Software Lease Contract for web-based Licensing

§ 1
General

I. Subject of this “Contract” is the lease of the material listed in Annex A, hereinafter referred to as the “Licensed Material”.

II. Lessee shall obtain the Licensed Material via the internet.

III. Lessee is authorized to use the Licensed Material only under the conditions and terms of the Contract. Any use beyond the non-exclusive license granted by the Contract requires a separate written agreement.

IV. The right to use the Licensed Material is strictly restricted to Lessee’s internal therapeutic research or similar natural science research purposes.

V. It is forbidden to use the Licensed Material in any way as a basis for development of similar or potentially competitive software. In particular it is forbidden to use the Licensed Material for the development of software which is equivalent to the software BioSolveIT distributes at the date of this Contract. The current status of BioSolveIT’s software portfolio can be checked at BioSolveIT’s internet pages.

VI. Lessee shall hold ready at its own expense computer hardware and information technology experts capable of operating, installing and running the Licensed Material.

§ 2
Term of Contract

I. This Contract shall become effective as of the date the Licensed Material is paid. The Contract is limited to the period of lease as defined in Annex A.

§ 3
Technical Access

I. If the usage of the Licensed Material is protected by a technical mechanism, BioSolveIT shall grant the required technical access (the “Technical Access”) as soon as this agreement becomes effective.
If Technical Access is malfunctioning or as such is not required, Lessee has to ensure that the Licensed Material is used only within the limits of this Contract.

II. BioSolveIT reserves the right to grant limited short-term Technical Access only, until any amounts due are fully paid.

III. On no account may any information or material related to the Technical Access be passed on to third parties.

§ 4
Rental and Invoicing

I. Payments, as indicated in the shopping cart at BioSolveIT's website have to be done in advance by Credit Card.

II. Lessee has to bear any charges due to the transfer of amounts.

III. Lessee will receive a related invoice confirming the payment within an appropriate amount of time after effective date of the agreement.

IV. BioSolveIT shall send its invoice to the email address provided by Lessee during the web-based purchasing process.

§ 5
Transfer

I. On no account may Lessee in any way transfer the Licensed Material to third parties, including but not limited to the giving, selling, renting, lending or assigning of the Licensed Material.

II. Lessee may not allow third parties the use of the Licensed Material.

§ 6
Copying Rights

I. Lessee may copy the Licensed Material only to the extent that such copying is necessary for the licensed use of the Licensed Material.

II. For reasons of data security and in order to ensure rapid reactivation of the computer system following a system failure, the user may make backup copies in the number necessarily required. The corresponding storage media shall be marked accordingly.

§ 8
Manipulate the Licensed Material

I. Any action like renaming, changing, disassembling, reverse-engineering, decoding, translating, rearranging, manipulating or debugging the Licensed Material shall be collectively called to "Manipulate" the Licensed Material.

II. Lessee may not Manipulate the Licensed Material except if allowed by law.

III. Lessee may not Manipulate originator annotations and serial numbers - as well as any other features serving to identify the Licensed Material.

IV. The Licensed Material must be used in its entirety. No parts of the package are to be integrated into or used by software other than the standard operating system of the computer and this restricted to the extent that is inevitable. In particular, this holds for any data package.

V. Lessee must give at least 2 weeks prior written notice to BioSolveIT about its intent to Manipulate the Licensed Material. Such prior notice shall provide a precise description of and motivation for the intended action, enabling BioSolveIT to offer to Manipulate the Licensed Material itself, thereby superseding Lessee's need to Manipulate the Licensed Material.

VI. If Lessee intends to Manipulate the Licensed Material in order to eradicate a fault or to achieve interoperability with an independently created computer program, BioSolveIT reserves the right to solve such problems itself within an appropriate amount of time.

VII. Lessee must additionally provide written notice about Manipulating the Licensed Material immediately after performing such action, providing a precise description of what has been done to the Licensed Material thereby enabling BioSolveIT to reproduce such action.

§ 9
Faults

I. Faults of the Licensed Material shall be rectified by BioSolveIT within commercially reasonable period of time following notification thereof by Lessee. Rectification shall be by cost-free remedy or replacement at the discretion of BioSolveIT.

II. Lessee may not implement a reduction in rental by deduction from the agreed leasing charge. Corresponding restitution or damages claims remain unaffected.

III. In the event BioSolveIT shall have failed to rectify faults of the Licensed Material that materially impact Lessee’s use of the Licensed Material after 3 attempts (such attempts having been made within a commercially reasonable period of time after Lessee’s notice of the fault), Lessee shall be entitled to terminate this agreement and will be entitled to a refund for any payments made by Lessee for the period in which the Licensed Material was not functioning according to its specifications.

IV. In the event of claims in respect of legal defects arising or if in BioSolveIT’ s free judgement are likely to arise, BioSolveIT may (i) procure for Lessee, at no cost to Lessee, the right to continued usage of the Licensed Material, (ii) replace or

modify the Licensed Material to make it non-infringing, at no cost to Lessee (provided any replacement or modification shall provide functionalities substantially similar to the Licensed Material), or (iii) terminate the Contract and grant Lessee a refund of amounts paid by Lessee for the related module or modules for the than remaining term of lease. § 10 shall not be affected.

§ 10
Liability

I. BioSolveIT bears unlimited liability in respect of absence of assured features. BioSolveIT bears unlimited liability for physical injuries in case of at least slight negligence of BioSolveIT or of its legal representatives or servants.

II. If initial incapacity is caused by legal defects that BioSolveIT was not aware of, especially patents of third parties, the liability of BioSolveIT is limited to ten times the annual leasing rate with 50 000.00 Euro (fifty thousand) as the minimum. This does not apply if the lack of awareness is caused by an average grade of negligence. BioSolveIT will indemnify Lessee against all costs and expenses arising out of any third party claim that the Licensed Material violated the third party's intellectual property rights.

III. In other respects BioSolveIT only bears unlimited liability in case of intent and gross negligence including that of its legal representatives and managerial employees. In respect of blame on the part of other vicarious agents, BioSolveIT's liability is limited to ten times of the annual leasing rate with 50 000.00 Euro (fifty thousand) as the minimum.

IV. In cases of slight negligence BioSolveIT is only liable if an obligation is infringed, observance of which is of significant importance for performance of the contractual purpose (fundamental obligation). In the event of infringement of a fundamental obligation liability is limited to ten times the annual leasing rate with 50 000.00 Euro (fifty thousand) as the minimum and to such damages the occurrence of which must be typically anticipated in the context of a software lease.

V. BioSolveIT is not liable for defects which are not due to BioSolveIT's fault but exist at the point of conclusion of the Contract.

VI. Liability for data loss is limited to the typical costs of restitution that would have occurred with regular and risk-related preparation of backup copies.

VII. This § 10 shall also be applicable on torts.

VIII. The producer's liability as defined by German law (Produkthaftungsgesetz) shall not be affected.

§ 11
Support

BioSolveIT does not guarantee any support for the Licensed Material.

§ 12
Duty of Care

I. Lessee shall prevent unauthorized access by third parties to the Licensed Material including user documentation and any Technical Access information.

II. Lessee shall also expressly instruct his employees as well as any other authorized user of the Licensed Material regarding observance of the terms of this Contract and intellectual property rights.

III. Should an employee of Lessee infringe BioSolveIT's intellectual property rights, Lessee undertakes to cooperate to the best of its ability to investigate the intellectual property right's infringement, in particular to apprise BioSolveIT immediately in respect of the relevant acts of infringement. Lessee shall provide BioSolveIT upon demand with a list of all names and addresses of users of the Licensed Material.

§ 13
Duty of Erasure

I. Upon termination of the Contract Lessee undertakes to destroy irreversibly all copies of the Licensed Material as well as any Technical Access information.

II. Prior to disposing of any software media, Lessee shall ensure that any Licensed Material contained on such media has been erased or destroyed.

III. Upon request, Lessee shall provide a declaration in lieu of oath to the above effects at BioSolveIT cost. This applies also to § 7 I.

§ 14
Written Form

All agreements containing any amendment, supplement or materialization of these contractual conditions, as well as special assurances and arrangements, shall be in writing. Should the latter be declared by representatives or assistants of the BioSolveIT, they shall only become binding if BioSolveIT grants his written permission thereto. Any waivers of these formal requirements must also be in writing.

§ 15
Nondisclosure

In connection with this Contract, either party may, but shall not be under any obligation, to disclose confidential information ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. The parties agree to (i) hold each other's Confidential Information in strict confidence, and treat the Confidential Information as proprietary to the disclosing party, and apply to the Confidential Information no lesser security measures and degree of care than those that the receiving party applies to its own confidential and proprietary information, but never less than a reasonable standard of care to prevent unauthorized disclosure, misuse or diversion; (ii) use each other's Confidential Information only for the purpose of this Contract; and (iii) not disclose each other's Confidential Information to third parties without the prior written consent of the other party except only to those of its employees, consultants and/or agents who are bound by the terms of this Agreement, who have a legitimate need to know such received Confidential Information for the purpose of this Contract and who are legally or contractually bound in writing to keep such information proprietary. The content of that Contract as well as any static data, source or object code or parts of it, has to be treated as Confidential Information.

§ 16
Conflict with General Terms of Business

The parties to the Contract agree that this Contract definitively regulates the lease provision and consequently waive involvement of their respective General Terms of Business.

§ 17
Offset; Notice of Termination

I. Offset against a counter-claim is only permissible if the latter is uncontested or res judicata.

II. Both parties may terminate the Contract without notice if adherence to this Contract observing the proper period of expiration is unbearable.

III. BioSolveIT may terminate the Contract if the risk of disclosing source-code arises or is likely to arise. In this case the rental paid for the Licensed Material will be refunded on a pro rata temporis basis.

§ 18
Jurisdiction, Legal Venue, Miscellaneous

The parties agree in respect of all legal relationships arising from this Contract to the application of the laws of Germany. Bonn shall be the legal venue for all disputes arising from this Contract. This is a lease contract, but for the case of doubt it shall hereby expressly be stated that the CSIG (United Nations Convention on Contracts for the International Sale of Goods) shall not apply.

§ 19
Final Clause

I. Lessee is expressly notified that with expiration of the Contract he may not continue to use the Licensed Material.
II. §§ 3 III, 12, 13, 15, 18 and this 19 survives the termination of the Contract.
III. Should any one of these provisions be or become invalid, the remaining provisions remain thereby unaffected.

Annex A

Licensed Material:
As paid for

Number of concurrent uses of the Licensed Material:
As paid for

Term of Lease:
As paid for