, Licensee may use the Software free of charge for its internal evaluation (the “**Free Trial Period**”). If during the Free Trial Period Licensee determines that it does not wish to purchase a license for the Software, Licensee will notify Licensor and will cease using and either return to Licensor or destroy all copies of the Software within Licensee’s possession or control, and all portions thereof, in all forms and types of media, and provide Licensor with an officer’s written certification, certifying to Licensee’s compliance with the foregoing. Provided that Licensor receives such notice before the Free Trial Period expires, this Agreement will be deemed terminated as of the date of such notice and Licensee will have no further payment obligations hereunder. Licensee may utilize only one Free Trial Period within any consecutive twelve months.

#### 5. **PAYMENT.**

##### 5.1 **Fees and Expenses.**

Licensee wishes to purchase a site license to provide a number of Seat licenses sufficient to cover all usage of the Software at Licensee’s location.

(a) Initial Term. For the Initial Term (as defined in Section 10.1) and accurate as of the Effective Date, Licensee’s initial self audit has determined a Compliance Count of \_\_\_\_\_ Seat licenses and Licensee will pay Licensor \$\_\_\_\_\_.00 (a sum equal to the discounted per-Seat fee of \$\_\_\_\_.

multiplied by the Compliance Count) (the “**Initial Fee**”). The Initial Fee will be due and payable within thirty (30) days of the Effective Date (unless the Agreement is terminated prior to such date in accordance with Section 4.2), and will cover Licensee’s use of the Software and the maintenance described in Section 3.1 during the Initial Term.

(b) Renewal Terms. At least 15 days but no more than 45 days prior to the start of each Renewal Term (as defined in Section 10.1), Licensee will perform a self audit to determine a contemporary Compliance Count and will declare this number (the “**Renewal Compliance Count**”) to Licensor. Licensee will pay Licensor a sum equal to the then-current per-Seat fee multiplied by the Renewal Compliance Count (the “**Renewal Fee**”). Renewal Fees will be due and payable annually in advance upon the first day of each Renewal Term, and will cover Licensee’s use of the Software and the maintenance described in Section 3.1 during the applicable Renewal Term. The per-Seat fee may be increased up to 10% each year, with notification normally given to Licensee at least 45 days prior to the start of each Renewal Term. An increase of up to 25% in the per-Seat fee may be incurred as late as the start of the Renewal Term if the Renewal Compliance Count declared is less than 80% of any previously declared Compliance Count; similarly, the per-Seat fee may be increased up to 50% if the Renewal Compliance Count is less than 67% of any previously declared Compliance Count.

(c) Overages. Except when in preparation for renewal as described in Section 5.1(b), an overage in the Compliance Count of up to 20% beyond the most recently declared figure will not be declared by Licensee and will not be subject to an additional license fee during the current term. At any time during any term, if the Compliance Count exceeds the most recently declared Compliance Count (or Renewal Compliance Count) by *more than* 20%, Licensee will perform a contemporary self audit and promptly declare the revised Compliance Count to Licensor. Licensee will then pay Licensor a sum equal to the then-current per-Seat fee, prorated by the number of whole months remaining in the applicable term, multiplied by the entire difference of the revised Compliance Count minus the previously declared Compliance Count (the “**Overage Fee**”). An Overage Fee will be due and

payable within 45 days of the date of overage declaration.

(d) No Refunds. Except under certain limited conditions described in Sections 6.1 and 7.4, Initial Fees, Renewal Fees and Overage Fees paid hereunder will be non-refundable once paid.

5.2 **Interest.** All past due amounts will incur interest at a rate of 1.5% per month or the maximum rate permitted by law, whichever is less. Licensee will reimburse Licensor for all reasonable costs and expenses incurred (including reasonable attorneys' fees) in collecting any overdue amounts.

5.3 **Payment Terms and Taxes.** Licensee will pay all amounts due under this Agreement in U.S. currency. All fees payable under this Agreement are net amounts and are payable in full, without deduction for taxes or duties of any kind. Licensee will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales, use and withholding taxes) associated with this Agreement or Licensee's receipt or use of the Software and Maintenance Services, except for taxes based on Licensor's net income. In the event that Licensor is required to collect any tax for which Licensee is responsible, Licensee will pay such tax directly to Licensor. If Licensee pays any withholding taxes that are required to be paid under applicable law, Licensee will furnish Licensor with written documentation of all such tax payments, including receipts.

## 6. NO WARRANTY.

6.1 **No Warranty.** The Software is provided "As Is" with no warranties of any kind, express or implied, except as provided below:

(a) Performance. Licensor warrants that for a period of sixty (60) days from the date of Software Delivery (the "**Performance Period**"), the Software will operate in all material respects as described in the Documentation.

(b) Limited Remedy. As Licensee's sole remedy and Licensor's sole liability for any breach of the warranties set forth in Section 6.1(a), Licensor will, at its own expense, either repair or replace the Software, Documentation, or media on

which it is delivered so as to conform to the warranties set forth herein. In the event Licensor is unable to repair or replace the Software or Documentation during the Performance Period so as to conform to those warranties, Licensor may terminate this agreement, in which event Licensor will refund to Licensee the entire Initial Fee and any Renewal Fees that may have been paid in advance by Licensee for future Renewal Terms. Non-performance must be determined during the Performance Period and notice delivered to Licensor by Licensee promptly upon determination of each area of non-performance. At Licensee's sole expense, Licensee must also promptly provide Licensor with data and/or conditions of usage necessary to demonstrate or reproduce non-performance.

(c) Title. Licensor represents and warrants that it has sufficient rights and licenses in and to the Software to grant the licenses in the Software to Licensee as set forth herein.

6.2 **Disclaimer.** Without limiting the foregoing, and except as provided in Section 6.1, Licensor does not warrant that the Software will meet Licensee's requirements, that the Software will operate in the combinations that Licensee may select for use, that the operation of the Software will be error-free or uninterrupted or that all Software errors will be corrected. LICENSOR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM LICENSOR OR ELSEWHERE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

## 7. INDEMNIFICATION.

7.1 **Licensor Indemnity.** Licensor will indemnify, defend and hold harmless Licensee, Licensee's affiliates, and, as applicable, each of their respective present and former staff, employees, directors, officers, agents, successors

and assigns (each a “Licensee Indemnitee”) from and against any and all judgments, losses, expenses, damages and/or liabilities (including reasonable attorneys’ and expert witness fees and court costs), that a Licensee Indemnitee may incur from any and all third party claims, suits, actions and/or proceedings to the extent that it is based upon (a) the negligence or willful misconduct of Licensor or (b) a claim that the Software, as provided by Licensor to Licensee under this Agreement and used within the scope of this Agreement, infringes any U.S. patent or any copyright or misappropriates any trade secret, provided that Licensee: (a) promptly notifies Licensor in writing of the claim; (b) grants Licensor sole control of the defense and settlement of the claim; and (c) provides Licensor, at Licensor’s expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

7.2 **WashU Indemnification.** Licensee agrees to indemnify, defend and hold harmless WashU, WashU’s affiliates, and, as applicable, each of their respective present and former trustees, faculty, staff, employees, students, directors, officers, agents, successors and assigns (each a “*WashU Indemnitee*”) from and against any and all judgments, losses, expenses, damages and/or liabilities (including, without limitation, any and all attorneys’ and expert witness fees and court costs), that a WashU Indemnitee may incur from any and all claims, suits, actions and/or proceedings arising out of, relating to, or incidental to (a) any act, error or omission of Licensee, including without limitation, any act, error, or omission of Licensee that results in injury or death to person, damage to property, products liability, and/or any injury to business (such as, but not limited to, business interruption or damage to reputation) arising out of, relating to, or incidental to the use of or other exploitation of the Software in the design, development, production, manufacture, sale or offer for sale, use, importation, lease, marketing, performance or promotion of any product or service by Licensee including, without limitation, claims for infringement or misappropriation of a third party’s intellectual property rights or product liability.

7.3 **Exclusions.** Notwithstanding the terms of Section 7.1, Licensor will have no liability for

any infringement or misappropriation claim of any kind to the extent that it results from: (a) modifications to the Software made by a party other than Licensor, if a claim would not have occurred but for such modifications; (b) the combination, operation or use of the Software with equipment, devices, software or data not supplied by Licensor, if a claim would not have occurred but for such combination, operation or use; (c) upon notice from Licensor, Licensee’s failure to promptly discontinue use of infringing Software and within reasonable time of delivery to use updated or modified Software that may be provided by Licensor to avoid a claim; or (d) Licensee’s use of the Software other than in accordance with this Agreement or the Documentation.

7.4 **Injunctions.** If Licensee’s use of any of the Software hereunder is enjoined due to infringement of a third party’s patents, Licensor shall, at its sole option and expense: (a) procure for Licensee the right to continue using such Software under the terms of this Agreement; (b) replace or modify such Software so that it is non-infringing and substantially equivalent in function to the enjoined Software; or (c) terminate Licensee’s rights and Licensor’s obligations hereunder with respect to such Software and refund to Licensee the unamortized portion of the license fees paid for such Software, based upon a straight-line five (5) year depreciation commencing as of the date of receipt by Licensee of such Software.

7.5 **Sole Remedy.** THE PROVISIONS OF SECTION 7 SET FORTH LICENSOR’S SOLE AND EXCLUSIVE OBLIGATIONS, AND LICENSEE’S SOLE AND EXCLUSIVE OBLIGATIONS AND REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS.

## 8. CONFIDENTIALITY.

8.1 **Definition.** “*Confidential Information*” means: (a) the Software; (b) any business or technical information of Licensor or Licensee that, if disclosed in writing, is marked “confidential” or “proprietary” at the time of disclosure, or, if disclosed orally, is identified as “confidential” or “proprietary” at the time of

disclosure, and is summarized in a writing sent by the disclosing party to the other party within thirty (30) days of such disclosure; (c) the specific terms and pricing set forth in this Agreement; and (d) data processed by the Software. Notwithstanding the foregoing, if oral disclosures are not identified as “confidential” or “proprietary” at the time of disclosure and summarized in a writing within thirty (30) days, and a reasonable person in the field would conclude that such information is confidential, given the context and content of the disclosure, such oral disclosures shall be considered Confidential Information.

8.2 **Exclusions.** Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving party; (b) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality; (c) is independently developed by the receiving party without use of the disclosing party’s Confidential Information; or (d) the receiving party rightfully obtains from a third party without restriction on use or disclosure.

8.3 **Use and Disclosure Restrictions.** Each party will not use the other party’s Confidential Information except as necessary for the performance of this Agreement and will not disclose such Confidential Information to any third party except to those of its employees and subcontractors that need to know such Confidential Information for the purpose of performing this Agreement, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein. Each party will use all reasonable efforts to maintain the confidentiality of all such Confidential Information in its possession or control, but in no event less than the efforts that such party ordinarily uses with respect to its own proprietary information of similar nature and importance. The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to contest such order or requirement; and (b)

on a confidential basis to its legal or financial advisors. In addition, each party may disclose the terms and conditions of this Agreement: (a) as required under applicable securities regulations; and (b) on a confidential basis to present or future providers of venture capital and/or potential private investors in or acquirers of such party.

## 9. LIMITATION OF LIABILITY.

9.1 **Total Liability.** EXCEPT WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 8, EACH PARTY’S TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY WILL BE LIMITED TO AND WILL NOT EXCEED THE LICENSE FEES PAID TO LICENSOR BY LICENSEE PURSUANT TO THIS AGREEMENT, AND IF SUCH LIABILITY RESULTS FROM LICENSEE’S USE OF THE SOFTWARE OR FROM SERVICES PROVIDED BY LICENSOR, SUCH LIABILITY WILL BE LIMITED TO THE ACTUAL FEES PAID BY LICENSEE FOR THE SPECIFIC SOFTWARE OR SERVICES GIVING RISE TO THE LIABILITY.

9.2 **Exclusion of Damages.** EXCEPT WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 8, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS, BODILY INJURY OR LOSS OF LIFE) OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SOFTWARE OR THE MAINTENANCE SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT LICENSOR HAS BEEN ADVISED OF

THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE PARTIES HAVE AGREED THAT THESE LIMITATIONS WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

9.3 **Basis of Bargain.** The parties expressly acknowledge and agree that Licensor has set its prices and entered into this Agreement in reliance upon the limitations of liability specified herein, which allocate the risk between Licensor and Licensee and form a basis of the bargain between the parties.

## 10. TERM AND TERMINATION.

10.1 **Term.** This Agreement and the licenses granted herein will begin on the Effective Date and will remain in effect for an initial term of one year (the “**Initial Term**”), unless terminated earlier in accordance with the terms of this Agreement. Licensee may renew this Agreement and the licenses granted herein for additional one-year terms (each a “**Renewal Term**”) by providing written notice of its intent to renew, together with payment of the Renewal Fee (as defined in Section 5.1), prior to the last day of the Initial Term or applicable Renewal Term.

10.2 **Termination for Breach.** Each party will have the right to terminate this Agreement or any Software license granted hereunder if the other party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days after written notice thereof. Termination of this Agreement pursuant to this Section 10.2 terminates all Software licenses granted hereunder.

10.3 **Effect of Termination.** Upon termination of this Agreement, Licensee will promptly return to Licensor or destroy all copies of the Software within Licensee’s possession or control, and all portions thereof, in all forms and types of media, and provide Licensor with an officer’s written certification, certifying to Licensee’s compliance with the foregoing.

10.4 **Survival.** The rights and obligations of the parties contained in Sections 2.2, 2.5, 5, 6, 7, 8,

9, 10.3, 10.4, and 11 will survive the termination of this Agreement or of any individual Software license granted hereunder.

## 11. GENERAL.

11.1 **Assignment.** Licensee will have no right to assign this Agreement, in whole or in part, by operation of law or otherwise, without Licensor’s express prior written consent, except that Licensee may assign this Agreement in connection with any merger, acquisition, consolidation or sale to any successor in interest that assumes all or substantially all of its business in the area of which this Agreement relates. Any attempted assignment contrary to this Agreement will be null and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party’s successors and permitted assigns.

11.2 **Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Missouri, excluding that body of laws known as conflict of laws. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Missouri, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein.

11.3 **Nonexclusive Remedy.** Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise

11.4 **Severability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

11.5 **Waiver.** The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

11.6 **Notices.** All notices required or permitted under this Agreement will be in writing and delivered by confirmed facsimile transmission, by courier or overnight delivery services, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the address set forth above for Licensor, to the addresses in Exhibit B for Licensee, or to such other address as may be specified by either party to the other in accordance with this Section. Either party may change its address for notices under this Agreement by giving written notice to the other party by the means specified in this Section.

11.7 **Force Majeure.** Neither party will be responsible for any failure or delay in its performance under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, terrorism, riot, acts of God or governmental action.

11.8 **Relationship of Parties.** The parties to this Agreement are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

11.9 **Export Control.** Licensee agrees to comply fully with all relevant export laws and regulations of the United States ("**Export Laws**") to ensure that neither the Software, nor any direct product thereof are: (a) exported or re-exported directly or indirectly in violation of Export Laws; or (b) used for any purposes prohibited by the Export Laws, including but not limited to nuclear, chemical, or biological weapons proliferation.

11.10 **Entire Agreement.** This Agreement constitutes the complete and exclusive understanding and agreement between the parties regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of both parties.

11.11 **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date by their duly authorized representatives.

ADVANCED BIOC COMPUTING LLC

Licensee: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit A  
AB-BLAST 3.0 Site License Request

AB-BLAST 3.0 is a suite of sequence database management and similarity search tools available from Advanced Biocomputing, LLC. AB-BLAST 3.0 Standard Edition is made available to customers who have completed a “Seat” or “Laboratory” license agreement. Both Standard Edition and Enterprise Edition are made available to customers who have completed a Site License Agreement.

A.1. Seat Licensing

- (a) One Seat license is required for each pair (or portion thereof) of microprocessor packages installed in each computer system on which the Software can be executed, whether or not the Software is installed locally to the computer system or is accessible over a network.
- (b) A single microprocessor package may contain multiple chips, provide multiple cores for execution, and/or support multiple “hyperthreads,” however only the number of pairs (or portion thereof) of microprocessor packages installed in a computer system is counted for the purposes of determining the number of Seat licenses required for that computer system.
- (c) In a virtual machine environment, one Seat license is required for each pair (or portion thereof) of virtual processors configured for a virtual machine on which the Software is available for use.

Examples: (1) to license the Software for two separate computers, one containing a single quad-core microprocessor and the other containing two quad-core microprocessors, two Seat licenses would be required for compliance; (2) a computer containing 4 quad-core microprocessor packages would require 2 Seat licenses, one for each the two pairs of quad-core microprocessors.

A.2. Standard Edition Performance Characteristics

- (a) A given invocation of AB-BLAST 3.0 SE will utilize up to 2 microprocessors. Standard Edition will spawn up to 8 threads per microprocessor or a maximum of 16 threads when 2 microprocessors are present;
- (b) In a virtual machine environment, a given invocation of Standard Edition may utilize no more than 2 virtual processors;
- (c) When more than two microprocessors are present in a computer system, all microprocessors may be utilized by running multiple concurrent invocations of Standard Edition. To be compliant, however, one Seat license must be acquired for each pair (or portion thereof) of microprocessors or virtual CPUs present in the system.
- (d) *N.B.* In a given invocation, AB-BLAST 3.0 *Enterprise Edition* directly supports up to 64 microprocessors or virtual CPUs and up to 16 threads per microprocessor. Enterprise Edition is only available under a site license.

*Product specifications, performance, or operational characteristics as described here may change without notice in future updates, releases, or versions of AB-BLAST.*

Exhibit B  
AB-BLAST License Contact Information

*Please type or print legibly!*

B.1. Licensee name \_\_\_\_\_

B2. Administrative address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B.3. Administrative Contact

Salutation (circle one): Mr. / Ms. / Dr.

Full name: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Telephone: \_\_\_\_\_

FAX: \_\_\_\_\_

B.4. Technical Contact (if different from the above)

Salutation (circle one): Mr. / Ms. / Dr.

Full name: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Telephone: \_\_\_\_\_

FAX: \_\_\_\_\_