

FERA SCIENCE LIMITED

KNOWLEDGE SOLUTIONS PRODUCT END USER LICENCE AGREEMENT (“EULA”)

Important – please read this agreement before accessing or using a knowledge solutions product

SECTION A – DIRECT AND INDIRECT PURCHASER

The clauses of this Section A apply to both Direct Purchasers and Indirect Purchasers

1. DEFINITIONS AND INTERPRETATION

1.1. The definitions contained in Schedule 1 (Definitions and Interpretation) shall apply to this EULA. Capitalised terms that are not defined in this EULA shall have the meaning given to them in the Terms and Conditions.

1.2. The rules of interpretation contained in the Terms and Conditions shall also apply to this EULA.

2. DISCLAIMER

2.1. We make no representation, warranty or guarantee:

- (a) as to the reliability, availability, responsiveness, or suitability for a particular purpose of the Product and/or Web Portal; or the accuracy or completeness of any content;
- (b) that the Product will operate in combination with any particular hardware, products, systems or data (or configuration, elements, arrangement or parts thereof);
- (c) that the use of the Product and/or Web Portal will be secure, timely, uninterrupted or error-free;
- (d) that the quality of any products, services, or information obtained by You through use of the Product will meet Your requirements or expectations;
- (e) that any stored data will be accurate or reliable or that any stored data will not be lost or corrupted;
- (f) that errors or defects will be corrected; or
- (g) that the Product or Web Portal is or will be free of Malware.

2.2. We shall not be liable for delays, interruptions, service failures or other problems inherent in use of the internet and electronic communications or other systems outside Our reasonable control.

3. YOUR OBLIGATIONS

3.1. You will comply (and will procure that your Authorised Users comply) with the terms and conditions of this Agreement, and will not (and will procure that your Authorised Users do not):

- (a) make the Product (in whole or in part) available to any third party, except as permitted under this Agreement or authorised by Us in writing;
- (b) purport to assign or otherwise dispose of Your rights under this Agreement;
- (c) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form the Product, extract and/or re-utilise the whole or a substantial part of the contents of the databases, or in any way attempt to, or encourage or assist any other person to, circumvent or modify any security technology which is part of the Product, except as may be permitted by any applicable Law which is incapable of exclusion by agreement between the Parties (and then only on advance notice to Fera);
- (d) resell, assign, rent, give, transfer, pass title to, lease, copy, make derivative works of, modify, distribute, disclose, provide access to or sublicense the Product (including on a timeshare, subscription service, hosted service or outsourced basis) to any third party;
- (e) remove or obscure any confidential, proprietary or other notices of Fera or any third party contained in the Product (including any Information or data generated by the Product);
- (f) publicly disseminate Information regarding the performance of the Product;
- (g) use the Product for commercial solicitation purposes or spam;
- (h) use the Product for any immoral, unethical or unlawful purpose (including for the transmission of obscene or offensive content);

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- (i) use the Product in a manner which infringes the rights of, or restricts or inhibits the use and enjoyment of the Product by any third party (including the disruption of normal traffic flows within the Product); or
 - (j) use the Fera Marks (except as permitted in Clause 5.2;.
- 3.2. If You use the Product from outside the United Kingdom You are responsible for ensuring Your access to and use of the Product conforms to local Laws.
- 3.3. Logon credentials provided to each Authorised User are personal to that individual. You will procure that each Authorised User maintains their logon credentials in confidence and does not share, lend or otherwise disclose their logon credentials to any other person. You should inform Us immediately if You become aware that logon credentials have (or may be) become known to an unauthorised party or used in an unauthorised manner.
- 3.4. If We become aware that logon credentials have been disclosed in breach of this EULA then (without prejudice to Our other rights and remedies) We may suspend or disable such logon credentials and shall not be under an obligation to issue replacement logon credentials. You are responsible for all activities that occur under or through accounts registered to Your Authorised Users.
- 3.5. Logon credentials are deemed to be the Confidential Information for the purpose of this Agreement.
- 3.6. You will remain responsible for procuring such hardware, software, firmware, network connectivity, power supplies, facilities, licenses, consents and approvals as required to access the Product via the Web Portal.

4. OUR OBLIGATIONS

- 4.1. We will provide such hardware, software, firmware, network connectivity, power supplies, storage, backup facilities, buildings, personnel, telephony, licences, consents, and approvals as required to provide the Product via the Web Portal in accordance with this Agreement.
- 4.2. Subject to the provisions of clause 2 (Disclaimer):
- (a) We will take reasonable steps to ensure that data files We supply to You as part of the Product are free from Malware.
 - (b) We will use commercially reasonable endeavours to ensure that the Product and the Web Portal are continuously available to You without interruption.
- 4.3. Without prejudice to Our other rights and remedies in this Agreement, We reserve the right to suspend access to and use of the Product and/or the Web Portal with immediate effect where:
- (a) You (or an Authorised User) are in breach of this Agreement;
 - (b) necessary to perform preventative or corrective maintenance;
 - (c) necessary (in Our judgment) to protect Our information technology environment, including the Product, the Web Portal, and/or other systems and products;
 - (d) necessary to protect the information technology environment of You or a third party; or
 - (e) required by Law; or
 - (f) as otherwise required due to a critical business need identified by Fera (in Our judgment).
- 4.4. We reserve the right to apply suspensions to the accounts of Authorised Users generally, to specific Authorised Users, or to identified group(s) of Authorised Users.
- 4.5. Fera will use its reasonable endeavours to provide You with reasonable notice prior to exercising Our rights under clause 4.3, but We shall not be in breach of this Agreement where We are unable (or elect not) to do so.
- 4.6. Where the event giving rise to Our requirement to suspend access to the Product ceases, We shall use Our commercially reasonable efforts to restore availability of the Product to Your Authorised Users without undue delay.
- 4.7. Fera will provide remote support to Your Authorised Users via telephone and email during Normal Business Hours to troubleshoot, diagnose faults and provide solutions to problems encountered with the Product.

5. PUBLICITY

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- 5.1. We may identify You generally as a customer of the Product. You may request that We cease identifying You at any on written notice to Us, which notice shall be effective twenty (20) Working Days after receipt.
- 5.2. You shall not reference the Product (in whole or part) without proper attribution to Us. Any publications or reports resulting from the use of the Product shall acknowledge the Product as the source of the relevant Information and/or data.

6. GOVERNING LAW

- 6.1. This EULA is governed by the law of England and Wales.
- 6.2. The English courts shall have exclusive jurisdiction over any disputes connected to or arising out of this Agreement.
- 6.3. Each Party expressly waives any claim that it may have on the grounds of inconvenient forum.

SECTION B - DIRECT PURCHASER

In addition to the provisions of Section A, the provisions of this Section B apply if You are a Direct Purchaser.

7. UNDERTAKINGS

- 7.1. You will provide accurate, current and complete Information when registering and ordering the Product. We will open an Authorised User account in accordance with the product registration information provided by You. You are responsible for informing Us of any changes to the Information You have provided.
- 7.2. In relation to Authorised Users, You undertake and warrant that:
 - (a) the maximum number of Authorised Users registered to access the Product shall not exceed the number of user subscriptions You have purchased;
 - (b) only Authorised Users will access the Product, and that each Authorised User will use only the logon credentials provided to him or her; and
 - (c) the Product will be used in accordance with Our written documentation and policies made available to You.
- 7.3. You will indemnify, defend and hold Us harmless from and against any and all Claims in respect of Loss arising out of or in connection with:
 - (a) Your breach of this Agreement;
 - (b) any service or product offered by You in connection with or related to the Product; and
 - (c) any representations or warranties made by You regarding the Product to third Parties.
- 7.4. In relation to the indemnity at clause 7.3 above, We will provide You with:
 - (a) prompt written notice of a Claim;
 - (b) the exclusive right to control and direct the investigation, defence, or settlement of such Claim, provided that We may participate in the Claim at Our own expense and You may not settle any Claim without Our prior written consent; and
 - (c) reasonably necessary cooperation at Your expense.

8. FORMATION

- 8.1. This EULA forms part of the Agreement between Fera and You. By checking the 'I Agree to the End User Agreement' box, or by continuing to use the Product, You agree to be bound by this Agreement.
- 8.2. From time to time, Fera may modify this EULA, including any referenced policies and other documents. Material changes to this EULA will be notified to You and Your continued access to the Product will be subject to such changes.
- 8.3. In the event of any inconsistency, ambiguity or conflict between this EULA and the Terms and Conditions, the provisions of this EULA shall prevail to the extent of such inconsistency, ambiguity or conflict.

9. AUTHORITY AND LICENCE FOR USE OF THE PRODUCT

- 9.1. In consideration for the receipt of the Subscription Fee in respect of each Subscription Period and for Your compliance with the terms and conditions of this Agreement, We hereby grant to You and Your Authorised Users a global, revocable (in accordance with the terms of this Agreement), temporary (for the Subscription Period) personal, non-transferable licence (with no right to sub-licence) to access and use the Product via the Web Portal for Your internal business purposes in accordance with the terms and conditions of this Agreement.
- 9.2. This Agreement (including the licences granted hereunder) shall commence on the Start Date and will expire on the earlier of:
- (a) the end of the current Subscription Period (unless the licence has automatically extended in accordance with clause 10.5);
 - (b) termination under clause 11 (Termination (Direct Purchase));
 - (c) termination of the Agreement in accordance with the Terms and Conditions; or
 - (d) termination by operation of Law.
- 9.3. Unless We agree otherwise in writing, You may only access or use the Product on Your hardware systems (whether owned, leased or otherwise directly controlled by You).

10. PRICE AND PAYMENT

- 10.1. In consideration of receipt of the licence granted in clause 9.1, You agree to pay to Us the Subscription Fee.
- 10.2. You will provide Us with credit card details or approved purchase order Information acceptable to Us, and any other billing details as we reasonably require.
- 10.3. If You provide credit card details for payment, You hereby authorise Us to bill such credit card for the whole amount of the Subscription Fee on the Start Date of each Subscription Period.
- 10.4. If You provide a purchase order in respect of the Subscription Fees, We shall invoice You for the Subscription Fee(s) payable in respect of each Subscription Period, and You shall pay each invoice in accordance with the Terms and Conditions.
- 10.5. Except where You have provided Us with notice to discontinue Your licence in accordance with clause 10.6, Your licence to the Product will automatically renew at the end of each Subscription Period for a further 12-month Subscription Period. We will provide You with reasonable notice of the Subscription Fees applicable to each subsequent Subscription Period(s) together with any material changes to the terms and conditions of the Licence.
- 10.6. If You do not wish Your licence to continue beyond the end of Your current Subscription Period then You must provide Us with notice via email to: horizonscan@fera.co.uk (or such other email address as notified by Us to You from time to time) not less than thirty (30) days prior to the end of your current Subscription Period.
- 10.7. In addition to Our other rights under this Agreement, where We have not received payment of the Subscription Fee within thirty (30) calendar days from the due date for payment, then We may disable logon credentials and access permissions to all or part of the Product and/or Web Portal until payment is received in full.

11. TERMINATION (DIRECT PURCHASE)

- 11.1. Termination of the Agreement in accordance with the Terms and Conditions will simultaneously terminate this EULA.
- 11.2. We may terminate this Agreement at any time by giving thirty days' written notice.
- 11.3. We may terminate this Agreement with immediate effect on written notice where:
- (a) You commit a breach of the Agreement which We reasonably considers is not capable of remedy;
 - (b) You commit a breach of this Agreement which is capable of remedy, but which remains not remedied twenty (20) Working Days after We provide You with written notice of such breach; or
 - (c) You suffer an Insolvency Event.
- 11.4. Immediately upon termination or expiry of this Agreement:

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- (a) Your licence to use the Product will cease;
 - (b) You must cease using the Product; and
 - (c) We will disable the accounts created for Authorised Users.
- 11.5. Where You have provided Us with notice in accordance with clause 10.6, this Agreement will expire automatically on the end of the current Subscription Period without the requirement for further action by either Party.
- 11.6. Clauses 1 (Definitions and Interpretation), 2 (Disclaimer), 6 (Governing Law) and Schedule One (Definitions and Interpretation) will survive expiration or termination of this EULA.

SECTION C – INDIRECT PURCHASER

In addition to the provisions of Section A, the provisions of this Section C apply to Indirect Purchasers.

12. FORMATION

- 12.1. By checking the 'I Agree to the End User Licence Agreement' box, or by using the Product, You agree to be bound by this Agreement; if you do not agree to this, do not check the 'I Accept' box and do not use this Product.
- 12.2. From time to time, Fera may modify this EULA, including any referenced policies and other documents. Any material changes to this EULA will be notified to You and Your continued access to the Product will be subject to such changes.

13. AUTHORITY AND LICENCE FOR USE OF THE PRODUCT

- 13.1. In consideration for Your observance of the provisions of this EULA, We hereby grant to You and Your Authorised Users a global, revocable, temporary (for the Subscription Period) personal, non-transferable (with no right to sub-licence) licence to access and use the Product via the Web Portal for Your internal business purposes. in accordance with the terms and conditions of this Agreement.
- 13.2. This Agreement (including the licences granted hereunder) shall commence on the Start Date and will expire on the earlier of:
- (a) the end of the Subscription Period; or
 - (b) termination of this EULA under clause 14 (Termination (Distributor)) or by operation of Law.
- 13.3. Unless We agree otherwise in writing, You may only access or use the Product on Your hardware systems (whether owned, leased or otherwise directly controlled by You).
- 13.4. Indemnity. We shall not infringe the Intellectual Property Rights of any third party in performance of this Agreement and indemnify You and will keep You indemnified from and against all claims in respect of loss arising from Our breach of this clause 13.4 except to the extent that such claim results from:
- (a) inclusion of Information provided by You;
 - (b) Your use of the Product in a manner other than in accordance with Our written instructions;
 - (c) the unauthorised modification of the Product by You; or
 - (d) Your breach of terms of the Product licence granted to You under his Agreement.
- 13.5. Infringement. If any Third-Party IP Claim is made (or in Our reasonable opinion is likely to be made) against Us that will prevent or delay Our performance of this Agreement, We shall notify You and shall (at Our sole discretion):
- (a) modify the Product to provide so as to avoid infringement or alleged infringement;
 - (b) procure a licence to use the Intellectual Property Right(s) and supply Product(s) which are the subject of the alleged infringement;
 - (c) substitute alternative Product(s) of substantially equivalent performance and functionality, so as to avoid the infringement or alleged infringement; and/or
 - (d) terminate the Agreement whereupon our sole and exclusive liability to will be to return the unexpired portion of any Subscription Fee (calculated on a pro-rata basis over the Subscription Period) to Our Distributor.

14. TERMINATION (DISTRIBUTOR)

- 14.1. Termination of Your agreement with Our Authorised Distributor in accordance with its terms will simultaneously terminate this EULA.
- 14.2. We may terminate this EULA with immediate effect on written notice to You where:
- (a) You commit a breach of the Agreement which We reasonably consider is not capable of remedy; or
 - (b) You commit a breach of this EULA which is capable of remedy, but which remains not remedied twenty (20) Working Days after We provide You with written notice of such breach.
- 14.3. Immediately upon termination or expiry of this Agreement:
- (a) Your licence to use the Product will cease;
 - (b) You must cease using the Product;
 - (c) We will disable the accounts created for Authorised Users.
- 14.4. Clauses 1 (Definitions and Interpretation), 2 (Disclaimer), 6 (Governing Law) and Schedule One (Definitions and Interpretation) will survive expiration or termination of this EULA.

15. LIMITATION OF LIABILITY

- 15.1. Subject to the other provisions of this clause 15 (Limitation of Liability) the maximum aggregate liability of Fera (and its Group) to You (and Your Group) under or in connection with the provision of the Product and/or the Web Portal, whether arising under contract or by way of indemnity, negligence (including negligent breach of contract) or other legal theory shall not exceed the greater of: (a) 100% (one hundred per cent) of the price paid or payable by You to Our Distributor; or (b) £5,000 (five thousand pounds).
- 15.2. Subject to clause 15.3, neither Party shall be liable to the other for any consequential, indirect or special Loss however arising in connection with this EULA.
- 15.3. Nothing in this Agreement shall exclude or limit the liability of either Party for:
- (a) death or personal injury caused by its negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any matter for which it would be illegal to exclude or limit liability.
- 15.4. You shall indemnify Us against all Losses arising out of or in connection with Your breach of clauses 16 (Confidentiality), 17 (Compliance with Law), and 13 (Authority and Licence for Use of the Product).

16. CONFIDENTIALITY

- 16.1. Each Party shall in respect of any Confidential Information received by it under this EULA:
- (a) only use such Confidential Information for the purposes of this EULA;
 - (b) treat such Confidential Information as confidential and not at any time for any reason disclose or permit it to be disclosed to any person other than in accordance with the terms of this Agreement;
 - (c) disclose such Confidential Information only to those of its Representatives who need to know such Confidential Information and who are under a duty of confidentiality to the receiving Party at least as stringent as the obligations contained in this clause 16 (Confidentiality); and procure that such Representatives are informed of the confidential nature of the Confidential information; and
 - (d) protect such Confidential Information with at least the degree of care that it applies to its own Confidential Information (and in any event with no less than a reasonable standard of care).
- 16.2. The provisions of clause 16.1 shall not apply to Information which, in respect of the receiving Party:
- (a) is at the time of receipt (or which subsequently becomes) available to the public other than through a breach of this EULA;
 - (b) is lawfully disclosed to that Party by a third party without restriction on its use or disclosure;
 - (c) is independently developed by that Party;

- (d) is in the possession of or known by that Party prior to its receipt from the disclosing Party; or
 - (e) is disclosed to the extent necessary to comply with the Law, provided that the Party making such disclosure shall give the other Party written notice not less than 2 (two) Working Days in advance of such disclosure (unless such notice would itself be contrary to Law).
- 16.3. Each Party agrees that damages would not be an adequate remedy for any breach of this clause 16 (Confidentiality). Without prejudice to any other remedies the remedies of injunction, specific performance and other equitable relief shall be available in connection with any actual or threatened breach of this clause 16 (Confidentiality) and no proof of special damages shall be necessary.

17. **COMPLIANCE WITH LAW**

17.1. General.

- (a) Each Party in performing its obligations under this Agreement will comply with applicable Laws and neither Party shall expect or demand that the other Party performs any act or omission that would (in that Party's reasonable opinion) cause it to infringe any Law.
- (b) Each Party shall remain primarily responsible for the compliance by its Representatives and subcontractors with applicable Laws.

17.2. Modern Slavery. Notwithstanding the generality of clause 17.1(a), each Party shall perform its obligations under this Agreement in compliance with (and shall ensure that its Representatives and sub-contractors comply with) the Modern Slavery Act 2015.

17.3. Bribery and corruption.

- (a) Each Party warrants to the other that it shall not, and that its Representatives shall not, induce, do or agree to do any other act, failure to act or thing in connection with this Agreement that contravenes any Law relating to anti-bribery and corruption or anti-money laundering, including: (i) the Ethical Legislation; and (ii) in the case of a Public Official, any Law applicable to the Public Official in their capacity as such.
- (b) Each Party shall maintain policies applicable to its Representatives that are designed to prevent them from contravening the Ethical Legislation, including the maintenance of a gifts and hospitality policy requiring such persons to not accept, agree, authorise, give, offer, promise, request or undertake any Inducement (or to agree to do any of the same).
- (c) Each Party agrees to notify the other as soon as reasonably practicable upon becoming aware of any extortive solicitation, demand or other request for anything of value, by or on behalf of any person relating to this EULA or its subject matter.

17.4. Data Protection.

- (a) Each Party will comply with the requirements of the DPL in performance of this EULA.
- (b) In the event of a requirement for Us to process personal data on Your behalf under this EULA, the Parties shall execute a variation to this EULA incorporating the requirements of the DPL.

17.5. Each Party will notify the other in writing promptly upon discovering any actual, potential or suspected breach of this clause 17 (Compliance with Law).

SCHEDULE ONE (DEFINITIONS AND INTERPRETATION)

In this EULA, the following defined terms shall have the following meanings.

“Agreement” means (a) the terms and conditions of this EULA; (b) the Terms and Conditions, (c) any Fera policies or documents referenced in this Agreement; (d) Fera's privacy policy available at: <https://www.fera.co.uk/privacy-policy>; (e) any variations to the preceding documents agreed between Us; and (f) any additional terms notified by Us to You before use of the Product;

“Authorised Users” means any of Your Representatives that We have agreed with You is permitted to use and access the Product;

“Claim” means any action, assertion of right, claim, demand or request;

“Data Protection Legislation” or **“DPL”** means the Data Protection Act 2018, the General Data Protection Regulation ((EU 2016/679) and any other applicable Laws relating to the processing of personal data;

“Direct Purchaser” means any person who acquires a licence to the Product direct from Fera;

“Distributor” means Our authorised distributor of the Product;

“Ethical Legislation” means the Criminal Finances Act 2017, Bribery Act 2010, Companies Act 2006, Fraud Act 2006, Proceeds of Crime Act 2002 the Theft Act 1968; and the *‘OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions’* and the commentaries issued thereto from time to time;

“Fera”, “Us”, “We”, or “Our” means Fera Science Limited (a company incorporated in England and Wales under number 9413107) whose registered office is situated at York BioTech Campus, Sand Hutton, York YO41 1LZ;

“Group” means in relation to a party, that party, any holding company or subsidiary from time to time of that party and any subsidiary from time to time of a holding company of that party (where “holding company” and “subsidiary” have the meanings given to them by section 1159 of the Companies Act 2006);

“Indirect Purchaser” means any person who acquires a licence to the Product from an Authorised Distributor;

“Insolvency Event” means a party experiencing or suffering one or more of the following events: (a) entering into liquidation or receivership; (b) entering into compulsory or voluntary liquidation with or for the benefit of its creditors; (c) (being a company) entering into compulsory or voluntary liquidation of amalgamation (other than for the purpose of a bona fide reconstruction or amalgamation without insolvency); (d) having a receiver or manager appointed of the whole or substantially the whole of its undertakings; (e) if any distress or execution is threatened or levied upon any its property; (f) undergoing a change of control (within the meaning of s. 1124 of the Corporation Tax Act 2010); (g) being unable or is deemed unable to pay its debts as they fall due; and/or any substantially equivalent or analogous event to the foregoing that apply to that party in its jurisdiction of incorporation or (in the case of a partnership) occurs to any individual partner;

“Loss” means any loss, cost, charge, damages or expense of any kind including interest, expenses fines, legal and other professional expenses and disbursements;

“Malware” means code or software that is designed, intended or operates to attack, corrupt, disrupt, disable, damage, destroy, interfere with or prevent the normal operation and use of the Product or either Party's computer environment, including computer viruses, trojan horses, worms, malware, malicious software, ransomware, spyware and adware;

“Normal Business Hours” means 08:30 to 17:00 local UK time on a Working Day;

“Product” means the online decision support tool comprising generally known as ‘HorizonScan’ that You access by electronic means via the Web Portal, including (where applicable) any email bulletin service generated therefrom;

“Public Official” means any person holding an administrative, judicial or legislative position of any kind, whether appointed or elected, including any person employed by or acting on behalf of a public agency, body or state-owned enterprise, a public international organisation (where ‘public international organisation’ has the meaning given to it by section 6 of the Bribery Act 2010) or a political organisation or party, or a candidate for any such office;

“Representative” means, in respect of a Party, an agent, contractor, director, employee, officer, professional advisor, representative, servant or member of staff;

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“Start Date” means the date on which the Subscription Period starts;

“Subscription Period” means the period during which Fera will provide You with a licence to the Product, as specified in the applicable ordering document(s);

“Subscription Fee” means either (a) the subscription fee payable in exchange for access to the Product for each successive Subscription Period, or (b) in respect of any trial period the value of £1 (payable on demand);

“Terms and Conditions” means Fera’s ‘Standard Terms and Conditions for the Supply of Goods and Services’, a copy of which is available on request;

“Web Portal” means the online web-accessible interface used to access the Product as notified to You from time to time;

“Working Day” means any day other than Saturday, Sunday and bank holidays in England; and

“You” or **“Your”** means the Party entering into this Agreement with Us by accepting these terms including (where the context requires) Your Authorised Users.