

ELSEVIER TERMS AND CONDITIONS OF SUPPLY

1. Applicability

These terms and conditions shall apply to all offers, proposals and agreements made between Elsevier and any third party or its agent (the "Client") relating electronic content and any related services identified in the relevant Order Form ("Products") and, along with such Order Form, shall form the entire agreement between the parties (the "TC"). They supersede any previous supply terms and conditions. Where general terms and conditions of business are proposed by the Client, these shall not apply and the TC will prevail. Any variation to the TC and any representations about the Products shall have no effect unless expressly agreed in writing and signed by an authorized signatory of Elsevier.

2. Offer and acceptance/ Description

Each order for the Products by the Client from Elsevier shall be deemed to be an offer by the Client to purchase the Products subject to the TC. No order placed by the Client shall be deemed accepted until a written acknowledgement of order is issued by Elsevier or (if earlier) Elsevier delivers the Products or issues the invoice to the Client. Unless otherwise expressly agreed by Elsevier in writing, Client represents and warrants that it is purchasing Products from Elsevier for its own account and use and not on behalf of any other person or entity.

3. Fees

Client shall pay fees to Elsevier as set forth in the Order Form (the "Fees"). Unless otherwise stated therein, Fees are due within thirty (30) days of invoice. Late payments will be subject to interest charges of 1% per month on any balance remaining unpaid. The Fees will be exclusive of any sales, use, value added, withholding or similar tax, and Client shall be liable for any such taxes in addition to the Fees. In addition to other remedies provided in this TC, Elsevier reserves the right upon thirty (30) days written notice to suspend access to the Products without incurring liability if Client fails to make any payment required hereunder when due.

4. Payment

Payments shall be effected within thirty (30) days of the invoice date in the currency invoiced. Time for payment shall be of the essence. Products shall be at the Client's risk as from delivery. Client shall make all payments due under the TC without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Client has a valid court order requiring an amount equal to such deduction to be paid by Elsevier to the Client. From the due date of the invoice to the date of payment in full, interest at the rate of 1% may be charged to the Client on a monthly basis for any sums outstanding, together with any collection fees incurred by Elsevier. Where the Client is indebted to Elsevier for any other product or service under any other order, Elsevier reserves the right to withhold supply of the Products or Services under the current order until any outstanding monies are fully paid. Elsevier shall be entitled to apply any monies received by the Client, to clear any of the Client's outstanding debts to Elsevier.

5. License and Restrictions on Use.

Elsevier grants to Client a non-exclusive, non-transferable right to access and use the Products identified in relevant purchase order form and provide the Products to its Authorized Users as defined in the relevant purchase order form. Client and its Authorized Users shall not (i) deliver or otherwise make the Products directly or indirectly available to anyone other than Authorized Users; (ii) abridge, modify, translate, examine, test, subject to simulated input, reverse engineer, duplicate, or create any derivative work based on the Products, except to the extent necessary to make them perceptible on a computer screen to Authorized Users; (iii) remove, obscure or modify in any way any copyright notices, trademarks, or other proprietary notices or disclaimers as they appear in the Products; (iv) use any robots, spiders, crawlers or other automated downloading programs, algorithms or devices, or any similar or equivalent manual process, to continuously and automatically search, scrape, extract, deep link, index or disrupt the working of the Products; or (v) reproduce, transfer, sublicense or redistribute the Products (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof.

6. Withdrawal of Content; Discontinuation of Products.

Elsevier reserves the right to withdraw from the Products content that it no longer retains the right to provide or that it has reasonable grounds to believe is unlawful, harmful, false or infringing. In addition, for Products for which content is routinely updated, Elsevier may withdraw certain content for editorial, usage, currency, or other commercially reasonable reasons. Elsevier reserves the right to discontinue the Products, provided Elsevier notifies Client of such discontinuation and refunds Client that portion of the paid fees attributable to the remaining unexpired portion of the period for which the Fees were paid for the discontinued Products.

7. Term & Termination

Client's use of the Products is subject to the Term Start and Term End Date listed within each applicable Order Form. Thereafter, the Products will automatically renew for up to three (3) successive one (1) year terms, subject to the appropriate adjustments to Fees, unless either party cancels such renewal within sixty (60) days prior to the end of the then-current term. Either party may terminate the TC and all license grants hereunder if the other commits a material breach and fails to cure within thirty (30) days after receipt of written notice. Upon termination, all licensing rights granted herein will immediately cease, and Client will return or destroy all Elsevier Products.

8. Intellectual property

Client acknowledges that all right, title and interest in and to the Products and documentation, all copies thereof, and all modifications, changes, conversions, upgrades, additions and enhancements thereto, including all applicable rights to confidential information and methodologies, patents, copyrights, trademarks, trade names, service marks, inventions, know-how, mask work rights, trade secrets and all other intellectual property rights inherent therein and appurtenant thereto, including all ideas, concepts, know-how, or techniques relating thereto developed during the course of this Agreement by Elsevier, belongs to and remains exclusively with Elsevier or its suppliers, subject only to the limited rights and license expressly granted to Client herein. Client acknowledges further that the unauthorized redistribution of the Products could materially and irreparably harm Elsevier and its suppliers. Except as otherwise provided for in writing, any modification or enhancement to any Product developed by Client with or without advice or support by Elsevier or by Elsevier for Client, whether or not reimbursed by Client and whether or not developed in conjunction with Client's employees, agents, or contractors, are the exclusive property of Elsevier. All rights not expressly granted by Elsevier in this TC are expressly reserved by Elsevier.

9. Representations & Warranties

Elsevier represents and warrants that: (a) it has used and shall use reasonable efforts to ensure that the Products are accurate, up-to-date, and compiled and reviewed consistent with accepted industry practices and (b) use of the Products in accordance with the terms and conditions herein will not infringe the proprietary or intellectual property rights of any third party. In the event any Products are determined to be subject to the proprietary or intellectual property rights of any third party, Elsevier agrees, at its option, to either (i) procure for Client the right to continue using such Products, (ii) replace or modify such Products to be non-infringing, or (iii) discontinue and terminate this TC applicable to the infringing Products upon written notice to Client and refund to Client a prorated portion of the Fees paid hereunder for the length of time Client was unable to use such Products. If such refund occurs, Elsevier will be released from all liability for all existing and future claims related to such Products except as specifically set forth herein.

10. Elsevier Indemnities

Elsevier shall indemnify, defend and hold harmless Client from and against any loss, damage, costs, liability and expenses (including reasonable attorneys' fees) arising from or out of any third-party action or claim alleging that use of the Products, in the form delivered by Elsevier to Client and in accordance with the terms and conditions herein, infringes the intellectual property rights of such third party. If any such action or claim is made, Client shall promptly notify and reasonably cooperate with Elsevier, including by providing information and assistance, at Elsevier's expense, as needed to defend an assertion by a third party.

11. Disclaimer & Liability limitation

EXCEPT FOR THE EXPRESS WARRANTIES AND INDEMNITIES CONTAINED IN THIS TC, THE PRODUCTS ARE PROVIDED "AS IS" AND ELSEVIER AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE PRODUCTS OR RESULTS DERIVED THEREFROM, AND ANY OTHER DATA, DOCUMENTATION OR MATERIALS PROVIDED IN CONNECTION WITH THIS TC, INCLUDING BUT NOT LIMITED TO ANY ERRORS, INACCURACIES, OMISSIONS, OR DEFECTS CONTAINED THEREIN AND ANY IMPLIED OR EXPRESS WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Except for the express warranties and indemnities stated herein and to the extent permitted by applicable law, in no event will Elsevier or its suppliers be liable for any indirect, incidental, special, consequential, or punitive, or exemplary damages including, but not limited to, loss of data, business interruption, or loss of profits, personal injury, or property damage arising out of or in connection with this TC, or will the liability of Elsevier and its suppliers to the Subscriber exceed a sum equal to the Fees paid by the Client for the applicable Products hereunder during the twelve (12) month period immediately preceding the date on which the claim arose, even if Elsevier or any supplier has been advised of the possibility of such liability or damages.

12. Exclusion for Client/Authorized User Acts and Omissions.

Notwithstanding the foregoing, in no event shall Elsevier or its suppliers be liable for any claim or damages arising in whole or part from the following acts or omissions of Client or its Authorized Users: (i) failure to implement any improvement or update provided without additional expense by Elsevier or as part of any maintenance services provided hereunder; (ii) any modification of the Products unless Client has obtained written consent from Elsevier; (iii) any use or combination of the Products with hardware, software, content, data, or other materials not supplied by Elsevier; (iv) any negligent act or omission; or (v) any breach of this TC.

13. Confidentiality

To the extent permitted by applicable laws, Client and its employees, officers, directors and agents shall maintain as confidential and not disclose to any non-affiliated third party without Elsevier's prior written consent or except as required by law the financial terms and commercial conditions of this TC. Additionally, the parties acknowledge that the Products, any discussions or information related to products and services the parties may offer to one another in the future, any other applicable third party software or products, and the reports and other deliverables furnished by one party to the other contain proprietary trade secrets and confidential information of each party ("Confidential Information"). To the extent permitted by law, the parties agree, both during the term of this TC and for a period of three (3) years after termination of this TC and of all licenses granted hereunder, to hold each other's Confidential Information in confidence. The parties agree, unless required by government regulations or order of court, not to make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purposes other than the implementation of this TC. Each party agrees to take reasonable care to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the provisions of this TC. The parties acknowledge that to the extent disclosure is required by law, such disclosure may occur only after prompt written notice to the owner of the Confidential Information, allowing that party the opportunity to interpose all objections to the proposed disclosure. The parties further acknowledge that the disclosure of any aspect of the Products, or of any of the Confidential Information referred to herein or any information, which at law or equity, ought to remain confidential, will give rise to irreparable injury to the other party inadequately compensable in damages. Accordingly, each party may seek or obtain injunctive relief against the breach or threatened breach to any of the foregoing undertakings, in addition to any other legal remedies, which may be available, and the other party hereby consents to the obtaining of such injunctive relief without notice or bond.

14. Force majeure

Neither party's delay or failure to perform any provision of this TC as a result of circumstances beyond its control (including, but not limited to, war, strikes, fires, floods, power failures, telecommunications or Internet failures or damage to or destruction of any network facilities or servers) will be deemed a breach of this TC.

15. Privacy

To the extent that Authorized Users provide any personal data to Elsevier during account registration or otherwise, the Client acknowledges that such information will be collected, used and disclosed by Elsevier in accordance with the Elsevier privacy policy applicable to the Products.

16. General

Client shall not be entitled to assign the TC or any part of it without the prior written consent of Elsevier. If any provision of the TC is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the TC and the remainder of such provision shall continue in full force and effect. Failure or delay by Elsevier in enforcing or partially enforcing any provision (or prosecuting any breach) of the TC will not be construed as a waiver of any of its rights under the TC. Any modifications to the agreed Products description, budget or schedule, as set out in the order acknowledgement, may result in an adjustment to the final price and/or delivery schedule at Elsevier's discretion.