TERMS AND CONDITIONS

These Terms and Conditions apply to the academic version of the AGMG software package, release 4.2.5 ("AGMG 4.2.5-aca"). This software package is available free of charge under the present license agreement.

1. RELATIONSHIP WITH ULB

1.1.   Your use of AGMG 4.2.5-aca is subject to the terms of a legal agreement between you and ULB. "ULB" means the Université Libre de Bruxelles whose principal place of business if at Av. F.D. Roosevelt, 50, 1050 Brussels, BELGIUM. This document sets out the terms of that agreement.

1.2.   Unless otherwise agreed in writing with ULB, your agreement with ULB will always include, at a minimum, the terms and conditions set out in this document.

2. ACCEPTING THE TERMS

2.1.   In order to use AGMG 4.2.5-aca, you must first agree to the Terms and Conditions. You may not use AGMG 4.2.5-aca if you do not accept the Terms.

2.1.   You can only accept the Terms by AGMG 4.2.5-aca by filling out the present document and return it signed by email to the following address: academic@agmg.eu.

3. LICENSE TERMS FOR AGMG 4.2.5-aca

3. 1.   <u>Definitions</u>

Whenever used in this Agreement, the following terms shall have the following meaning:

Agreement: the present document and it exhibits which are considered to be part of it.

Confidential Information: the technical information and management information which are unknown to the public, can bring economic benefits to obligees, have practicability and are subject to the confidential measures adopted by the obligees, including but not limited to computer software, technical parameters, price lists, designs, software documentations, manuals, models and account tables.

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AGMG Website: the website with the URL http://homepages.ulb.ac.be/~ynotay/AGMG, and any website that from time to time replaces that website.

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3.2.   <u>Grant of License and Limitations</u>

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Ownership of all complete or partial copies of the Licensed Software shall at all times remain with the Licensor.

3.4.   Warranties, liability and Support services

3.4.1**.   Intellectual Property**. The Licensor warrants that, to the best of its knowledge, the Licensed Software does not infringe any copyright, patent or trademark or proprietary information of any third party.

3.4.2.   **No warranty**. The Licensed Software is provided on an "AS IS" without any support, updates or maintenance. Nothing in this Agreement shall require the Licensor to provide the Licensee with support of fixes to any bug, failure, mis-performance of other defect in the Licensed Software. Should such services be requested by the Licensee, their provision shall be part of a separate service agreement the terms of which shall be discussed in good faith by the Parties.

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The Licensor gives no condition, warranty or other term whatsoever, either express or implied including, without limitation, any condition, warranty or other term as to the condition of the Licensed Software, that the Licensed Software is free from any Harmful Element, or as to satisfactory quality, fitness for a particular purpose, non-infringement, or use of reasonable care and skill.

The express warranties provided herein are the only warranties made by the Licensor in respect of the Licensed Software.

3.4.3.   **Indemnification**. The Licensee hereby warrants to hold the Licensor harmless and agrees to indemnify the Licensor for any lawsuit brought against it in regards to Licensee's use of the Licensed Software in means that violate, breach or otherwise circumvent this Agreement,

Licensor's intellectual property rights or Licensor's title in the Licensed Software. Licensor shall promptly notify Licensee in case of such legal action and request Licensee's consent prior to any settlement in relation to such lawsuit or claim.

If the Licensed Software is disclosed to any third party or used by any such party solely due to the material negligence or intentional action of the Licensee, the Licensee shall bear all damages and losses incurred by the Licensor. In any event the Licensee shall assume the liability to the Licensor arising out of said disclosure or unauthorised use of the Licensed Software.

3.5.   Protection and Confidentiality

3.5.1.   The Licensee agrees to protect the Confidential Information disclosed by the Licensor by using the same degree of care, but no less than a reasonable degree of care, as the Licensor uses to protect its own similar confidential information. Without the written consent of the Licensor, the Licensee, its agents, or its employees shall not copy or disclose the Confidential Information to any third party to use such Confidential Information.

3.5.2.   The provisions of Article 3.5 shall not apply to information which (1) is in the public domain; (2) has been acquired by the Licensee by normal means upon the disclosure of the information by the Licensor; (3) after the receipt of the information by the Licensee, becomes generally available to the public through no fault or negligence of the Licensee; (4) is duly obtained by the Licensee directly or indirectly from a third party who has independently developed the information and is entitled to disclose the information to the Licensee, and such disclosure does not directly or indirectly violate the confidentiality obligation of such third party.

3.5.3.   The Parties acknowledge that the provisions of Article 3.5 shall survive the termination of this Agreement, for whatever cause, and this for a term of five (5) years of the date of such termination.

3.5.4.   In case of breach of Article 3.5 by the Licensee, the Licensee shall compensate the Licensor for all the losses incurred by the Licensor arising out of such breach.

3. 6   Term and termination

3.6.1 The Licensee may terminate the Agreement at any time by giving at least 30 days' prior written notice to the Licensor.

3.6.2 The Agreement shall terminate automatically in the event that the Licensee no longer fulfils the requirements of clause 3.2.

3.6.3 The Licensor may terminate the Agreement immediately on giving notice in writing to the Licensee if the Licensee commits any serious breach of any term of this Agreement and fails (in the case of a breach capable of being remedied), within 10 days after the receipt of a request in writing from the Licensor to do so, to remedy the breach (such request to contain a warning of the Licensor's intention to terminate).

3.6.4   Immediately upon the termination of the Agreement the Licensee shall destroy the Software and all copies of the whole or any part thereof and certify in writing to the Licensor that they have been destroyed.

3.6.5 Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision in this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

3. 7.   General Provisions

3.7.1.   **Applicable law.** This Agreement shall be governed by and construed in accordance with the laws of Belgium.

3.7.2.   **Dispute Resolution.** Any dispute arising out of or in relation to this Agreement shall be settled by both Parties through negotiations. If no settlement is reached through negotiations, the conflict shall finally be settled under the CEPANI Arbitration rules without recourse to the ordinary courts of law by three (3) arbitrators appointed in accordance with said rules. The award rendered therein shall be final and binding upon both Parties. Arbitration proceedings shall take place in Brussels and shall be held in the French language.

3.7.3.   **Entire Agreement.** This Agreement and the exhibits hereof signed by the Parties constitute the entire agreement between them with respect to the subject matter hereof, merge all discussions between them and supersede all prior agreements, understandings and arrangements, oral or written, that may have existed between them.

3.7.4.   **Notices.** All notices required under this Agreement shall be in writing and shall be addressed to (with the exception of the present document signed by the Licensee):

For the Licensor

Université Libre de Bruxelles
For the attention of Mr Daniele Carati, Head of the Research Department
Av. F.D. Roosevelt, 50 - CP 161
1050 Brussels
BELGIUM

For the Licensee

The name and address of the licensee, as indicated below.

All notices shall be done in writing in the French or English language. They shall be deemed to have been duly given or submitted three (3) days after the mailing thereof, post paid, by registered mail, to the party entitled thereto at its above address.

3.7.5.   **No waiver**. No waiver of any right under this Agreement shall be deemed effective unless the same is set forth in a writing signed by the Party giving such waiver, and no waiver of any right shall be deemed to be a waiver of any such right, or any other rights hereunder, in the future.

3.7.6.   **Severability.** In case any of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of

such provision(s) shall not in any way be affected or impaired thereby in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be otherwise affected or impaired thereby.

BY SIGNING THIS AGREEMENT, I, THE LICENSEE ACCEPT, AND AGREE TO THE PRESENT TERMS AND CONDITIONS.

Title:
First Name:
Last Name:

Institution:
Full address:

Phone:
E-mail:

Signature: