

END USER LICENCE AGREEMENT

IMPORTANT: PLEASE READ CAREFULLY. THIS IS A LICENCE AGREEMENT

This End User License Agreement ("**EULA**") is a legal agreement between you and Children's Cancer Institute Australia ("**the Institute**") which governs your use of the 'SpliceVarDB' website ("**Website**"). Please read it.

The Website includes software, the associated media, any printed materials and any "online" or electronic documentation.

By accessing or otherwise using the Website, you accept these terms unless separate terms are provided or agreed in writing by the Institute, in which case certain additional or different terms may apply. You also represent that you have authority to enter into this EULA personally or on behalf of the organisation named on the Order Form (defined below) and to bind that company or institution to these terms.

If you do not accept the terms of this EULA, do not access or use the Website.

Please note that the Institute may change the terms of this EULA at its sole discretion at any time. When changes are made, the Institute will provide you with a new copy of the terms via email. If you do not agree to the updated terms, then you must discontinue all use of and access to the Website. Otherwise, your continued use of any component of the Website constitutes your acceptance of any changes.

1. Definitions

In this EULA, unless the contrary intention appears:

Confidential Information in relation to a party, means all knowledge, information (including scientific, business, patient, staff and financial information), inventions, improvements, documents, drawings, samples, devices, demonstrations, trade secrets, know-how and other information of whatever description and all other commercially valuable information of that party and which that party regards as confidential to it (or which it designates as confidential) and all copies, notes and records as well as all related information generated by, or that comes into the possession (howsoever occurring) of, the other party based on or arising out of any such disclosure, but does not include information which:

- (a) is in the public domain at the time of disclosure to the other party;
- (b) is published or otherwise becomes part of the public domain but not in breach of any other obligations of confidence;
- (c) at the date of disclosure to the other party was already properly in the possession of the other party without an obligation of non-disclosure to that party;
- (d) is independently created by or on behalf of the other party by persons who had no knowledge of the disclosed information; or
- (e) is required to be disclosed by law.

EULA means this End User License Agreement.

Fees means the licence fee payable by you to the Institute under Clause 7 and specified in the Order Form.

GST has the same meaning as in the GST Law;

GST Law has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth), as amended or replaced from time to time.

Intellectual Property Rights means all rights, present and future throughout the world, resulting from intellectual activity whether capable of protection by statute, common law or in equity, including copyright, discoveries, inventions, patent rights, registered and unregistered trademarks, design rights, circuit layouts, plant varieties, and all rights and interests of a like nature, together with any and all documentation relating to such rights and interests

Law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction and includes the common law and equity as applicable from time to time and any applicable industry codes of conduct.

Maintenance Release means release of the Website that corrects faults, adds functionality or otherwise amends or upgrades the Website.

Open-Source Software has the meaning given to the term by the Open-Source Initiative (<https://opensource.org/osd>).

Order Form means a quote, invoice or other order document that includes certain commercial terms relating to the access to and use of the Website, including pricing terms and the period of access (as relevant).

Website means the software program ‘SpliceVarDB’ which is available at <https://splicevardb.org/> and <https://compbio.ccia.org.au/splicevardb>.

You means the organisation (including its employees) listed as a licensee in the Order Form and authorised to use the Website in accordance with the terms and conditions of this EULA.

2. Licence

- (a) The Institute grants you a non-exclusive, non-transferable, limited and revocable licence (without the right to sub-license) to access and use the Website subject to the terms of this EULA.
- (b) You agree that you will not:
 - i. use the Website other than as specified in Clause 1(a) without the prior written consent of the Institute. You acknowledge that additional fees may be payable in relation to any change of use approved by the Institute;
 - ii. copy, adapt, reverse engineer, decompile, disassemble, license, transfer, modify, adapt or make error corrections to the Website in whole or in part;
 - iii. use the Website in any manner that could damage, disable, overburden, or impair the Website (or servers or networks connected to the Website), or use the Website in any manner that could interfere with any other party's use and enjoyment of the Website (or servers or networks connected to the Website);
 - iv. take any action to circumvent or defeat the security provided, deployed or enforced by any functionality contained in the Website; and
 - v. use the Website in any manner that infringes the intellectual property or other rights of the Institute or any other third party.
- (c) You will ensure that any use of the Website occurs in accordance with any applicable limitations or restrictions specified in the Order Form.
- (d) Any Open-Source Software that accompanies the Website or is incorporated into the Website is provided to you under the terms of the relevant Open-Source Software licence agreement as drawn to your attention by the Institute at <https://compbio.ccia.org.au/splicevardb/resources>. This EULA does not apply to the Open-Source Software accompanying the Website or incorporated in the Website and you indemnify the Institute against any loss or damage which you may suffer or incur as a result of your use of Open-Source Software.

3. Upgrades

- (a) The Institute will use reasonable endeavours to issue Maintenance Releases in relation to the Website. The Institute warrants that no Maintenance Release will adversely affect the then existing facilities or functions of the Website.
- (b) If the Website is upgraded via Maintenance Releases, you may use that upgraded version only in accordance with the terms of this EULA.

4. Intellectual Property Rights

- (a) You acknowledge that all Intellectual Property Rights in the Website and any Maintenance Releases belong and will belong to the Institute or the relevant third-party owners (as the case may be), and you will have no rights in or to the Website other than the right to use it in accordance with the terms of this EULA.
- (b) During your use of the Website, you may provide or make available to the Institute suggestions, ideas, improvements, modifications, feedback, error identification, content corrections or additions, new variants, variant classifications, opinions regarding the appropriateness of a particular curated article to the clinical assessment of one or more variants, or other content or information related to the Website ("**Feedback**"). You assign ownership of all Intellectual Property Rights in that Feedback to the Institute.
- (c) Either party is entitled to use the other party's logo on its website subject to obtaining prior written approval of the other party and in accordance with any relevant brand guidelines.

5. Confidential Information

- (a) You and the Institute must:
 - i. use any Confidential Information received from the other party solely for the purpose of your activities under this EULA and take all reasonable precautions to ensure the confidentiality, and prevent the disclosure, of any Confidential Information, including storing all Confidential Information in a manner that is reasonably protected from unauthorised access, use, copying, reproduction or disclosure.
 - ii. reproduce any Confidential Information solely to the extent necessary to provide or obtain the benefit of this EULA and the Website, with all such reproductions being considered other party's Confidential Information.
 - iii. not disclose to any third party any Confidential Information except as expressly permitted by this Agreement or by written consent unless disclosure is required by law.
 - iv. permanently destroy all Confidential Information of the other party in its possession immediately on termination or expiration of this Licence.

6. Privacy

- (a) You and the Institute agree that any personal information or data held or used in connection with this EULA, the Order Form or use of the Website will be collected, stored, used and disclosed in accordance with the *Privacy Act 1988 (Cth)* and all other applicable privacy or data protection laws in your jurisdiction.
- (b) Each party must comply with the reasonable directions of the other party in relation to the handling of any personal information and data that the party holds or has held in connection with this EULA or use of the Website.

7. Fees

- (a) In consideration for the rights set out in this EULA, you will pay to the Institute the Fees set out in the Order Form. For the avoidance of doubt, access to the Website will only be granted to you once the Fees are received by the Institute and the Fees are non-refundable.
- (b) The Institute will issue a valid tax invoice to you and payment is due by the date specified on each tax invoice or if no due date is specified, within 30 days after the tax invoice is issued.
- (c) Unless specified otherwise, all monetary amounts expressed in the Order Form are exclusive of GST and in Australian Dollars (AUD).

- (d) If any supply under this EULA is a taxable supply under GST Law, the Institute may, in addition to any payment for the supply, recover the amount of the GST applicable to the supply. Any amount of GST payable is payable at the same time as the payment for the supply to which it relates.

8. Additional Charges

- (a) If the Institute becomes aware that any information provided by you in connection with your application for this EULA is inaccurate or incomplete or that you are not using the Website in accordance with the terms of this EULA, then it reserves the right to:
 - i. charge you additional fees for such use and to temporarily suspend your access to the Website until those fees are received; and/or
 - ii. terminate this EULA under clause 9(b).

9. Term and Termination

- (a) This EULA is effective on the date you first access (i.e. log into) the Website and will automatically expire one year from this date unless terminated earlier in accordance with these terms.
- (b) The Institute may terminate this EULA at any time by providing written notice to you and will refund any Fees paid by you as at the date of termination (less Fees applicable to your use of the Website up to and including the date of termination).
- (c) Either party may terminate this EULA with immediate effect by providing written notice to the other party if the other party:
 - i. breaches any material term which is not capable of remedy;
 - ii. breaches any material term and fails to remedy the breach within 14 days after receiving notice requiring it to do so; or
 - iii. any event of insolvency occurs in relation to the other party (whether or not notified) including any step to appoint a receiver, administrator, trustee in bankruptcy or liquidator.
- (d) If this EULA is terminated for any reason, all rights granted under these terms will cease and you must immediately cease all use of the Website.

10. Warranty, Liability and Indemnity

- (a) The Institute provides no warranty that the Website or any information, data or results generated in connection with use of the Website ("**Output**") are fit for purpose, accurate, secure, complete, reliable, available, uninterrupted or error-free. The Website and Output are provided to you on an "as is" basis. For the avoidance of doubt, the Website and Output are not intended for direct diagnostic use or medical decision-making without review by a genetics professional and the Institute does not independently verify data entered into the Website by any licensees. To the maximum extent permitted by law, this EULA excludes all warranties, representations, conditions and guarantees (express or implied) in relation to the Website and Output.
- (b) To the extent permitted by law, in no circumstances is a party liable to compensate the other party for any special, indirect, incidental or consequential loss or damage, economic loss, or loss of profits, revenue, production, opportunity, anticipated savings, goodwill, reputation arising from business disruption or loss or corruption of data arising from or in connection with your use of the Website or this EULA.
- (c) To the extent permitted by law, the liability of the Institute for any claim arising directly as a result of your use of the Website or in connection with this EULA is limited to a sum equal to the total Fees payable by you under this EULA.
- (d) You indemnify and agree to keep the Institute and its respective directors, officers, employees, agents and representatives ("**those indemnified**") indemnified from and

against any and all liability, loss, harm, damage, cost or expense (including reasonable legal fees) howsoever arising that those indemnified may suffer, incur or sustain as a result of:

- i. the unlawful or negligent acts or omissions of you or any of your directors, officers, employees, agents, contractors or representatives; or
- ii. any breach of this EULA by you,

except to the extent that any such liability, loss, harm, damage, cost or expense is attributable to any gross negligence or wilful misconduct of those indemnified.

11. Force Majeure Event

- (a) The Institute will not be liable to you for the consequences of any delays or failures of its performance under this EULA which are caused by any event outside the reasonable control of the Institute and that could not have been prevented by it taking all reasonable steps, including without limitation natural disasters (i.e. floods, tornadoes, earthquakes, hurricanes), acts of people (i.e. acts of terrorism, riots, strikes, wars), epidemics, pandemics, quarantine and government action. The Institute may terminate this EULA with immediate effect and without liability to you if such an event occurs and continues for a period of 30 days or more.

12. General

- (a) This EULA together with the Order Form constitute the entire Agreement between you and the Institute relating to the Website and completely replace any prior agreements or representations (written or oral) between you and the Institute or its representatives regarding the Website.
- (b) Notices under this EULA must be in writing and sent to the contact named on the Order Form. A notice is deemed to have been given:
 - i. if delivered personally, on the date of delivery;
 - ii. if sent by prepaid post, three business days after the date of posting (or seven business days after the date of posting if posted to or from a place outside Australia); or
 - iii. if sent by email, when the sender receives an automated message confirming delivery or twenty-four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered (whichever happens first).
- (c) An amendment or variation of any term of this EULA must be in writing and signed by each party.
- (d) You must not sublicense, assign, novate or delegate any or all of your rights and obligations under this EULA without the written consent of the Institute. The Institute is permitted to sub-license, assign, novate or delegate any or all of its rights and obligations under this EULA at any time.
- (e) The failure by a party to require performance of an obligation under this EULA by the other party will not operate as a waiver of the obligation and the other party remains liable to perform all its obligations under this EULA.
- (f) If any provision or part of a provision of this EULA is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of voidability, invalidity, or unenforceability, but the remaining provisions of the EULA will remain in full force and effect.
- (g) Nothing in this EULA may be construed as creating a relationship of partnership, joint venture, employment, principal and agent or trustee and beneficiary between the parties.
- (h) This EULA is governed by the laws of New South Wales, Australia. In the event of a dispute, the parties submit to the non-exclusive jurisdiction of the courts of that jurisdiction.