Licence for non-profit research and/or teaching institutions to use SculptorCNS

Article 1 - Definitions

For the purpose of this Agreement, when the following expressions commence with a capital letter, they shall have the following meaning:

"Agreement" means this license agreement.

"Software" means the software SculptorCNS, in its Source Code and possibly in its Object Code form and, where applicable, its documentation, "as is" when the Licensee accepts the Agreement.

"Licensee" means the non-profit research and/or teaching institution having accepted the Agreement.

"Object Code" means the Software in machine-readable, compiled and/or executable form including, but not limited to, byte code form.

"Source Code" means the Software in human readable form, normally used to make modifications to the Software. The Source Code is converted into Object Code through the process of compilation.

"CEA" means the Commissariat à l'Energie Atomique, a French state-owned research entity with a scientific, technical or industrial activity duly organized under the laws of France and having its registered office located Bâtiment Le Ponant D – 25, rue Leblanc – Paris 15ème (France) – and declared at the Paris Register of Commerce and Trade ("Registre du Commerce et des Sociétés de Paris") under the following registration number: RCS PARIS B 775 685 019.

"CNRS" means the Centre National de la Recherche Scientifique, a French public establishment of a scientific and technological nature which is situated at 3, rue Michel-Ange, 75794 PARIS Cedex 16, whose VAT intra-community number is FR40180089013, SIRET 180089013 03720, NAF code 731Z.

"Modifications" means any or all modifications, corrections, translations, adaptations and/or new functions integrated into the Software by any or all Licensees, as well as any or all Related Modules.

"Derivative Software" means any combination of the Software, modified or not, and of a Related Module.

"Related Module" means a set of sources files including their documentation that, without modification to the Source Code of the Software, enables supplementary functions or services in addition to those offered by this Software.

"Parties" mean collectively the Licensee, the CEA and the CNRS.

Excepted the expression "Parties", all the above expressions may be used both in singular and plural form.

Article 2 - Purpose

The purpose of this Agreement is the grant by CEA and CNRS to the Licensee of a free non-exclusive, non-transferable and worldwide license on the Software, as set forth in Article 5 hereinafter, for the whole term of the protection granted by the rights over this Software.

Article 3 - Acceptation

3.1 The Licensee shall be deemed as having accepted the terms and conditions of this Agreement upon the occurrence of the first of the following events:
> (i) loading the Software by any or all means, notably, by downloading from a remote server, or by loading from a physical medium;
> (ii) the first time the Licensee exercises any of the rights granted hereunder.

3.2 One copy of the Agreement, containing a notice relating to the characteristics of the Software, to the limited warranty, and to the fact that its use is restricted to academic non-profit research and/or teaching institution has been provided to the Licensee prior to its acceptance as set forth in Article 3.1 hereinabove, and the Licensee hereby acknowledges that it has read and understood it.

Article 4 – Effective date and term

4.1 Effective date

The Agreement shall become effective on the date when it is accepted by the Licensee as set forth in Article 3.1.

4.2 Term

The Agreement shall remain in force for the entire legal term of protection of the economic rights over the Software.

Article 5 – Scope of the granted rights

Provided that the Licensee is an academic (non-profit) institution, CEA and CNRS hereby grant to it the following rights over the Software. These rights, that the Licensee accepts, are granted for any or all use, and for the term of the Agreement, on the basis of the terms and conditions set forth hereinafter.

5.1 Right of use

The Licensee shall not use the Software for any purpose (research or otherwise) that is supported by a "for profit" organisation without prior written authorization of CEA and CNRS.

The Licensee is authorized to use the Software, without any limitation as to its fields of application, with it being hereinafter specified that this comprises:

> 1. permanent or temporary reproduction of all or part of the Software by any or all means and in any or all form.

> 2. loading, displaying, running, or storing the Software on any or all medium.

> 3. entitlement to observe, study or test its operation so as to determine the ideas and principles behind any or all constituent elements of said Software. This shall apply when the Licensee carries out any or all loading, displaying, running, transmission or storage operation as regards the Software, that it is entitled to carry out hereunder.

5.2 Distribution

The Licensee shall not disclose in any form the Software, any Modifications or any Derivative Software to third parties without prior authorization of CEA and CNRS.

If the Licensee receives a request to furnish all or any portion of the Software to any third party, it shall not fulfil such a request and shall refer it in writing to both CEA and CNRS at the following addresses:

> sculptorCNS@ibs.fr

Article 6 – Duties of the Licensee

6.1 Modifications and Derivative Software

The Licensee shall promptly report to CEA and CNRS any Modifications and/or Derivative Software, which shall also be made available to CEA and CNRS in source code and object code form on the latters's request.

Reports of Modifications or Derivative Software shall be made at the following address:

> sculptorCNS@ibs.fr

6.2 Credits

The Licensee agrees that any reports, communications or publications of results obtained with the Software will acknowledge its use by citation of the following article:

"SculptorCNS : Biomolecular Structure Determination and Refinement in Solution from NMR Residual Dipolar Couplings, Paramagnetic Phenomena and Spin Relaxation Data.

Céline Charavay, Jean-Paul Eynard, Jean-Christophe Hus, Guillaume Bouvignies and Martin Blackledge. *In Preparation (2008* "

Article 7 – Intellectual property

7.1 Software intellectual property

CEA and CNRS own the economic rights over the Software. Any or all use of the Software is subject to compliance with the terms and conditions under which CEA and CNRS have elected to distribute their work.

CEA and CNRS undertake that the Software will remain ruled at least by this Agreement, for the duration set forth in Article 4.2.

7.2 Joint provisions

The Licensee undertakes not to directly or indirectly infringe the intellectual property rights of CEA and CNRS on the Software and to take, where applicable, vis-à-vis its staff, any and all measures required to ensure respect of the said intellectual property rights.

Article 8 – Related Services

8.1 Under no circumstances shall the Agreement oblige CEA and/or CNRS to provide technical assistance or maintenance services for the Software.

However, CEA and CNRS are entitled to offer this type of services. The terms and conditions of such technical assistance, and/or such maintenance, shall be set forth in a separate instrument.

8.2 Similarly, CEA and CNRS are entitled to offer to the Licensee a warranty under terms and conditions that they are free to decide. Said warranty, and the financial terms and conditions of its application, shall be subject of a separate instrument executed between CEA, CNRS and the Licensee.

Article 9 – Warranty/Liability

9.1 The Licensee uses the Software at its own risks and shall be solely liable for damages of any kind caused by accident arising out of or in connection with the use or operation of the Software. Therefore, the Licensee shall not search either CEA/CNRS liability or the liability of their employees, and shall warrant them against any action, claim or request that would be brought against them because of all damages, liabilities and expenses in connection with an accident that would occurred during the use or operation of the Software.

9.2 The Licensee acknowledges that the scientific and technical state-of-the-art when the Software was distributed did not enable all possible uses to be tested and verified, nor for the presence of possible defects to be detected. In this respect, the Licensee's

attention has been drawn to the risks associated with downloading, loading, using, modifying and/or developing and reproducing the Software which are reserved for experienced users.

The Licensee shall be responsible for verifying, by any or all means, the suitability of the product for its requirements, its good working order, and for ensuring that it shall not cause damage to either persons or properties.

9.3 CEA and CNRS hereby represent, in good faith, that they are entitled to grant all the rights over the Software (including in particular the rights set forth in Article 5).

9.4 The Licensee acknowledges that the Software is supplied "as is" by CEA and CNRS without any other express or tacit warranty, other than that provided for in Article 9.3 and, in particular, without any warranty as to its commercial value, its secured, safe, innovative or relevant nature.

Specifically, CEA and CNRS do not warrant that the Software is free from any error, that it will operate without interruption, that it will be compatible with the Licensee's own equipment and software configuration, nor that it will meet the Licensee's requirements.

9.4 CEA and CNRS do not either expressly or tacitly warrant that the Software does not infringe any third party intellectual property right relating to a patent, software or any other property right. Therefore, CEA and CNRS disclaim any and all liability towards the Licensee arising out of any or all proceedings for infringement that may be instituted in respect of the use of the Software. CEA and CNRS disclaim any and all liability as regards the Licensee's use of the name of the Software. No warranty is given as regards the existence of prior rights over the name of the Software or as regards the existence of a trademark.

Article 10 - Termination

10.1 In the event of a breach by the Licensee of its obligations hereunder, CEA and CNRS may automatically terminate this Agreement thirty (30) days after notice has been sent to the Licensee and has remained ineffective.

10.2 In case of termination of the Agreement, the Licensee shall no longer be authorized to use the Software.

Article 11 - Miscellaneous

11.1 Excusable events

Neither Party shall be liable for any or all delay, or failure to perform the Agreement, that may be attributable to an event of force majeure, an act of God or an outside cause, such as defective functioning or interruptions of the electricity or telecommunications networks, network paralysis following a virus attack, intervention by government

authorities, natural disasters, water damage, earthquakes, fire, explosions, strikes and labor unrest, war, etc.

11.2 New versions of SculptorCNS

The terms and conditions of this Agreement only apply to the version of SculptorCNS to which there were attached and/or before the download of which there were displayed. As a consequence, any new versions of Sculptor CNS may be subject to other terms and conditions. In particular, CEA and CNRS may decide that the grant of licenses on these new versions will not be royalty free.

11.3 Any failure by either Party, on one or more occasions, to invoke one or more of the provisions hereof, shall under no circumstances be interpreted as being a waiver by the interested Party of its right to invoke said provision(s) subsequently.

11.4 The Agreement cancels and replaces any or all previous agreements, whether written or oral, between the Parties and having the same purpose, and constitutes the entirety of the agreement between said Parties concerning said purpose. No supplement or modification to the terms and conditions hereof shall be effective as between the Parties unless it is made in writing and signed by their duly authorized representatives.

11.5 In the event that one or more of the provisions hereof were to conflict with a current or future applicable act or legislative text, said act or legislative text shall prevail, and the Parties shall make the necessary amendments so as to comply with said act or legislative text. All other provisions shall remain effective. Similarly, invalidity of a provision of the Agreement, for any reason whatsoever, shall not cause the Agreement as a whole to be invalid.

11.6 Language

The Agreement is drafted in both French and English and both versions are deemed authentic.

Article 12 – Governing law and jurisdiction

12.1 The Agreement is governed by French law. The Parties agree to endeavour to seek an amicable solution to any disagreements or disputes that may arise during the performance of the Agreement.

12.2 Failing an amicable solution within two (2) months as from their occurrence, and unless emergency proceedings are necessary, the disagreements or disputes shall be referred to the Paris Courts having jurisdiction, by the more diligent Party.