

Software Licence

For the software : **BaM** (Sealed mail n°1A 128 944 4043 5, sent 11/10/2017)

IRSTEA, National Research Institute of Science and Technology for Environment and Agriculture, Public Establishment of Science and Technology, Siret No. 180 070 013 0019 8, located 1 rue Pierre Gilles de Gennes, CS 10030, 92761 ANTONY Cedex, hereinafter named "Irstea"

As an author and owner of the Software BaM authorizes, subject to compliance with all provisions established by this license, the Licensee to use the Software BaM:

Preamble :

The software was developed by M. Benjamin Renard, Irstea employee, as part of his professional activities. The software uses the library DMSL FORTRAN, developed by Dmitri Kavetski, University of Adelaide, Australia.




The purpose of the research that enabled the creation of the Software BaM is the Bayesian estimation of the parameters of a model, and the quantification of predictive uncertainties.

Irstea as owner of the Software initiated a measure of ownership through a sealed mail with reference n°1A 128 944 4043 5, sent on 11/10/2017.

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Line referencing “Software BaM © Irstea, Benjamin Renard, Dmitri Kavetski, *date of download*.”

Or “results obtained by using the software BaM © Irstea, Benjamin Renard, Dmitri Kavetski, *date of download*.”.

As a result, the following is agreed upon:

Article 1 - Definitions

In this license agreement, the following terms, when spelt with a capital letter, have the following meanings:

Agreement: means this license agreement and its possible subsequent versions and annexes.

Software: means the software BaM in Object Code form and, if appropriate, the related documentation, in their state at the time of acceptance of the Agreement by the Licensee.

Initial Software: means the Software in its Object Code and Source Code and any appropriate documentation, in their condition when first distributed under the terms of the Contract.

Source Code: means all instructions and program lines of the Software and to which access is necessary to modify the Software. The Source Code is not subject to this License.

Object Code: means the binary files originating from the compilation of the Source Code.

Holder: means the holder of the copyrights in the Software BaM.

Licensee or Authorized User: means the Software user having accepted the Agreement.

Licensor: means Irstea as a corporation distributing the Software under the Agreement. The Licensor is owner of all rights over the Initial Software.

Parties: mean both the Licensee and the Licensor.

These expressions may be used in singular and plural.

Article 2 – purpose

The Contract aims at granting by the Licensor to the Licensee a nonexclusive, transferable and worldwide license BaM as defined below in section 5 for the duration of protection of the rights over the Software BaM.

Article 3 - Acceptance

3.1 The acceptance by the Licensee of the Contract shall be deemed obtained due to the first of the following:

- (i) submission of the application, registration and acceptance of the provisions of the License from the website: <http://www.irstea.fr>
- (ii) Downloading the Software BaM by download from the same remote server

User applicant is considered as Authorized User upon acceptance of his request, by email. Alternatively, the user applicant may apply for access to the software by email. After written acceptance of license terms that will be sent (by email) a link to download the Software will be sent.

3.2 A copy of the Agreement, containing a notice relating to the characteristics of the Software BaM, to the limited warranty, and to the use of the software restricted to experienced users, has been made available to the Licensee prior to its acceptance as defined in Section 3.1 above and the Licensee acknowledges having read this.

Article 4 – Entry into force and duration

4.1 Entry into force

The Agreement is effective on the date of its acceptance by the Licensee as defined in 3.1.

4.2 Duration

The Contract shall be effective for the duration of legal protection of property rights over the Software

Article 5 - Extent of rights granted

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The Licensee agrees not to harm, directly or indirectly, rights of intellectual property of Licensor and take, if any, in respect of his staff all necessary measures to ensure respect of said property rights Intellectual Licensor.

Article 7 – Technical Assistance

The Contract does not imply that the Licensor will provide any technical assistance or maintenance of the Software BaM.

Article 8 – Responsibility - Rights and Obligations

8.1 Subject to the provisions of Article 8.2, the Licensee shall be entitled, subject to prove the fault of the relevant Licensor, to claim compensation for any direct loss it suffered from the Software and subject to providing proof.

8.2 The Licensor's liability is limited to the commitments made under this Agreement and shall not be held because of:

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8.3 Obligations of the Licensee

The Licensee is personally liable for breach of these provisions.

The Licensee understands and accepts the constraints and conditions of use of the Software BaM.

The Licensee takes full responsibility for his use of the Software BaM.

The Licensee is not authorized to give, make available or transfer in any manner whatsoever, directly or indirectly, the Software BaM.

The Licensee agrees not to transmit the Software BaM to third parties even partially, to only use it on his computer terminal, not to transfer it.

The Licensee notifies the Licensor of the use he makes of the Software BaM.

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9.1 The Licensee acknowledges that the current state of scientific and technical knowledge at the time of downloading the Software BaM does not allow to test and verify all uses or detect the presence of possible defects. The Licensee's attention was drawn to this point about the risks associated with loading and using the Software BaM which are reserved for experienced users.

It is the responsibility of the Licensee to control, by all means, the suitability of the product for his requirements, his operation and make sure it will not cause harm to people and property.

9.2 The Licensor hereby ensures in good faith that he is entitled to grant the rights to the Software BaM (including the rights referred to in section 5.1).

9.3 The Licensee acknowledges that the Software BaM is provided "as is" by the Licensor without any other warranty, express or implied, as provided for in Article 9.2 and in particular without any guarantee of its value, its secured, innovative or relevant nature.

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Article 10 - Termination

10.1 In the event of breach by the Licensee with the obligations imposed upon him by the Agreement, the Licensors may automatically terminate this Agreement thirty (30) days after notification to the Licensee, even if it has remained ineffective.

10.2 A Licensee whose Agreement is terminated shall no longer be allowed to use the Software BaM.

Article 11 – Miscellaneous

11.1 No Party shall be liable for delay or failure to perform the Agreement which is due to a force majeure, acts of God or an outside cause, such as, notably, defective functioning or interruptions of the electricity or telecommunications, the network paralysis following a virus attack, intervention by government authorities, natural disasters, water damage, earthquakes, fires, explosions, strikes and labor unrest, the state of war...

11.2 Any failure, by either Party, to omit in one or more occasions to invoke one or more provisions of the Contract, shall not imply that the concerned Party will renounce to invoke it later.

11.3 The Agreement supersedes any previous agreements, written or oral, between the Parties on the same subject and constitutes the entire agreement between the Parties. No addition or modification to the terms hereof shall be effective for the Parties unless made in writing and signed by their duly authorized representatives.

11.4 In the event that one or more of the provisions hereof were to conflict with a law or an applicable provision, existing or future, this law or this text shall prevail, and the Parties shall make the necessary amendments to comply with this law or legislative text. All other provisions remain in force. Similarly, the invalidation, for any reason, of any provision of the Contract shall not invalidate the entire contract.

11.5 Processing of Personal Data

The website offering access to download the Software BaM requires filling in and submitting an online questionnaire. The said questionnaire increments a database managed and maintained by the Licensors on its own servers. The recorded data are considered and treated as confidential by the Licensors.

This database has been declared to the Commission Nationale de l'Informatique et des Libertés (CNIL). Accordance with the provisions of Law No. 78-17 of 6 January 1978 relating to computers, files and freedoms, the Licensee has a right to access, modify, rectify and delete personal data concerning him. To request an amendment, correction or deletion of data about him, the Licensee will send a letter by email or post Mr. Benjamin Renard, Irstea or benjamin.renard - at - irstea.fr in establishing his identity.

Article 12 - Applicable law and jurisdiction

12.1 The Agreement is governed by French law. The Parties agree to attempt to settle amicably any dispute or disputes which may arise as a result or in connection with the Contract.

12.2 Failing an amicable solution within two (2) months of their occurrence, and unless under circumstances of an emergency procedure, the disagreements or disputes shall be referred by either Party before the competent courts.

Made in Lyon, today's date.

For the Licensor, Irstea

For the Licensee,