Element Biosciences
End User License Agreement – Bases2Fastq

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11. **Termination.** This Agreement and the license may be terminated (i) by Company, in addition to other remedies, if Licensee is in default and fails to cure within 30 days following notice; (ii) on notice by either party hereto if the other party ceases to do business in the normal course, becomes insolvent, or becomes subject to any bankruptcy, insolvency, or equivalent proceedings. Upon termination for any reason, Licensee will immediately return Software and all copies to Company and delete all Software and all copies.
12. **Non-Waiver.** The delay or failure of either party to exercise any right provided in the Agreement will not be deemed a waiver. If any provision is held invalid, all others will remain in force.
13. **Governing Law.** This Agreement, interpretation of this Agreement and any claims or disputes arising out of this Agreement will be governed by the laws of the United States and the State of Delaware, exclusive of its conflicts of laws provisions and without regard to the United Nations Convention on Contracts for the International Sale of Goods. Any dispute, controversy or claim arising out of or relating to this Agreement or to a breach hereof, including without limitation its interpretation, performance or termination, and the determination of the scope or applicability of this agreement to arbitrate, will be finally resolved by arbitration in San Diego, California before one arbitrator. The arbitration will be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules, unless the claim is for less than $100,000, in which case the arbitration will be pursuant to JAMS' Streamlined Arbitration Rules and Procedures. The parties will keep confidential: (i) the fact that any arbitration occurred; (ii) any awards awarded in the arbitration; (iii) all materials used, or created for use in the arbitration; and (iv) all other documents produced in the arbitration and not otherwise in the public domain, except, with respect to each of the foregoing, to the extent that disclosure may be legally required (including to protect or pursue a legal right) or necessary to enforce or challenge an arbitration award before a court or other judicial authority. The arbitrator(s) will award to the prevailing party, if any, its costs and expenses, including its attorneys' fees. The prevailing party will also be entitled to its attorneys' fees and costs in any action to confirm and/or enforce any arbitration award in any judicial proceedings. Judgment on the award may be entered in any court having jurisdiction. Nothing in the Agreement will prevent either party from seeking provisional relief, and any such request will not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate. The parties agree that the exclusive jurisdiction for such relief will be the state or federal courts located in San Diego, California.
14. **Notice.** All notices that are required under this Agreement will be in writing and will be considered effective upon receipt, provided that there is proof of delivery by a third party or written acknowledgement by the recipient. The notices addressed to Company will be sent to its address set out above. The notices addressed to Licensee will be sent to its address set forth in the applicable price quotation.
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