

**THOMSON SCIENTIFIC CUSTOM INFORMATION SERVICES**

**STANDARD TERMS AND CONDITIONS (VERSION 1.0)**

**1. DEFINITIONS**

1.1. In these Terms and Conditions, the following capitalized terms have the following meanings:

“**Affiliate**” means in relation to any party, an entity that is Controlled by, Controlling or under common Control with that party;

“**Agreement**” means the agreement created between the Parties incorporating these Terms and Conditions and the SOWs and/or Quotes;

“**Client**” means Client, as identified in the SOW or Quote;

“**Client IPR**” means any Intellectual Property Rights in any information or materials supplied by Client whether for incorporation in any of the Deliverables or otherwise for use by TS in connection with the Services;

“**Confidential Information**” means (i) all information of a confidential nature concerning the trade secrets or business dealings, pricing, plans, procedures, products, services or strategies of a Party, its Affiliates and third parties to whom that Party owes a duty of confidence; (ii) any document or information designated as confidential; and (iii) any information which by its nature the recipient ought reasonably to conclude was confidential information, in all cases whether encrypted or not and including all copies of the above on any media.

“**Control**” and its derivatives means the ultimate power to determine the direction of the management policies of the entity concerned, either directly or indirectly and whether through the ownership of voting securities, by contract or otherwise;

“**Custom IPR**” means (if applicable) any Intellectual Property Rights in any data, information, software or other materials created by TS specifically for Client the ownership of which is intended to be assigned to Client as set out in the applicable SOW or Quote;

“**Deliverable**” means any deliverable to be provided to Client in connection with Services as set out in the applicable SOW or Quote;

“**Effective Date**” means the date on which: (i) TS receives approval of the SOW or Quote from Client in writing, including by email (provided that such approval is received by TS within the Validity Period); or (ii) Client signs the SOW or Quote, whichever is the earlier;

“**Fees**” means the fees payable by Client as set out in the SOWs or Quote;

“**Intellectual Property Rights**” means all patents, copyrights, design rights, database rights, trade marks, service marks, trade secrets, rights in know-how and Confidential Information, moral rights and any other intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world;

“**SOW**” means a statement of work signed by Parties or otherwise issued by TS and approved by Client in writing, including by email (provided that such approval is received by TS within the Validity Period);

“**Party**” means a party to the Agreement;

“**Quote**” means a quote issued by TS in writing (including by email) and approved by Client in writing (including by email);

“**Service**” means any service to be provided by TS under an SOW or Quote, as described more fully in the applicable SOW or Quote;

“**Term**” has the meaning set out in clause 10.1;

“**Third Party Supplier**” means a third party supplier of content, software or technology;

“**Timetable**” means the timetable for the provision of the Services and delivery of any Deliverables as set out in the applicable SOW or Quote;

“**TS**” means the Thomson Scientific business, as identified in the SOW or Quote;

“**TS IPR**” means any Intellectual Property Rights in TS’s generic codes, content, methodologies, products, services, templates and tools which have not been or are not created specifically for Client and any other data, information, software or other materials created by TS in connection with the Services the ownership of which is intended to be retained by TS as set out in the applicable SOW or Quote; and

“**Validity Period**” means the period during which the SOW or Quote is capable of acceptance by Client, as set out in the SOW or Quote.

1.2. In the event of any conflict between a SOW or Quote and these Terms and Conditions, these Terms and Conditions shall prevail.

1.3. In the Agreement, unless the context otherwise requires, references to:

1.3.1. the words “include”, “includes”, “including”, “in particular” of any such similar words or phrases shall be construed without limiting the words preceding or following;

1.3.2. the plural shall include the singular and vice versa and use of any particular gender shall include all genders; and

1.3.3. any legislation, directives, statutes, statutory provisions, subordinate legislation or any mandatory codes of conduct (together “**Legislation**”) shall be interpreted as referring to such Legislation as amended and in force from time to time and/or which re-enacts or consolidates such Legislation; and

1.3.4. a “person” or “party” includes a natural person, company, corporation, firm, partnership, co-operative company, unincorporated or incorporated association, government, state, statutory authority, foundation or trust.

**2. PROVISION OF SERVICES AND DELIVERABLES**

2.1. With effect from the Effective Date, TS will provide or shall procure the performance of the Services to Client in accordance with and subject to the provisions of this Agreement.

2.2. TS will use commercially reasonable endeavours to provide the Services and deliver the Deliverables to Client substantially in accordance with the applicable SOW or Quote (as applicable).

**3. CLIENT OBLIGATIONS**

3.1. The provision of the Services shall be dependent upon Client, at all times:

3.1.1. ensuring in a timely manner that TS has such access to and full co-operation of such technical and managerial personnel of Client and any applicable third parties who have the appropriate skill, experience and knowledge as TS may reasonably require;

3.1.2. where applicable, providing TS in a timely manner with detailed, accurate and complete instructions concerning Client’s requirements for the Services as such instructions are reasonably required by TS; and

3.1.3. ensuring that any material or information provided to TS that TS is required to use or modify is either owned by Client or that Client has all necessary rights to authorise TS to use or modify it; and

3.1.4. will use all reasonable efforts to perform any additional obligations specified in the SOW or Quote (as applicable) in a timely manner.

**4. FEES AND PAYMENT**

4.1. Client shall pay to TS the Fees and such other amounts as are set out in the SOW or Quote (as applicable) or otherwise agreed with Client, in accordance with the payment schedule set out in the SOW or Quote and without deduction (whether by way of set-off, counterclaim or otherwise). Invoiced amounts shall be payable within 30 days of Client’s receipt of the relevant invoice from TS (the “**Due Date**”). Unless otherwise stated in the SOW or Quote (as applicable), all payments shall be made in U.S. dollars.

4.2. All Fees shall be exclusive of any and all charges imposed by a government or other third party (“**Tax**”), including any consumption, sales or value-added taxes and any import or export fees or charges which shall be payable by Client in addition to the Fees. If Client is obliged to withhold or deduct any portion of the Fees then TS shall be entitled to receive from Client such amounts as will ensure that the net receipt, after Tax, to TS in respect of the Fees is the same as it would have been were the payment not subject to the Tax.

**5. INTELLECTUAL PROPERTY RIGHTS**

5.1. Title to and ownership of the TS IPR shall vest and remain vested in TS and/or its Third Party Suppliers. To the extent that the Deliverables incorporate any of the TS IPR, TS grants Client a limited, non-exclusive, personal, perpetual license to copy, translate, modify, adapt and

distribute or to have copied, translated, modified, adapted and distributed the TS IPR solely in connection with any such copying, translation, adaptation, modification or distribution of the Deliverables.

- 5.2. Title to and ownership of Client IPR shall vest and remain vested in Client or its licensors. Subject to payment by Client of all sums due in respect of the applicable Services relating to the applicable Deliverables, TS assigns by way of present and future assignment all rights, title and interest in and to any Custom IPR (where applicable). Client grants TS a limited, non-exclusive, license to copy, translate, modify, adapt or to have copied, translated, modified or adapted Client IPR and Custom IPR solely in connection with TS's or its sub-contractor's performance of the Services.
- 5.3. Save as expressly set out in the Agreement, neither party assigns any Intellectual Property Rights nor grants any licences or rights in respect of such Intellectual Property Rights to the other party.
- 5.4. In case of publication by Client of all or part of the Deliverables or other results of Services, Client shall not use TS's name, logo or trademarks, without TS's prior consent.

## 6. CONFIDENTIAL INFORMATION

- 6.1. Each Party (the "**Receiving Party**") shall keep any Confidential Information received from or belonging to the other or its Affiliates (the "**Disclosing Party**") secret and shall not:
  - 6.1.1. disclose such Confidential Information to anyone except to those of its employees, agents or contractors who are bound by confidentiality obligations strictly for internal use only where disclosure is necessary to perform its obligations or exercise its rights under this Agreement; or
  - 6.1.2. use such Confidential Information other than to perform its obligations or exercise its rights under this Agreement without the prior written consent of the Disclosing Party.
- 6.2. Clause 6.1 shall not apply to any Confidential Information to the extent that:
  - 6.2.1. it is or becomes generally and freely available to the public through no fault of the Receiving Party or its employees, contractors or agents; or
  - 6.2.2. it can be shown to have been independently originated by the Receiving Party or communicated to it by a third party on a non-confidential basis provided that such third party did not breach a confidentiality obligation in making such communication to the Receiving Party.
- 6.3. In the event that the Receiving Party becomes legally compelled (or requested by an applicable regulatory body) to disclose any Confidential Information, the Receiving Party will provide the Disclosing Party with prompt written notice (unless legally prohibited) so that the Disclosing Party may either: (i) seek an order preventing disclosure or such other appropriate remedy (and if the Disclosing Party seeks such an order or remedy, the Receiving Party will provide such cooperation as the Disclosing Party reasonably requests); and/or (ii) waive compliance with the provisions of this clause 6. In the event that such an order or other remedy is not obtained, or if the Disclosing Party waives compliance with the provisions of this clause 6, the Receiving Party will furnish only that portion of the Confidential Information which is legally required (in the reasonable opinion of its legal counsel).

## 7. WARRANTIES

- 7.1. TS warrants that it has the right to grant all licences granted and to assign all rights assigned under the Agreement.
- 7.2. TS warrants that it will provide the Services in accordance with industry standards using personnel having reasonably appropriate skills, experience, qualifications and knowledge.
- 7.3. If Client notifies TS within thirty (30) days of completion of the Deliverables of any failure by TS to perform the Services and deliver the Deliverables substantially in accordance with the SOW or Quote (as applicable), TS shall use commercially reasonable efforts to re-perform the Services and modify the Deliverables. If TS is unable to re-perform the Services or to correct the Deliverables within a reasonable period of time, TS shall promptly refund to Client any Fees paid in advance for the applicable Services and this Agreement shall automatically terminate. THE LIMITED REMEDY SET FORTH IN THIS CLAUSE 7.3 SHALL BE CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE WARRANTY SET OUT IN CLAUSE 7.2 AND FOR THE PERFORMANCE OF THE SERVICES.

- 7.4. Each Party warrants to the other that it has authority to enter into this Agreement and that the entering into this Agreement and performance of its obligations under it will not violate any applicable Legislation.

## 8. INDEMNITY

- 8.1. Subject to clause 8.2:
  - 8.1.1. TS shall defend, indemnify and hold Client harmless from and against any third party claim arising as a result of TS's breach of the warranty at clause 7.1.
  - 8.1.2. Client shall defend, indemnify and hold TS, its Affiliates or Third Party Suppliers harmless from and against any claim against it or them: (i) that use in accordance with Client's instructions of any information or materials provided by Client under or in relation to this Agreement infringes third party Intellectual Property Rights; and (ii) in respect of Client's, or any third parties' use of or reliance on the Deliverables.
- 8.2. A Party seeking to rely on an indemnity under clause 8.1.1 or clause 8.1.2 ("**Claiming Party**") may only make a claim under the relevant indemnity provided that it: (i) shall promptly notify the other party ("**Indemnifying Party**") of any such claim; (ii) does not, without the other's written consent, do or omit to do anything, or make any admission, which materially prejudices the Indemnifying Party's defence of such claim; and (iii) takes all reasonable steps to mitigate any loss or damage to the third party claimant. In the event an injunction is sought or obtained against Claiming Party and where the Claiming Party is Client, TS may, at its sole option and expense: (i) procure for Client the right to continue to receiving the affected Deliverable; (ii) replace or modify the affected Deliverable so that it does not infringe; or (iii) terminate this Agreement in respect only of the affected Deliverable and pay to Client a pro-rata amount of the Fees allocable for the applicable Service, as determined by TS.
- 8.3. THIS CLAUSE 8 CONSTITUTES THE ENTIRE LIABILITY OF TS, AND CLIENT'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF THIRD PARTY RIGHTS.

## 9. EXCLUSION AND LIMITATION OF LIABILITY

- 9.1. EXCEPT AS SET OUT IN THIS AGREEMENT, ALL WARRANTIES, TERMS AND CONDITIONS WHETHER IMPLIED BY STATUTE, COMMON LAW OR OTHERWISE, ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
- 9.2. THE DELIVERABLES WILL BE PREPARED AND THE SERVICES PERFORMED USING THE PARAMETERS SET OUT IN THE SOW OR QUOTE (AS APPLICABLE) AND THE EXPERTISE OF TS'S EMPLOYEES AND CONTRACTORS. WHILE REASONABLE AND CUSTOMARY CARE IS TAKEN IN CONDUCTING ANY SERVICE, TS MAKES NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY, COMPLETENESS OR CORRECTNESS OF ANY DELIVERABLES, THE DATA SOURCES SEARCHED OR THE RESULTS OBTAINED THEREFROM NOR THAT ALL ERRORS IN THE DELIVERABLES WILL BE CORRECTED.
- 9.3. CLIENT UNDERSTANDS THAT TS IS AN INFORMATION PROVIDER AND DOES NOT PROVIDE LEGAL, FINANCIAL OR OTHER PROFESSIONAL ADVICE. THE INFORMATION, MATERIALS AND OPINIONS (IF ANY) CONTAINED IN THE DELIVERABLES ARE FOR GENERAL INFORMATION PURPOSES ONLY, ARE NOT INTENDED TO CONSTITUTE LEGAL OR OTHER PROFESSIONAL ADVICE, AND SHOULD NOT BE RELIED ON OR TREATED AS A SUBSTITUTE FOR SPECIFIC ADVICE RELEVANT TO PARTICULAR CIRCUMSTANCES. NEITHER TS NOR ANY OF ITS THIRD PARTY SUPPLIERS SHALL BE LIABLE FOR ANY LOSS THAT MAY ARISE FROM ANY RELIANCE BY CLIENT, OR ANY THIRD PARTIES, ON THE INFORMATION OR OTHER MATERIALS CONTAINED IN THE DELIVERABLES.
- 9.4. WITHOUT PREJUDICE TO ANY OTHER RIGHT OR REMEDY AVAILABLE TO TS, TS WILL NOT BE LIABLE FOR ANY FAILURE TO COMPLY WITH ANY TIMETABLE SPECIFIED IN A SOW OR QUOTE, IF SUCH FAILURE IS A RESULT OF CLIENT'S FAILURE TO PERFORM ITS OBLIGATIONS IN A TIMELY MANNER.
- 9.5. TS WILL NOT BE LIABLE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR:
  - 9.5.1. LOSS OF PROFITS, BUSINESS, OPPORTUNITY, REPUTATION OR ANTICIPATED SAVINGS;

- 9.5.2. CORRUPTION, ALTERATION, DAMAGE, LOSS OR MISTRANSMISSION (AS APPLICABLE) OF CLIENT'S OR ANY THIRD PARTY'S DATA, SOFTWARE, HARDWARE OR SYSTEMS; OR
- 9.5.3. LOSS OR DAMAGE RESULTING FROM THE INADEQUACY OF SECURITY OF DATA DURING TRANSMISSION VIA PUBLIC ELECTRONIC COMMUNICATIONS NETWORKS OR FACILITIES; OR
- 9.5.4. ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE INCLUDING LOSS OR DAMAGE OF A TYPE DESCRIBED IN CLAUSES 9.5.1, 9.5.2 AND 9.5.3 ABOVE WHICH ARISE INDIRECTLY,

HOWEVER SUCH DIRECT OR INDIRECT LOSS OR DAMAGE MAY ARISE EVEN IF TS OR ANY OF ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DIRECT OR INDIRECT LOSSES.

- 9.6. THE AGGREGATE AMOUNT OF TS'S AND/OR ITS AFFILIATES' LIABILITY WHICH MAY ARISE OUT OF OR IN CONNECTION WITH A SERVICE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WILL, IN RESPECT OF ANY INCIDENT, OR SERIES OF CONNECTED INCIDENTS, BE LIMITED TO AN AMOUNT EQUAL TO THE FEES PAID BY CLIENT FOR THAT SERVICE IN THE TWELVE MONTH PERIOD PRIOR TO THE DATE OF THE INCIDENT (OR THE FIRST SUCH INCIDENT IN THE CASE OF A SERIES).
- 9.7. IN NO EVENT SHALL TS'S AND/OR ITS AFFILIATES' LIABILITY ARISING OUT OF OR IN CONNECTION THE AGREEMENT EXCEED, IN AGGREGATE, THE FEES PAID BY CLIENT UNDER THE AGREEMENT.
- 9.8. Client shall indemnify and hold harmless TS in respect of any liability suffered by TS as a result of a claim made against TS by any Client Affiliate where such liability would be excluded or limited under this Agreement if such claims were made by Client.

**10. TERM, TERMINATION AND CONSEQUENCES OF TERMINATION**

- 10.1. This Agreement will take effect on the Effective Date of the first SOW or Quote (as applicable) and shall continue (unless lawfully terminated) until all Services have been performed and Client has paid the Fees due in respect of such Services (the "Term").
- 10.2. Without prejudice to its other rights and remedies, either Party may terminate the Agreement or any Service (as applicable) with immediate effect by written notice to the other if the other Party: (i) is in material breach of the Agreement and either that breach is incapable of remedy or the Party in breach has failed to remedy the breach within 30 days after receiving written notice requiring it so to remedy; or (ii) (otherwise than for the purpose of solvent amalgamation or reconstruction where the emerging company assumes the obligations of the Party) becomes bankrupt, insolvent and/or is unable to pay its debts as they fall due, enters liquidation, is wound up, compounds with its creditors or has an administrator, receiver or other encumbrancer appointed over all or any part of its assets or otherwise takes or suffers any similar action in any jurisdiction, or threatens or resolves to do any of the above in consequence of debt.
- 10.3. TS may terminate this Agreement or, at its discretion, any Service with immediate effect if any organisation which is a competitor of TS acquires Control of Client.

- 10.4. UPON TERMINATION OR CANCELLATION UNDER CLAUSES 10.3 RESPECTIVELY, IF CLIENT HAS PRE-PAID ANY FEES FOR THE RECEIPT OF THE CANCELLED SERVICE IN RESPECT OF ANY PERIOD FOLLOWING THE CANCELLATION DATE, TS'S SOLE LIABILITY TO CLIENT IN RESPECT OF SUCH CANCELLATION SHALL BE TO REFUND THE FEES ALLOCABLE TO THAT SERVICE FOR THE PERIOD FOLLOWING CANCELLATION.

- 10.5. This Clause 10.5 and Clauses 1, 4, 5, 6, 8, 9, 10.6 and 11 will survive termination or expiration of this Agreement for any reason.
- 10.6. Termination of this Agreement or cancellation of a Service will not affect any right accrued up to the date of expiry, termination, or cancellation.

**11. GENERAL**

- 11.1. Neither Party will be liable to the other for any failure or delay in the performance of its obligations under this Agreement (except for payment of money) due to circumstances beyond its reasonable control.
- 11.2. Failure or delay by either Party in exercising any right or power hereunder will not constitute a waiver of such right or power unless agreed in writing pursuant to clause 11.6.
- 11.3. Client shall not assign, sub-license or delegate any of its rights or obligations under this Agreement without the prior written consent of TS. TS may sub-contract or transfer all or any of its rights or obligations under the Agreement to any third party, provided that in the case of sub-contracting, TS shall remain responsible for the performance by its sub-contractors of such obligations under this Agreement. Any assignment, sub-licensing or delegation in breach of this clause 11.3 shall be null and void.
- 11.4. Except where the Agreement provides otherwise, any notice given under this Agreement must be in English, in writing, signed by or on behalf of the Party giving it and delivered personally or sent by pre-paid recorded delivery to the address set out in the SOW or Quote (or as otherwise notified in writing by that Party by notice complying with the terms of this clause). Any such notice will be deemed to have been received on the date it is recorded as having been delivered.
- 11.5. This Agreement contains the entire agreement of the Parties as to its subject matter and supersedes any and all written or oral prior agreements and understandings in relation thereto. Each Party acknowledges that in entering into this Agreement they have not relied on any representations made by the other Party that are not expressed in this Agreement. This clause 11.5 shall not be construed as excluding either Party's liability in respect of any fraudulent statements.
- 11.6. Any amendment to this Agreement shall only be effective if in writing and executed by a duly authorised representative of each Party.
- 11.7. If any provision of this Agreement is determined to be illegal or unenforceable by any court of competent jurisdiction it shall be deemed to have been deleted without affecting the remaining provisions.
- 11.8. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania and the parties irrevocably submit to the exclusive jurisdiction of the federal and state courts located within the Commonwealth of Pennsylvania.
- 11.9. Each Party intends that TS's Affiliates and Third Party Suppliers shall be third party beneficiaries of this Agreement and, thus, entitled to enforce this Agreement as if an original party hereto. There shall be no other third party beneficiaries.