

GENERAL TERMS AND CONDITIONS OF SUBSCRIPTION AND USE OF FOVEA IP' SERVICES

ARTICLE 1. PURPOSE

The purpose of these general terms and conditions of subscription and use of FOVEA IP' services ("Terms and Conditions") is to define the conditions for access and use of the services (as defined below) offered by FOVEA IP.

ARTICLE 2. SCOPE

The Terms and Conditions govern the contractual relationships between the User and FOVEA IP.

ARTICLE 3. DEFINITIONS

In these Terms and Conditions, the following terms have the meanings specified or referred to in this clause:

"Additional Fees" means the fees that the User has to pay in addition to the Subscription Fees to use Additional Services.

"Additional Services" means the Services that the User may order on the Site, that are not included with the payment of the Subscription Fees and which require an additional payment from the User.

"Agreement" is defined as the agreement between the User and FOVEA IP governed by the Terms and Conditions.

"FOVEA IP" (or "we", "us") trade name used by BIPS S.P.R.L., a limited company incorporated under the Belgian laws, with registered number 0477.449.341, whose registered office is at 109 rue Henri Maubel, 1190 Brussels (Belgium).

"Business Day" means a day which is not a Saturday, a Sunday or a bank holiday in Belgium.

"Confidential information" means all information (i.e. trade secrets, processes, methods or techniques, commercial secrets and know-how, proprietary data, such as compilations, undisclosed or unpublished intellectual property, pricing, technology and product information, business and any other proprietary or confidential information) provided by the disclosing Party to the receiving Party in connection with this Agreement and which (i) is known by the receiving Party to be confidential, (ii) is marked as or stated to be confidential, or (iii) ought reasonably to be considered by the receiving Party to be confidential.

Notwithstanding the foregoing, the Parties agree that the confidentiality obligation provided herein will not apply to any information that (i) is a public information without breach by the Parties or any of its Representatives, (ii) which is revealed to the receiving Party by a third party that, to the knowledge of the receiving Party, is not prohibited from disclosing such information pursuant to a legal or contractual obligation to the disclosing Party, (iii) information that was legally in the possession of the receiving Party prior to disclosure by the disclosing Party, or (iv) information that is or has been independently developed by the receiving Party or its Representatives without reference to confidentiality.

“Data Protection Laws”	means all data protection and privacy laws, rules and regulations applicable to a Party and binding on that Party in the performance of its obligations under this Agreement, including the GDPR.
“GDPR”	refers to the Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
“Included Services”	means the Services made available to the User once the latter has registered on the Site and paid the Subscription Fees.
“Investigative Tools”	refers to features that allow the User to obtain additional information on specific records through the use of automated tools.
“Party”	means the User or FOVEA IP (as appropriate) and “Parties” shall mean both of them.
“Products”	includes access to proprietary and non-proprietary databases, use of investigative tools, order placement, additional tools, products and services available on the Site.
“Reports”	means reports prepared by FOVEA IP on the User’s request and order.
“Representatives”	means any subsidiaries, affiliates, directors, officers, employees, subcontractors or other agents of a Party.
“Services”	means the range of services that are ordered by or made available to the User and more fully described on the Site.
“Site”	refers to FOVEA IP’ website accessible at: https://www.foveaip.com that provides access to the Services.
“Subscription Fees”	means the amount the User must pay to access the Services.
“Terms and Conditions”	means general terms and conditions of subscription and use of FOVEA IP’ services as set out below.
“User” (or “you”)	means any company or individual acting on behalf of that company accessing any of the Services.

ARTICLE 4. INTERPRETATION

In these Terms and Conditions, unless the context otherwise requires:

- 4.1. References to numbered clauses are references to the relevant clause in the Terms and Conditions.
- 4.2. The titles and headings included in the Terms and Conditions are for convenience only and shall not be taken into account in the interpretation of the provisions of the Terms and Conditions.
- 4.3. The words “herein”, “hereof”, “hereunder”, “hereby”, “hereto”, “herewith” and words of similar import refer to this Agreement as a whole and not to any particular clause, paragraph or other subdivision.
- 4.4. The words “include”, “includes”, “including” and all forms and derivations thereof mean “including but not limited to”.

4.5. Singular words include the plural and vice versa.

4.6. All periods of time set out in these Terms and Conditions shall be calculated from midnight to midnight. They shall start on the day following the day on which the event triggering the relevant period of time has occurred. The expiration date shall be included in the period of time. If the expiration date is not a Business Day, the expiration date shall be postponed until the next Business Day.

ARTICLE 5. SUBSCRIPTION AND REGISTRATION

5.1. In order to access the Services, the User must register on the Site. The User agrees to use the Services in accordance with these Terms and Conditions and guarantees the veracity and accuracy of the information provided.

5.2. FOVEA IP undertakes to keep the User's information safe and confidential. These will only be used to manage the customer relationship. In no event will FOVEA IP give, rent or sell this information to another company for any use or purpose.

5.3. FOVEA IP reserves the right to refuse or cancel any subscription request in the event of a breach of the Terms and Conditions, inaccurate information provided by the User or in the event of a dispute relating to the payment of previous Subscription Fees.

ARTICLE 6. DURATION

6.1. The Agreement comes into force on the date of the registration on the Site and is concluded for a fixed period of 12 months. At the end of this initial period, the Agreement is automatically renewed for a new fixed period of 12 months .

6.2. If the User does not notify its decision not to renew the Agreement no later than 30 days before the anniversary date of subscription (or renewal), the Agreement will be automatically and tacitly extended. In this case, the Agreement will continue under the Terms and Conditions, known to the User, including the possible update of the Subscription Fees.

ARTICLE 7. SUBSCRIPTION FEES AND ADDITIONNAL FEES

7.1. For the Services performed under this Agreement, the User hereby agrees to pay FOVEA IP the Subscription Fees and, when applicable, the Additional Fees that apply for the Additional Services, as described on the Site.

7.2. For these Additional Services, FOVEA IP shall send an invoice which will set forth the fees charged for the Additional Services, as indicated on the Site at the time of the order.

7.3. Invoices shall be paid 30 days following the date of invoice if not otherwise agreed.

7.4. For any late payment and without any written notice being necessary, the User shall be charged a late payment interest at the rate of 1 % per month as well as a 10 % fee on the outstanding amount (with a minimum of 250,00 €) for administrative and recovery costs.

7.5. FOVEA IP shall, without notice, suspend access to the Site and performance of the Services to any User in default of payment.

7.6. FOVEA IP reserves the right to modify the Subscription Fees and the Additional Fees at any time upon 60 days prior written notice.

ARTICLE 8. PROVISION OF THE SERVICES AND LIMITATION OF USE

8.1 Provision of the Services

FOVEA IP shall provide the Services described on the Site, as they may occasionally be amended or modified as foreseen hereunder. The Services include access to the Site which provides access to the Products.

8.2. Changes to the Services

Without prior notice, FOVEA IP may at any time and in its sole discretion (i) change, add, or remove features and functionalities of the Services or suspend and/or cease providing the Services or any part of the Services. If the User is dissatisfied with any material changes to the Services during a subscription, the User may immediately terminate its use of the Services, (ii) suspend access to the Site and performance of the Services in accordance with Article 7.5.

8.3. Access to the Services

The User is not permitted to use any of the Services (including any attempts to do so) other than through the Site and the User will not use the Services (including any attempts to do so) through any automated tools (including software and/or hardware), functions, services or otherwise (including scripts or web crawlers).

8.4. Limitation on use

(i) Once registered, the User shall have a personal, non-exclusive and non-transferable right to access the Site and use the Services and the Products solely for its internal business purposes, for the duration of the Agreement. The User shall not permit any third party to access the Site, use the Services or the Products without FOVEA IP's prior consent.

(ii) Unless otherwise specifically provided herein, content, information and data accessed via the Site cannot be copied, duplicated, distributed or otherwise disseminated to any third party without the prior written consent of FOVEA IP. Nevertheless, if the User acts on behalf of a client that has requested such search or information, the User can share the information retrieved from the Services to this client (and such client's advisors or consultants).

(iii) Under no circumstances can the User sell any content, information and data retrieved from the Services or use such content, information and data to engage in unfair or deceptive practices.

(iv) It is strictly forbidden for the User to download any portions of any proprietary or non-proprietary databases provided on the Site. The use of any robotic or otherwise automated modes of query generation and information retrieval is also expressly prohibited.

(v) The User agrees not to circumvent, disable or otherwise interfere with security-related features of the Site or features that prevent or restrict use or copying of any content or enforce limitations on use of the Site or the content therein.

ARTICLE 9. USER RESPONSIBILITIES

The performance of the Services depends on the respect by the User of its obligations and:

9.1. As regards the queries entered by the User and the content, information and data retrieved from the Services, the User is solely responsible for creating those queries and selecting the results.

9.2. Regarding the Reports, the User will be responsible for (i) the timely preparation, delivery, accuracy and completeness of all required documentation and other information provided to FOVEA IP in connection with the Services, and (ii) the consequences of any instructions that are given to FOVEA IP.

ARTICLE 10. CONFIDENTIAL INFORMATION

10.1. Each Party agrees that it will retain and preserve the other Party's Confidential Information in strict confidence and that it will take all necessary measures to avoid unauthorized use or disclosure of such Confidential Information. In addition, each Party agrees that it shall: (a) not use or disclose the Confidential Information for any purpose except for the limited purpose set forth in this Agreement, (b) return or destroy the Confidential Information, and all other copies thereof upon request, (c) not disclose any part of the Confidential Information to any person or entity other than its Representatives unless the disclosing Party's has given its prior written consent, and (d) take reasonable steps to assure that no Representatives uses or discloses any part of the Confidential Information in violation of this Agreement and be responsible for any violation thereof by the Representatives.

10.2. Notwithstanding the foregoing, under no circumstances may the User disclose FOVEA IP's Confidential Information to any of FOVEA IP's competitor.

10.3. Should a Party become legally compelled to disclose any portion of the Confidential Information of the other Party in connection with a lawsuit or similar proceeding, the receiving Party shall promptly notify the other Party and tender to it the defense of such demand. The receiving Party shall cooperate fully with Discloser in obtaining a protective order or other appropriate protection relating to the disclosure and subsequent use of the Confidential Information. The receiving Party shall disclose only the portion of the Confidential Information that is legally required to be disclosed.

ARTICLE 11. INTELLECTUAL PROPERTY

11.1. The User shall retain ownership and intellectual property rights over all data, documents or records transmitted to FOVEA IP in connection with the Services or otherwise pursuant to this Agreement. The User hereby grants to FOVEA IP a non-exclusive, transferable, sub-licensable, royalty free, worldwide license to use any data submitted by the User only to perform the Services.

11.2. All ownership and intellectual property rights in the Services, the Products (including but not limited to trademark, copyright, patent) provided or made available to the User by FOVEA IP and all content, information and data made available to the User when using the Services shall remain the exclusive, sole and absolute property of FOVEA IP or of the third parties from whom FOVEA IP has obtained the right to use the Products.

11.3. The User acknowledges and agrees that the content, information and data provided when using the Services are the proprietary, copyrighted works of FOVEA IP and/or its third party licensors and that they contain: (i) works of original authorship, including compiled information containing FOVEA IP's and/or its third party licensor's selection, coordination and arrangement and expression of such information or pre-existing material it has created, gathered or assembled; and (ii) trade secret and other Confidential Information, and (iii) information that have been created, developed and maintained by FOVEA IP and/or its third party licensors. The User agrees that it will not commit or permit any act or omission by its Representatives or any third party that would impair FOVEA IP's and/or its third party licensor's copyright or other proprietary and intellectual property rights in the content, information and data. The User undertakes to inform FOVEA IP of any violation of FOVEA IP's and/or its third party licensor's rights.

11.4. The User undertakes not to use FOVEA IP and/or its third party licensor's trade name, trademark, logo or copyrighted materials in advertising in any manner without the prior written approval of FOVEA IP and/or its third party licensors.

11.5. The User shall also include and reproduce any applicable copyright notice and proprietary rights legend on all authorized copies of such content, information and data.

ARTICLE 12. PROTECTION OF PERSONAL DATA

12.1. In this Article 12, the terms "personal data," "data processor," "data controller" and "process" and shall be as defined in the GDPR.

12.2. Certain information and data provided through the Services may contain personal data and such personal data are subjected to protections, including under the GDPR and other Data Protection Laws. Therefore, both Parties shall duly observe all their obligations under the GDPR or other Data Protection Laws which arise in connection with the Agreement.

12.3. With respect to the processing of personal data in connection with the User's use of the Services, the Parties agree that the User shall at all times be the data controller and FOVEA IP shall be the data processor.

12.4. Where FOVEA IP is processing personal data for the User as a data processor, FOVEA IP shall (i) take all appropriate technical and organizational measures to protect the security and confidentiality of the personal data against any accidental or illicit destruction, alteration or unauthorized access or disclosure to third parties (ii) provide the User with such information as the User may reasonably request to satisfy itself that the Supplier is complying with its obligations under the GDPR and Data Protection Laws (iii) promptly notify the User of any breach of the security requirements of the User as referred to in clause and any request for personal data.

12.5. As the data controller, the User represents and warrants to FOVEA IP that its use and process of personal data shall comply with all Data Protection Laws. The User represents and warrants that: (i) it will only use personal data for the limited purposes specified in this Agreement, including as is necessary for receiving the Services (ii) it will process and protect the personal data in accordance with Data Protection Laws, and (iii) if the User comes to the conclusion that it can no longer process or protect the personal data in accordance with Data Protection Laws, then it will promptly notify FOVEA IP of such decision and stop using those personal data until it is again able to lawfully process or protect the personal data in accordance with Data Protection Laws.

12.6. If the User is disclosing personal data with a third party service provider, the User shall be responsible for providing any and all instructions to the third party service provider about the use and protection of personal data. FOVEA IP and this third party service provider are not subprocessors of each other.

ARTICLE 13. TERMINATION

13.1. In the event of any material breach of this Agreement by either Party (including the non-payment of the Additional Fees by the User), the non-breaching Party may terminate the Agreement by giving 30 days prior written notice to the breaching Party, provided that the Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such 30 days period.

13.2. Either Party may terminate the Agreement, without notice (i) upon the institution or if a petition is filed, notice is given, a resolution is passed or an order is made, in each case by or against the other Party relating to insolvency, administration, liquidation, receivership, bankruptcy or any other winding-up proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors or making a voluntary arrangement with its creditors, (iii) upon the other Party's dissolution or ceasing, or threatening to cease to do business, or (iv) if any event occurs, or proceeding is instituted, with respect to the other party that has the equivalent or similar effect to any of the above mentioned events.

13.3. In the event of termination of the Agreements (i) the User will pay FOVEA IP all Additional Fees provided under this Agreement until the effective termination date of the Agreement, (ii) all rights granted to the User under this Agreement will be terminated and the User shall no longer have access to the Services, and (iii) each Party shall return or destroy the other Party' Confidential Information in its possession.

ARTICLE 14. DISCLAIMERS

14.1. Disclaimer of warranties and limitation of liability

(i) The User expressly agrees that its use of the Site, the Services and any content, information and data contained in, accessed via, or described on the Site, is at its own risk, and that all such Services and information, content, and materials are provided on an "as is" and "as available" basis.

To the full extent permissible by the law, FOVEA IP makes no, and hereby disclaims all, representations or warranties of any kind, express or implied, as to the availability, operation and use of the Site or the information, content or materials on the Site or accessed via the Services. FOVEA IP makes no representations and warranties that the Site will be uninterrupted, secure, or free of errors or viruses, or other harmful components. In no event shall FOVEA IP be liable to the User or any third party for damages of any kind arising out of the use of, access to, reliance on, inability to use or improper use of the Site, or the use of the Services (including, but not limited to, any direct, indirect, special, punitive, incidental or consequential damages or damages for loss of profits, goodwill or revenue, business interruption, or loss of data), even if advised of the possibility of such damages, and regardless of the form of action, whether in contract, tort, or otherwise.

FOVEA IP shall not be liable for the acts or omissions of any third party performing the Services.

As FOVEA IP is not able to verify the accuracy of the information provided by the responsible international and national trademark offices or by any other third party information sources, FOVEA IP does not represent or warrant that the information and data accessible via the Services are accurate, complete, reliable or current, and is not responsible for any errors or omissions therein or for any adverse consequences for the User. FOVEA IP and its third party licensors will not be liable for any loss, damage or injury arising out of or caused in whole or in part by FOVEA IP' or its third party licensor's negligent acts or omissions in procuring, compiling, collecting, reporting, communicating or delivering the information to the User in connection with this Agreement.

(ii) The User is exclusively responsible for creating queries and selecting results. In this regards, FOVEA IP shall not be responsible for errors in query writing, misinterpretation of query or field parameters or in the assessment of returned results. The User is solely responsible for the selection, use and suitability of the Services and FOVEA IP shall have no liability therefor.

(iii) The User understands that trademark searches carried out on the Site and FOVEA IP' Reports are highly subjective. Therefore, the User is solely responsible for the review, interpretation of the information and for the actual use of the Reports. The User is also responsible to seek advice or make additional legal researches. Reports are confidential and may not be transmitted to other third party.

Nevertheless, if the User acts on behalf of a client that has requested such Report, the User can share the Report to this client (and such client's advisors or consultants). Reports should only be used for the purpose of providing information to the User in order to determine the availability of the trademarks for which the researches are provided.

(iv) Notwithstanding anything in these Terms and Conditions to the contrary, the entire liability of FOVEA IP and its third party licensor for the Services performed hereunder, if any, for any and all losses, damages which the User suffers or incurs arising out of any acts or omissions of FOVEA IP and/or its third-party licensors in connection with anything to be done or furnished hereunder, regardless of the cause of the loss, damage or injury (including negligence) shall be limited to the amount actually paid by the User to FOVEA IP and with a maximum of 10.000,00 € .

14.2. No legal advice

FOVEA IP would like to emphasize the fact that the information retrieved from the use of the Services is not a legal opinion and shall not be used or construed to be a legal opinion for any purpose including, as a final determination whether a trademark is available for use or may be registered. Indeed, FOVEA IP is not a law firm and does not render legal advice: it is the responsibility of the User to obtain necessary legal counsel on any information retrieved from the Services.

14.3. Use of Investigative Tools

Some of the Services may allow the User to obtain additional information on referenced records through the use of Investigative Tools. FOVEA IP expressly disclaims the accuracy and comprehensiveness of any information or data retrieved through these links. These information and data are retrieved through third party information providers' website and, therefore, FOVEA IP cannot be liable for errors, omissions, or currency of the data presented. The User is solely responsible for determining if the information is, in fact, related to the selected trademark.

In addition, the failure of the Investigative Tools to retrieve specific information should not be interpreted as a proof that the information does not exist or is not retrievable. The User should take necessary precautions to confirm the information retrieved from the Service. When the User accesses a third party website through Investigative Tools, it must agree and comply with the third party's terms and conditions.

ARTICLE 15. INDEMNIFICATIONS

The User agrees to indemnify, defend, and hold harmless FOVEA IP and any of FOVEA IP' Representatives and third party licensors from any and all claims, demands, costs, liabilities, losses, expenses and damages (including reasonable attorney's fees) arising out of or in connection with : (i) any acts or omissions by the User or any of the User's Representatives involving fraud, willful misconduct and/or criminal acts or omissions, whether or not such acts or omissions relate to the Services, (ii) any breach of this Agreement by the User, any of the User's Representative or the User's Client, (iii) breach of any Data Protection Laws by the User, the User's Representative or the User's Client, (iv) inaccurate information submitted by the User, or (v) the use of the information by unauthorized third parties.

ARTICLE 16. CAPACITY

Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licenses and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its Representatives.

ARTICLE 17. ASSIGNMENT

Neither Party may assign or delegate its rights and obligations under these Terms and Conditions to any third party without the prior consent of the other Party which shall not be unreasonably withheld. As long as such consent has not been obtained, the assigning Party shall continue to be liable for all obligations that it intended to assign.

ARTICLE 18. NOTICES

All notices, requests, claims, demands and other communications in connection with this Agreement must be in English, in writing and shall be deemed to have been received : (i) at the time of delivery, if delivered by hand or a private courier company (ii) on the first working day following the date of posting if sent by registered mail, provided that both the sender and the addressee reside in Belgium or (iii) on the fifth business day (in the place to which it is sent) following the date of posting if sent by registered mail when the User does not reside in Belgium, by the Party as follows: (i) if to FOVEA IP S.P.R.L., 140A Rue de Stalle, 1180 Brussels, Belgium and (ii) if to the User, at the address provided by the User to FOVEA IP. Any Party hereto may change its address for the purpose of this Section by giving the other party written notice of its new address in the manner set forth above.

ARTICLE 19. SURVIVAL

All provisions herein relating to proprietary rights, confidentiality and non-disclosure, indemnification and limitation of liability shall survive the completion of the Services or any earlier termination, expiration or rescission of this Agreement. The section headings are used in this Agreement for reference and convenience only and do not affect this Agreement's construction or interpretation.

ARTICLE 20. ADVERTISING

FOVEA IP shall be able to use the name, trademark, trade name, logo or other commercial or product designations of the User, in print or electronic format or on a website.

ARTICLE 21. SEVERABILITY

If any provision of these Terms and Conditions is prohibited by law or judged by a court to be unlawful, void or unenforceable, in whole or in part, the provision or part of it shall, to the extent required, be deemed not to form part of these Terms and Conditions and shall not in any way affect the legality, validity or enforceability of the remainder of these Terms and Conditions.

ARTICLE 22. AMENDMENTS AND WAIVERS

This Agreement may not be amended, modified, changed or altered unless in writing executed by a duly authorized representative of the Parties. A Party's failure or neglect to enforce any of its rights under this Agreement will not be deemed to be a waiver of that or any other of its rights.

ARTICLE 23. FORCE MAJEURE

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 60 days, either Party may terminate the Agreement by written notice to the other Party, without any compensation or notice being due as a result thereof.

ARTICLE 24. SUBCONTRACTING

FOVEA IP reserves the right to subcontract all or part of the Services. If so, FOVEA IP will remain fully responsible under this Agreement for the performance of any such subcontractor.

ARTICLE 25. INDEPENDANCE

The Parties are not, and shall not be deemed to be, partners or Joint Venturers.

ARTICLE 26. NO THIRD PARTY RIGHTS

Nothing in this Agreement shall be deemed to create any right on the part of any person or entity not a party to this Agreement.

ARTICLE 27. CHANGES

FOVEA IP reserves the right to change, add or remove any part of these Terms and Conditions at any time. FOVEA IP may inform the User about the changes to these Terms and Conditions by email, regular mail, postings or updates on the Site or other reasonable means now known or hereinafter developed. If the User does not agree to any modification of these Terms and Conditions it should discontinue using the Services. Using the Services after the posting of updated Terms and Conditions will indicate the User's acceptance of these terms and of any changes. The most current version of these Terms and Conditions supersedes previous versions.

ARTICLE 28. ENTIRE AGREEMENT

The Agreement contains the entire agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. Neither Party shall be bound nor liable to the other Party for any representation, warranty, promise, covenant or understanding made by any agent, employee or other person that is not embodied or incorporated by reference in this Agreement.

ARTICLE 29. GOVERNING LAW AND JURISDICTION

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Belgian laws. Any dispute arising out of or in connection with this Agreement shall be finally settled in the French speaking courts of Brussels, Belgium.

Last updated: 29/6/2018