

GENERAL TERMS AND CONDITIONS FOR THE PURCHASE AND USE OF THE SABENTO SOFTWARE

Last revised: November 24th 2008

§ 1 Scope of the General Terms and Conditions, Subject Matter

1. These General Terms and Conditions shall apply to all contractual relationships in which clients who are business people within the meaning of §14 German Civil Code, acquire the Sabento® computer software from the ifu Institut für Umweltinformatik Hamburg GmbH (ifu Hamburg GmbH). The aforementioned organization are hereinafter referred to as the "Licensor". Client will be referred to as the "Licensee" in these General Terms and Conditions.

2. General terms and conditions or general terms and conditions for purchasing used by Licensee do not become an integral part of this Agreement. This shall also apply if Licensor does not object to a notice by Licensee regarding the applicability of its terms and conditions and proceeds to perform the agreement.

3. Subject to the terms of use set forth in this Agreement, Licensor grants the Licensee the right to use the Sabento® computer program, the instructions in the form of a user manual, and any other related written material, hereinafter collectively referred to as the "Software." Any other use or exploitation of the Software is prohibited.

4. The Software comprises a CD-ROM carrying the programs and data for the Sabento® computer program, digital and print user manual describing the program, and a license key.

5. As a rule, the Software is used on computers (workstations) at Licensee's site. The version and type of license provided under this Agreement, are only allowed to be installed on one computer (workstation) per license.

6. The Software that is the subject matter of this Agreement, is identified by a unique license number provided to Licensee at the time of shipment.

7. The software can only be installed and used with the corresponding license key under the terms and conditions apply.

§ 2 Contract; Modifications

1. Offers submitted by Licensor are non-binding. A binding contract is concluded by Licensor's acceptance of a written order placed by Licensee by transmitting the counter-signed order form, or by a written order confirmation, or by Licensor's performance of Licensee's order.

2. Modifications and amendments of the executed agreements must be in writing to be effective.

§ 3 Prices and Payment

1. The compensation for the transfer and use of the Software of the respective version and license type is subject to the price list valid at the time of the order or subject to a written agreement between the parties regarding the price. The statutory value added tax and handling and shipping charges are added to the end-price.

2. The compensation shall be due for payment after the transfer of the Software and invoicing without any deduction. If Licensee is in arrears with its payments, Licensor may invoice the interest on late payments at eight (8) per cent p.a. above the base interest rate of the ECB. The parties reserve the right to claim higher damages arising out of the default in payment.

3. Licensor shall not offset claims unless its counter-claims are undisputed or finally adjudicated. Licensee shall not assign claims against Licensor to third parties.

4. Licensor reserves the right of ownership in and to the deliverables, until the full compensation has been paid.

§ 4 Rights to Use

1. As between the parties, Licensor reserves all rights in and to the Software. By transferring the Software, Licensee is granted a right to use as set forth herein, unless additional rights to use are expressly granted in a written document.

2. Licensee is granted a non-exclusive license that may be assigned only in accordance with § 6, to install the Sabento program only on a single computer per license and to use it as set forth herein. One valid license is required for each computer (workstation).

3. Any permanent or temporary, full or partial reproduction (copying) of the program in the form of saving, loading, running, or displaying it for the purpose of program execution and processing of the program data by the computer to the extent that the respective reproduction is required for the use of the program, is deemed a contractual use. Licensee may also perform the aforementioned activities for the purpose of monitoring and examination, as well as testing of the program.

4. Licensee shall not make more than one (1) further backup copy, which shall be marked as such. If the entire data inventory, including the computer programs used, must be backed up at regular intervals in order to ensure data safety or a fast restoration of the computer system after a system crash, Licensee may make the mandatory number of backup copies. The respective data carriers shall be marked accordingly. Backup copies shall be used exclusively for archiving purposes.

5. Licensee is prohibited from making any other reproductions, including a printer output of the program code or photocopies of the user manual. If Licensee needs additional user manuals for its personnel, it shall obtain them from Licensor.

6. The program may not be modified or adapted unless this is required for the intended use, to achieve interoperability with other programs, or for the removal of errors. Company names, trademarks, copyright notices, in particular the copyright on Interbase of Inprise Corporation resp. Borland Software Corporation, must not be changed and shall be attached to any modified or adapted program versions.

7. Conversion of the object code into a source language (decompilation) is allowed only to the extent that such activity is expressly permitted by the applicable law (§ 69 e German Copyright Law). Any other decompilation is excluded.

§ 5 Specific Limitations on Use

1. Universities and other educational institutes profit from reduced prices for Sabento academic versions. Licensee of the Sabento Software academic version is authorized to use the program and any data made available for training and educational purposes and for the preparation of material flow analyses, ecological or environmental balances for personal use, and for its own institution. Any further use of the program and of the data made available, particularly on behalf of third parties, regardless of the purpose, is prohibited.

2. Licensee of the Sabento Software academic version is authorized to annul the prohibition of using the program for purposes on behalf of third parties and of making data available on behalf of third parties by paying a higher fee to the Licensor. In this case, Licensee is authorized to exchange its software of Agreement with a Non-academic version. The fee is based on the price difference of the corresponding versions according to the current price list. § 7 par. 3 shall apply accordingly.

3. The use of the data provided by preparing extracts, or for further use for commercial purposes is prohibited. Licensee shall not reproduce, disseminate or publicly display the data contained in the database as a whole or any material part thereof, as determined by its nature and quantity. Licensee's rights pursuant to § 87 c of the German Copyright Law remain unaffected.

4. Reproduction, dissemination, or public display, with regard to nature and quantity, of insignificant portions of the database is prohibited, to the extent that this analysis and evaluation of the database would be in conflict with the rights to use as granted in par. 1 through 2, or would unreasonably affect the legitimate interests of Licensor.

§ 6 Assignment

1. Licensor may assign the Software in its original state and as a whole together with a copy of these License Terms and Conditions to a subsequent user, provided that the subsequent user agrees to the terms and conditions of use and assignment set forth herein in writing and submit such document to Licensor. In the event of an assignment of the Software, Licensee shall provide notification of the full address of the subsequent user to Licensor in writing. This right does not comprise the assignment of portions of the software suite, of individual licenses of a multi-user license, or of copies or partial copies of the program, and does not comprise the transfer of modified or adapted versions or any copies or partial copies thereof.

2. Upon the assignment of the Software, Licensee's right to use the Software in accordance with § 4 and § 5 expires.

3. Upon assignment, Licensee shall immediately and fully delete or destroy in any other manner all copies and partial copies of the program, and any modified or adapted versions, and any copies or partial copies thereof.

4. The Software or any portions thereof may not be rented, leased, or loaned.

§ 7 Other Rights

1. Licensor reserves any other rights regarding the use and exploitation of the Software. In particular, neither Licensee nor subsequent users are authorized to use the program and/or any modified or adapted versions thereof concurrently on more than the number of workstations defined on the license form, or to distribute reproductions of the Software in its original version or in a modified or adapted version, including cases in which such reproductions are restricted to material portions of the modified versions.

2. Upon availability of a new program version, Licensee may replace the Software with the respective Software in the new version for payment of the update price quoted in Licensor's price list. Licensor does not make any representations as to the availability of the new program versions. The Software may only be exchanged as a whole, as acquired by Licensee. Licensee's right to use in accordance with § 4 and § 5 expires on the date of exchange. The duty to delete and destroy the previous software version in accordance with §6 par. 3 shall apply accordingly.

3. Licensee's right to use the previous version of the Software in accordance with § 4 and § 5 expires on the date that an upgraded version of the Sabento Software is acquired. The duty to delete and destroy the previous software version in accordance with §6 par. 3 shall apply accordingly.

§ 8 Protection of Licensor's Rights

1. The removal or a work-around of the copy protection program routine and license number administration is not permissible. The copy protection shall only be removed or worked around to ensure the operability of the program, if the copy protection impairs or prevents the error-free program use and Licensor is unable or unwilling to remove the failure within a reasonable time in spite of a written notice by Licensee to this effect, which includes a detailed description of the failure. Licensee shall bear the burden of proof regarding the impairment or prevention of error-free usability caused by the copy protection. The parties shall comply with the duty to inspect and to give written

notice of defect in accordance with § 11par. 1 of these General Terms and Conditions.

2. Licensee shall prevent unauthorized access to the program, the documentation as well as the license key by third parties with appropriate pre-cautions. The supplied original data carriers and the backup copies shall be stored in a secure place that is protected against third party access. Licensee's staff shall be advised of its duty to comply with these Terms and Conditions and the provisions under the Copyright Law.

§ 9 Updates und Support

1. Licensee can order a separate Update and Technical Support Service for the Sabento program from Licensor. Licensee is entitled to standard technical support for the Sabento Software, to assist Licensee in resolving the Software application problems. The right to standard technical support is applicable during the warranty period.

2. To this end, Licensee shall provide Licensor with the names of personnel within its organization who are entitled to support. The number of persons entitled to support depends on the number of workstations that may be used concurrently under the license.

3. Standard technical support includes direct contact with Licensor via e-mail, fax or web page. Licensee's questions will be answered by fax or e-mail. The response time is typically a max. of 4 working days. If more time is needed for a response, Licensee will be notified.

4. Direct contact requires the cooperation of personnel entitled to support. This includes a detailed description of the problem, if applicable, the provisioning of data, and compliance with Licensor's instructions regarding the documentation, delimitation and removal of the errors or failures. The person entitled to support shall refer to the information provided in the user manual and on the webpages.

5. Direct questions are restricted to the standard program features of the Sabento Software, as documented in the user manual for the license acquired. The standard Technical support does not include:

- telephone consultations,
- on-site service,
- trainings,
- data recovery,
- backup of data,
- modeling support and consultancy,
- detailed questions regarding data,
- programming and modeling,
- maintenance services regarding the interoperability of Sabento with other computer programs,
- elimination of problems resulting from inappropriate usage of Sabento and other software products
- repairs

6. Licensee is granted the right to standard technical support beyond the end of the period set forth in § 1 and the right to obtain further developments of the Software (updates) under an Update Service Agreement to be concluded separately. Licensee can also obtain modeling support contract and developer support contract.

§ 10 Data Provided

1. Furthermore, Licensor provides Licensee with a specific biotechnical process library free of charge.

2. The data provided in the Sabento library was not collected by Licensor, but was mostly taken from literature or data collections of scientific institutions, or derived based on the state of the art. The references are documented in the description of the data records. Licensor has copied and integrated the data carefully, however, it has not verified their validity and integrity.

3. It is within the responsibility of Licensee to verify and assess the validity and integrity of the data in the Sabento library prior to their use and to decide whether or not it is fit for the intended use. In case of use of the data, especially for damage prone applications, Licensee is obligated to verify the proper integration of the data into the sample database based on the documented references and descriptions.

4. All data is subject to the copyright of the Licensor.

5. The data provided is also subject to the specific use restrictions pursuant to § 5 par. 3 and 4 and the specific warranty and liability provisions in § 11 par. 5 and § 13 par. 3 and 4 of these General Terms and Conditions.

§ 11 Material Defects

1. Licensee shall inspect the Software supplied for patent defects and notify Licensor of such defects in writing within two weeks after delivery. Licensor shall be notified of any latent defects within two weeks after their discovery. Licensee shall describe the defects as precisely as possible. To the extent that Licensee may be reasonably expected to do so, it shall take measures to determine, delimit, and document the defect and provide Licensor with any material suited to illustrate the defect.

2. Licensor shall warrant against material defects of the Software in accordance with provisions of the German Civil Code. At the option of Licensor, it shall perform its warranty obligations by subsequent improvements or replacements shipped free of charge. Defective program data carriers will be replaced upon the receipt of the original data carriers.

3. If re-performance ultimately fails after the expiration of a reasonable grace period granted by Licensee in writing – having provided Licensor with more than one opportunity to remove the defect – Licensee may reduce the compensation or rescind the agreement. Licensee's right to rescind the agreement is subject to its written notification regarding the grace period in which rescission is threatened in case the removal of the defect fails. No grace period must be granted, if the statutory provisions explicitly set forth that it is optional.

4. Licensee may claim damages or compensation for lost expenses caused by material defects in accordance with the statutory provisions, subject, however to the liability restrictions set forth in §13 of these General Terms and Conditions.

5. With regard to the data provided to Licensee in the sample database, Licensor's liability for material defects is restricted to the proper transfer of these data from the documented sources into the database. In case of provable transfer and integration errors or doubtless derivation errors, Licensor shall make a corrected data record available. Licensor does not assume any other warranty obligations – in particular, for the factual accuracy of the data provided in the sample database, its integrity, or its fitness for Licensee's intended use.

6. Licensee's claims based on material defects shall come under the Statute of Limitations after 1 (one) year.

7. Licensee may not assert claims arising out of material defects, unless it can prove that the defect existed at the time of delivery, and subject to the condition of compliance with the duty set forth in par. 1.

§ 12 Defect of Title

1. Subject to the liability for defects of title under the German Civil Code, Licensor warrants that the Software and data are free from third party rights that might impair their intended use, in particular, that the use of the Software does not infringe on patents, copyrights, or other industrial property rights of third parties.

2. Licensor shall discharge its re-performance duties by providing Licensee with the right to non-infringing use of the Software, which may be accomplished by modifications of the Software, its exchange with an equivalent software, or by defending against or satisfying the claims resulting from an infringement asserted by a third party.

3. Licensee shall notify Licensor immediately and in writing if any third party should assert an infringement claim against Licensee in connection with the Software.

4. Otherwise, the provisions on material defects set forth in § 11 of these General Terms and Conditions shall apply accordingly.

§ 13 Liability

1. Irrespective of the legal cause (contractual or extra-contractual liability), Licensor shall be liable to Licensee for damages or lost expenses in the full amount in the case of intentional wrongdoing or gross negligence. In case a duty of material importance for accomplishing the purpose of the agreement (cardinal duty) is violated – unless Licensor is liable without any restriction based on intentional wrongdoing or gross negligence – liability shall be restricted to five (5) times the license fee for the Software and to such damages that are typically foreseeable in connection with the licensing of the Software and which were to be prevented by the violated duty. In case of default – unless additional liability is assumed based on intentional wrongdoing, gross negligence, or the violation of a cardinal duty, as provided for above – liability is restricted to half of the license fee for the Software. In any other cases, Licensor's liability for ordinary negligence or for occurrences with no fault of Licensor is excluded.

2. Licensor's liability for personal injury and pursuant to the Product Liability Act as well as for guarantees issued by Licensor shall remain unaffected in accordance with par.1.

3. Licensor's liability for damages or lost expenses due to defective data provided in the sample database is restricted to cases of intentional wrongdoing and gross negligence, unless the freedom of defects has been agreed in a written contract in this particular instance. The defense of comparative fault of Licensor (see §10 par. 3) remains unaffected.

4. Licensor is not liable for damages resulting from the inaccuracy of parts of the Sabento Software, from its incompleteness, or their unfitness for the intended use.

§ 14 Venue and Governing Law

1. Hamburg shall be the exclusive venue for all disputes arising from this Agreement, if Licensee is a merchant, a legal entity, or a special fund under public law, or if Licensee has no venue within the Federal Republic of Germany. Licensor may, however, bring an action against Licensee at Licensee's place of business.

2. This agreement shall be exclusively governed by German law, with the exception of the UN Convention on the Sale of Goods.