

KEGG API SUBSCRIPTION AGREEMENT

This KEGG API Subscription Agreement (the “**Agreement**”) is made as of _____ (the “**Effective Date**”) by and between Pathway Solutions Inc. (“**Pathway**”), 4-37-15, Sengoku, Bunkyo-ku, Tokyo, Japan, and _____ (“**Customer**”), _____.

RECITALS

WHEREAS, Pathway is the exclusive worldwide licensing agent for KEGG (as defined below);

WHEREAS, Customer desires to access and use KEGG API (as defined below) and integrate KEGG into Customer's products;

WHEREAS, Pathway will provide Customer with access to KEGG API pursuant to the terms and conditions of this Agreement; and

NOW THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the parties hereby agree as follows:

1. DEFINITIONS

- 1.1. "**Kanehisa Laboratories**" means the laboratories headed by Professor Minoru Kanehisa, having their principal place of activity at the Institute for Chemical Research, Kyoto University.
- 1.2. "**KEGG**" means the database known as the Kyoto Encyclopedia of Genes and Genomes developed by Kanehisa Laboratories and provided electronically via the KEGG website (<http://www.kegg.jp/>) or via any mirror site and any software embodied therein, the data contained therein, and any modified, updated or enhanced version of such database or the data contained therein.
- 1.3. "**KEGG API**" means the REST-based application programming interface to KEGG, served at the access point indicated in Appendix A.
- 1.4. "**KEGG API Data**" means any data obtained via KEGG API.
- 1.5. "**KEGG Data**" means any data embodied in KEGG including but not limited to KEGG API Data.

2. USE OF KEGG

- 2.1. On condition that the Fees be paid by Customer to Pathway, Pathway hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable right to (i) access and use KEGG API for the purpose of developing and maintaining Customer's products and (ii) incorporate KEGG API Data into Customer's products and market, sell and distribute such products. Customer is not authorized to market, sell or distribute KEGG Data itself.

- 2.2. Customer will lose access right to KEGG API when the total KEGG API requests exceeds the access limit indicated in Appendix A.

- 2.3. Customer will not, by virtue of this Agreement, acquire any proprietary interest in KEGG, KEGG Data, KEGG API, or any data or materials included therein.

3. LIMITED WARRANTY

- 3.1. Pathway represents and warrants that (i) it has the right to license KEGG, an original product developed solely by Kanehisa Laboratories, and to grant the rights set forth in this Agreement; and (ii) it has not received written notice from a third party indicating that KEGG infringes upon any copyrights or patent rights of such third party.
- 3.2. Pathway does not warrant or assume any legal responsibility for accuracy, truth, efficiency, value, usefulness, merchantability or fitness for a particular purpose of KEGG, KEGG Data or KEGG API. Customer hereby agrees to use KEGG, KEGG Data, or KEGG API at its own cost and risks.

4. PAYMENT, TERM AND TERMINATION

- 4.1. In consideration of rights granted by Pathway to Customer under this Agreement, Customer shall pay Pathway _____ USD ("Fees"). The Fees shall be paid by the Effective Date.
- 4.2. This Agreement commences on the Effective Date and shall continue for one (1) year thereafter, unless terminated earlier pursuant to the terms of this Agreement. The parties hereto may, however, extend the term of the Agreement for additional years.
- 4.3. This Agreement may be terminated by either Pathway or Customer upon thirty (30) days prior written notice if the other party materially breaches or fails to perform any material term hereof and the breaching party fails to cure such breach within such thirty (30) day period. Pathway is not obligated to return any portion of the Fees that Pathway has received in the event of early termination.
- 4.4. Upon expiration or termination of this Agreement, Customer shall immediately delete all of KEGG Data held by Customer.

5. CONFIDENTIALITY

Each party agrees that all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("Confidential Information") shall be used solely to the extent necessary to fulfill its obligations or exercise its right in this Agreement, and not for any other purpose. Each party agrees to hold the Confidential Information of the other party in strict confidence and not to disclose such Confidential Information to any third party. However, such information shall not include any information that: (i) is or becomes a part of the public domain through no act or omission of the receiving party or otherwise available to the public other than by breach of this Agreement; or (ii) was in Receiving Party's lawful possession prior to the disclosure and had not been obtained by Receiving Party either directly or indirectly from Disclosing Party; or (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (iv) is independently developed by Receiving Party without access to the Confidential

Information. Each party's obligation of confidentiality shall be fulfilled by using at least the same degree of care with Disclosing Party's confidential information as it uses to protect its own confidential information. This confidentiality obligation under this Clause 5 shall exist for the term of this Agreement and five (5) years after its expiration or termination.

6. INDEMNITY

Customer shall indemnify and hold Pathway, its directors, officers, employees and agents harmless for any and all damages, losses and expenses incurred by any of them resulting from Customer's breach of any of the provisions of this Agreement. Customer shall indemnify and hold Pathway, its directors, officers, employees and agents harmless from and against any and all claims, liabilities, suits, damages, judgments, costs and expenses (including without limitation reasonable attorney's fees and including without limitation all losses and expenses resulting from or in connection with any claims or actions by other third parties against Pathway) arising from the default, act, omission or negligence of Customer, its directors, officers, employees and agents. This Clause 6 shall survive the termination or expiry of this Agreement.

7. LIMITATION OF LIABILITY

IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

8. MISCELLANEOUS

- 8.1. Each party hereto shall perform its obligations as an independent contractor, and nothing contained in this Agreement shall be construed to create or imply a joint venture, partnership, principal-agent or employment relationship between the parties. No party shall take any action or permit any action to be taken on its behalf which purports to be done in the name or on behalf of any other party and shall have no power or authority to bind any other party or to assume or create any obligation or responsibility, express or implied, on any other party's behalf or in its name, nor shall such party represent to any one that it has such power or authority.
- 8.2. This Agreement is the complete and exclusive statement of the agreement between the parties regarding the subject matter hereof, and supersedes all prior and contemporaneous agreements, negotiations or proposals, oral or written, and all other communications between the parties relating to such subject matter.

- 8.3. Customer shall not assign, sell, transfer, delegate or otherwise dispose of, any rights or obligations under this Agreement, without the prior written consent of Pathway.
- 8.4. This Agreement shall be governed by the laws of Japan (and without regard to conflict of laws principles) and the parties hereto submit to the exclusive jurisdiction of the Tokyo District Court.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Pathway: PATHWAY SOLUTIONS INC.

4-37-15, Sengoku, Bunkyo-ku

Tokyo 112-0011, Japan

Customer:

Name:

Title:

Date:

Name:

Title:

Date:

Access point

<https://api.kegg.net/>

Access limit

Up to 10 million API calls (page views) or

up to 100 GB of data transfer

based on the access log analysis by AWStats