

LICENSING AGREEMENT OF SOFTWARE

BETWEEN THE UNDERSIGNED:

University of California, Davis - Digital Ag Lab

1344 Bainer Hall, One Shield Avenue, Davis 95616, California, USA

represented by Pourreza, acting as Assistant Professor .

Hereinafter referred to as the “**Licensee**”,

On the one hand,

AND

THE UNIVERSITE TOULOUSE III-PAUL SABATIER,

Public establishment with a scientific, cultural and professional vocation,

N° SIRET 19311384200010, code APE 8542Z,

118 route de Narbonne, 31062 Toulouse Cedex 9 - France,

represented by Jean-Marc BROTO, acting as President.

Hereinafter referred to as the “**UT3**”,

On the other hand.

Hereinafter together referred to as the "Parties" and each individually as "Party".

AFTER IT WAS EXPOSED THAT:

Jean-Philippe GASTELLU-ETCHEGORRY is the author of a software of modeling of the radiative transfer named ***DART (DISCRETE ANISOTROPIC RADIATIVE TRANSFER)***.

DART software was developed within the UT3, employer of Jean-Philippe GASTELLU-ETCHEGORRY. Therefore, the UT3 is the owner of any and all intellectual property rights on this software.

The source code, object code and the associated documentation of this software, hereinafter together referred to as the “SOFTWARE”, were the object of a deposit at bailiff on May 3rd, 2001 on behalf of the UT3, with the view of establishing the specific date of creation of the SOFTWARE.

Researchers at the Licensee wish to use the SOFTWARE in the framework of a public research project entitled: “***project_acronym Remote Sensing for early detection of branched broomrape in tomato***”, hereinafter referred to as the “PROJECT”.

The Program of this PROJECT is described in Appendix 1 to the present agreement (hereinafter referred to as the “Agreement”).

The PROJECT is carried out with other institutions. In this framework, a consortium agreement, which defines the rights and obligations of the partners and the share of the results from the PROJECT, has been signed by the PROJECT partners. The Licensee acknowledges that it shall not commit itself to conflicting provisions in any other contract.

The Licensee declares to be completely informed about the characteristics and specifications of the SOFTWARE.

The Licensee declares to have received from the UT3 all the necessary information to be able to appreciate the suitability of the SOFTWARE to the performance of the PROJECT, and in particular to its contents and scientific purposes.

The Licensee declares to have a good knowledge of the technical and scientific environment of the SOFTWARE, as well as a staff having all the qualifications and competences required for their use.

IT WAS AGREED WHAT FOLLOWS:

Article 1: Object of the Agreement

The object of the present Agreement is the grant of a license by the UT3 to the Licensee to use the SOFTWARE, on a free of charge, non-transferable and non-exclusive basis, for the exclusive purpose of carrying out their tasks within the PROJECT.

By non-exclusive, it shall be understood that the UT3 is allowed to grant to other third parties the same rights as those granted to the Licensee by virtue of the present Agreement and that it is allowed to use and to exploit the SOFTWARE.

Article 2: Term of the Agreement

The present Agreement comes into effect on the day of the last signature by the Parties for a period of 2 years, which shall not exceed the duration of the PROJECT.

If the duration of the PROJECT is extended beyond the term, and if the Licensee wants to be able to keep on using the SOFTWARE after this term, it shall address a request to the UT3 as soon as possible and before the end of the Agreement.

Any extension to the present licensing Agreement shall be subject to an amendment signed by both Parties.

Article 3: Delivery of the SOFTWARE

Once the Agreement enters into force, the UT3 shall provide the Licensee with an executable version of the SOFTWARE, downloadable on the DART website, along with the documentation of use relating to the SOFTWARE.

The source code of the SOFTWARE shall not be provided unless supplemental prior written agreement signed between the Parties.

Article 4: License to use the SOFTWARE

The Licensee may install and use the SOFTWARE only on a unique site and a unique computer, namely: University of California, Davis - Digital Ag Lab.

The transport of the computer on which the SOFTWARE is installed towards a different site from the one specified hereupon is forbidden.

The Licensee should take all necessary measures to protect the access to the SOFTWARE through a network, so that only the employees directly involved in the implementation of their tasks within the PROJECT listed in Appendix 2 are capable of using it, on a need-to-know basis.

It is expressly agreed between the Parties that the Licensee is not allowed to launch on the market copies of the SOFTWARE, including for rent or loan, whether for payment or not. The SOFTWARE and the password used for downloading the SOFTWARE shall not be supplied nor given to any third party, except to the employees directly concerned by the implementation of the PROJECT listed in Appendix 2.

Except express and written preliminary license from the UT3, the Licensee shall not modify in any way, translate or adapt the SOFTWARE.

The Licensee shall not modify, reproduce or translate the code of the SOFTWARE to allow its operational use with other software packages. If necessary, the UT3 shall supply as soon as possible the Licensee, on simple demand, with the necessary proprietary information for the operational use of the SOFTWARE with other software packages, as far as this operational use is necessary for the implementation of the PROJECT.

Article 5: Use of the SOFTWARE for the PROJECT as public research

It is strictly agreed that the license on the SOFTWARE granted by the UT3 to the Licensee is strictly limited to the purpose of the PROJECT as public research.

For the avoidance of doubt, the Licensee shall not use the SOFTWARE if the PROJECT is, in whole or in part:

- financed otherwise than by public money, in a direct or indirect way,
- resources and means used directly or indirectly for the realization of the PROJECT are, for part or altogether, others than public.

During the term of the present Agreement and after its expiration, the Licensee shall not license or assign to a third party any of the results which have been obtained from the use of the SOFTWARE within the framework of the PROJECT, for any kind of financial compensation, whether direct or indirect, such as an economy, a profit or an advantage of patrimonial order (notably: financial payment, donation in kind, etc.).

For any such use of such results, as described in the previous paragraph, the Licensee shall make the demand in writing to the UT3, clarifying the area and conditions of the intended use. The Parties shall then negotiate under market conditions, the conditions and limits of such use. In case of agreement between the UT3 and the Licensee on such use and on the financial compensation to be paid by the Licensee to the UT3, a written amendment will be signed between the Parties.

For the avoidance of doubt, the results of the PROJECT obtained without the use of the SOFTWARE shall not be subject to the provisions of this article. Such results shall be the property of the Licensee and its PROJECT partners and may be used by them according to agreements between them.

Article 6: Use of the SOFTWARE by the researchers

Within the Licensee premises, the SOFTWARE shall not be used by other employees than those directly involved in the implementation of the PROJECT. The Licensee will make sure that these employees have the necessary qualifications and competences to use the SOFTWARE.

The limited list of the employees having the right to use the SOFTWARE within the framework of the PROJECT is attached in Appendix 2 to the present Agreement.

The Licensee undertakes to take any necessary measure to make sure that these employees will respect, for their entire respective duration, the provisions of the present Agreement.

Article 7: Compensation for the license

It is agreed that the present Agreement is granted by the UT3 to the Licensee without financial compensation.

In compensation for the present Agreement, the Licensee shall communicate to the UT3 the results of the PROJECT which have been obtained from the use of the SOFTWARE and shall conform scrupulously to the other provisions of the present Agreement.

As soon as possible after the expiration of the present Agreement, the Licensee undertakes to communicate to the UT3 the results of the PROJECT which have been obtained from the use of the SOFTWARE. The Licensee shall ensure that the partners of the PROJECT agree to the said communication.

The UT3 may only use the results communicated by the Licensee for internal research purposes, at the exclusion of any other use. These results shall be considered as confidential information by the UT3 and shall not be communicated to any third party.

Article 8: Intellectual property - Publications

The present Agreement shall not be interpreted in any way as transferring the ownership of the SOFTWARE belonging to the UT3 to the Licensee.

In any publication relating to the results of the PROJECT which have been obtained from the use of the SOFTWARE, the Licensee undertakes to mention Jean-Philippe GASTELLU-ETCHEGORRY among the authors of the results of the PROJECT (at least in the first publication) and to acknowledge that these results were obtained by means of the SOFTWARE belonging to the UT3 and of which Jean-Philippe GASTELLU-ETCHEGORRY is the author.

For the avoidance of doubt, any result of the PROJECT obtained without connection to the use of the SOFTWARE shall not be subject to the obligation mentioned in the previous paragraph.

Article 9: Confidentiality

The Licensee shall not communicate all or any part of the SOFTWARE to a third party, in any way or any form whatsoever (for instance, object code). Documentation associated to the SOFTWARE is covered by the same obligation of confidentiality.

The obligation of confidentiality concerning the SOFTWARE shall last for the entire duration of the present Agreement and shall continue for the duration of the intellectual property rights as far as the SOFTWARE is protected with a right of intellectual property and/or remains confidential.

Article 10: Guarantee

The UT3 guarantees the Licensee:

- a quiet enjoyment of the SOFTWARE against its personal fact;
- of the material existence of the SOFTWARE;
- that it owns the SOFTWARE and that to this day it did not transfer to third parties the property of any of these rights, so that it is entitled to grant to the Licensee the rights on the SOFTWARE under the conditions defined in the present Agreement.

The Licensee assumes all the responsibilities other than those mentioned above, and notably those that concern:

- The suitability of the SOFTWARE to the PROJECT, in particular to its contents and its scientific purpose,
- The compatibility of the SOFTWARE with the materials, the other resources and the means implemented for the realization of the PROJECT,
- The use of the SOFTWARE, in particular the capacity of the employees involved in the realization of the PROJECT.

The Licensee will use the SOFTWARE at its own risks and exclusive dangers.

In particular, the UT3 does not guarantee the Licensee in case of damages of any nature, direct or indirect, caused to the Licensee and arisen out of, or in connection with, the use, or

the impossibility to use, the SOFTWARE, including damages entailed by an interruption or a delay in the execution of the PROJECT and/or by the loss of information.

The Licensee undertakes to take any useful and necessary precautions in the use of the SOFTWARE to avoid damages.

In particular, the Licensee undertakes to take any measure to avoid the loss or destruction of any data, information and software packages. For that purpose, it shall make back-ups of its other software packages and appropriate data prior to the use of the SOFTWARE and regularly then during its use.

Article 11: *Intuitu personae* - Transfer - Sublicense

The present Agreement is concluded *intuitu personae* towards the Licensee.

The Licensee shall not transfer the present Agreement or the SOFTWARE to a third party, in all or in part, whether free of charge or with financial compensation, without the prior written agreement of the UT3.

The UT3 will freely be able to transfer or assign to a third party the SOFTWARE, in whole or in part, on the condition however that the profit of the present Agreement is at the same time transferred or assigned.

In case of transfer, the transferee, duly informed about the conditions of the licensing Agreement which he shall countersign, shall have towards the Licensee the same obligations as the UT3 for whom he substitutes himself.

Article 12: Action for infringement against third parties

The Licensee should inform immediately the UT3 of any act of infringement of the SOFTWARE of which it might be aware of.

The UT3 will alone appreciate the opportunity to take a legal action against the third party concerned.

In case of action for infringement engaged by the UT3, the Licensee may join in the action at its expenses and exclusive risks to obtain damages and/or compensation.

The Licensee has not the right to take an action for forgery itself, even if an action for forgery is not engaged by the UT3 against one presumed counterfeit. In this last case, the Licensee will not be able to ask for damages.

Article 13: Action for infringement on behalf of a third party

If a legal action is taken against the Licensee for the use of the SOFTWARE, the UT3 shall give to the Licensee any technical and legal information in its possession which may help the Licensee in its defense.

Article 14: Dissolution

In the event that either Party believes that the other Party is in breach of any of its obligations under the present Agreement, the other Party shall notify the breaching Party in writing, by

registered letter with acknowledgment of receipt. The breaching Party shall have a maximum period of thirty (30) days from the reception of the letter to remedy the alleged breach.

After this period, if the defaulting Party has not totally remedied the alleged breach, the other Party will have the right to terminate the present Agreement without further notice, without prejudice of any other action, in particular for damages.

Article 15: Consequences of the term or the early dissolution of the Agreement

At the end of the Agreement, for whatever cause it is, the Licensee should stop to use the SOFTWARE.

At the latest thirty (30) days following the end of the Agreement, the Licensee shall remove the SOFTWARE wherever it was installed, without keeping any copy or reproduction.

Article 16: Applicable Law - Disputes - Amendments

The present licensing Agreement is subject to French law.

The Parties shall try to settle amicably any dispute arising out of the interpretation or the execution of this Agreement. If no solution is found, the dispute shall be settled by the competent Courts of Toulouse.

The possible amendments and modifications to the present Agreement shall be signed by all Parties to be binding.

Made in Toulouse in two (2) original copies,

For the UT3,

The President

Jean-Marc BROTO

Date: 23/01/04

Signature:

For the Licensee,

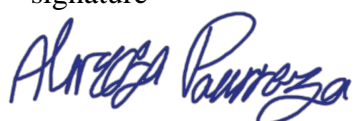
Assistant Professor

Mr/Mrs. Pourreza

Date: 23/01/04

Signature (with seal of the Licensee):

signature



Appendix 1

Description of the PROJECT:

- **Institutions that participate to the PROJECT:** *UC Davis, University of California, Davis - Digital Ag Lab*

- **Approximate budget (personal included):** *budget_license*

- **Expected duration, etc.:** *1*

- **PROJECT objectives (science, technology, education,...):** *We aim to investigate the interaction of incident light with tomato leaf and plant canopy using canopy reflectance models such as DART (Gastellu-Etchegorry et al., 2015) to detect branched broomrape (*Phelipanche ramosa*, syn. *Orobanche ramosa*) in tomato. We will adopt Radiative Transfer Model to calibrate and retrieve primary plant traits and combine mechanistic approaches with explainable Machine learning algorithms to optimize early detection accuracy.*

Appendix 2

Full list of employees who are going to use the DART model:

Alireza Pourreza
Hamid Jafabiglu
Yuto Kamiya
Damian Oswald
Momtanu Chakraborty
Mohammadreza Narimani