

# TETRASCIENCE WEBSITE TERMS OF USE

UPDATED MAY 1, 2015

THESE TERMS OF USE (THESE “**TERMS**”) DEFINE THE RELATIONSHIP BETWEEN TETRASCIENCE, A CORPORATION (THE “**TETRASCIENCE**” OR “WE” OR “US”) AND YOU, THE PERSON ACCESSING THE RETAILMLS.COM WEBSITE LOCATED AT [WWW.TETRASCIENCE.COM](http://WWW.TETRASCIENCE.COM) (THE “**SITE**”) AND/OR REGISTERING FOR OUR SERVICES OR THE ORGANIZATION OR ENTITY THAT HAS AUTHORIZED YOU TO ACCESS THE SITE AND/OR REGISTER FOR OUR SERVICES FOR ITS BENEFIT (IN EITHER CASE, “YOU” OR “YOUR”). BY ACCESSING OR USING THE SITE OR ACCESSING, REGISTERING FOR, OR USING THE SERVICES (DEFINED BELOW), YOU CONFIRM THAT (A) YOU ARE AT LEAST 18 YEARS OF AGE AND (B) YOU HAVE READ THESE TERMS AND (C) YOU AND ANY ORGANIZATION OR ENTITY ON WHOSE BEHALF YOU ARE ACCEPTING THESE TERMS AND USING THE SITE, ACCEPT THESE TERMS. **IF YOU CANNOT CONFIRM EACH OF (A) THROUGH (C) ABOVE, THEN YOU MUST NOT ACCEPT THESE TERMS AND MAY NOT USE THE SITE OR SERVICES.**

We may amend these Terms at any time by posting the revised Terms on the Site. We may terminate these Terms at any time by suspending or terminating access to the Site and/or Services and/or notifying you. You can see when these Terms were last revised by referring to the “Updated” legend above. Your continued use of the Site or Services after we have posted revised Terms signifies your acceptance of such revised Terms. No amendment or modification of these Terms will be binding unless in writing and signed by our duly authorized representative or posted to the Site by our duly authorized representative.

## **Agreement with Respect to Terms**

These Terms constitute a legally binding agreement between TetraScience and you. You are responsible for regularly reviewing these Terms. You can review the most current version of the Terms at any time at: [www.tetrascience.com/doc/tou.pdf](http://www.tetrascience.com/doc/tou.pdf). To access the Services you must also enter into, or be accessing the Services on behalf of an entity that has entered into, a Subscription Agreement with TetraScience. Additional terms may govern use of certain features within the Site. If you have entered into a Subscription Agreement and there is a conflict between these Terms of Use and the Subscription Agreement, the terms of the Subscription Agreement shall control over these Terms. You acknowledge that you have read these Terms, and accept, understand and will be bound by such terms and conditions. You further acknowledge that these Terms, together with the Privacy Policy (as defined below), terms governing any individual feature and the Subscription Agreement, if any, represent the complete and exclusive statement of the agreement between us and supersede any proposal or prior agreement oral or written, and any other communications between us relating to your access or use of the Site and/or Services.

## **Registration**

Certain features or services offered on or through the Site may require you to set up an account and register as an authorized user pursuant to a Subscription Agreement by providing certain personally-identifiable information, including but not limited to a user name and password, your name and a valid email address (collectively, your “**Registration Information**”). We reserve the right to restrict certain areas of information on this Site to such authorized users. We are committed to your privacy, and our privacy policy [www.tetrascience.com/doc/privacy.pdf](http://www.tetrascience.com/doc/privacy.pdf) (the “**Privacy Policy**”), the terms of which are incorporated herein, explains the policies put in place and used by us to protect your information and your privacy as you visit and use the Site and use our Services. You acknowledge that TetraScience cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use your information for improper purposes and that you provide your information, including Registration Information, at your own risk.

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You are solely responsible for maintaining the confidentiality of your user name and password. You are responsible for any use of the Site or Services using your name and password and all such use is deemed to be use by you. You agree to notify us immediately of any unauthorized use of your user name, password or account. TetraScience will not be responsible for any losses arising out of the unauthorized use of your account and you agree to indemnify and hold harmless TetraScience and its managing members, officers, equity holders, employees, partners, parents, subsidiaries, agents, affiliates and licensors (collectively, “**Company Persons**”), as applicable, for any improper, unauthorized or illegal uses of your account and as otherwise set forth in these Terms. At any time, TetraScience may (a) suspend or terminate your rights to access or use the Services, or (b) terminate these Terms with respect to you if we in good faith believe that you have used the Services in violation of these Terms, including any incorporated guidelines, terms or rules.

### Services, Use and Restrictions

- [Services](#)

TetraScience operates the Site for the online monitoring of laboratory equipment (the “**Services**”).

- [Materials and Data](#)

All text, graphics, user interfaces, visual interfaces, photographs, trademarks, logos, sounds, artwork and computer code, including but not limited to design, structure, “look and feel” and arrangement of the content available on this Site (collectively, “**Site Materials**”) is owned, controlled or licensed by or to us, and is protected by trade dress, copyright, patent and trademark laws, and various other intellectual property rights and unfair competition laws. The Site Materials and the Site are owned by TetraScience and Company Persons. Except as expressly provided in these Terms, no part of the Site or the Site Materials may be copied, reproduced, republished, posted, publicly displayed, translated, or distributed in any way. Subject to the limited rights to use the Site and Services pursuant to these Terms, we retain all right, title and interest in and to the Site and Services, including all related intellectual property contained therein.

Certain features of the Services allow you to upload, post, publish, share, store, or manage data and other materials (“**Data**”). By posting or publishing Data, you represent and warrant to us that you have all necessary rights to distribute such Data to us. You hereby grant to us and our authorized personnel a worldwide, royalty-free, fully-paid, non-exclusive, transferable, sublicensable (as necessary to perform the Services) license to copy, publicly perform, publicly display, publish, distribute, create derivative works of, and otherwise exploit Data as we deem appropriate to perform the Services and in accordance with these Terms. We acknowledge and agree that, as between you and TetraScience, you will own all right, title, and interest in and to Data generated and/or uploaded to the Site by you.

You may, upon invitation by TetraScience or otherwise, submit comments, suggestions, or ideas about the Services or products offered by TetraScience, including how to improve the Services or products (“**Feedback**”). By submitting any Feedback, you agree that your submissions are voluntary, gratuitous, unsolicited, and without restriction and will not place TetraScience under any fiduciary or other obligation. We may use, copy, modify, publish, or redistribute the submission and its contents for any purpose and in any way and without any compensation to you.

We respect the intellectual property of others and ask that users of our Site and Services do the same. In connection with our Site and Services, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing Data and for the termination, in appropriate circumstances, of users of our Site and Services who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Site and Services, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing Data removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be

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provided to our designated copyright agent: (a) your physical or electronic signature; (b) identification of the copyrighted work(s) that you claim to have been infringed; (c) identification of the material on our services that you claim is infringing and that you request us to remove; (d) sufficient information to permit us to locate such material; (e) your address, telephone number, and email address; (f) a statement that you have a good faith belief that use of the objectionable materials are not authorized by the copyright owner, its agent, or under the law; and (g) a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner. Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with the written notification and allegation of copyright infringement

Our designated copyright agent is: Alok Tayi, [info@tetrascience.com](mailto:info@tetrascience.com)

- [Links to Other Sites](#)

The Site and Services may contain links to other independent third-party web sites, and we may provide links to third-party websites ("**Linked Sites**"). These Linked Sites are provided solely as a convenience to you. Such Linked Sites are not under our control, and we are not responsible for and do not endorse the content of such Linked Sites, including any products, information or materials contained on such Linked Sites. You will need to make your own independent judgment regarding your interaction with these Linked Sites. Some of the content served by us will be from affiliated merchant sites, and sales through these affiliated sites may generate a commission payable to us. We accept no responsibility for reviewing changes or updates to, or the quality, content, policies, nature or reliability of third party web sites, or websites linking to the Site. You should review applicable terms and policies, including privacy and data gathering practices, of third party web sites, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

- [Permitted Uses](#)

Subject to the provisions in these Terms, you may print Site Materials or copy Site Materials into word processing, spreadsheet and presentation programs (or other software programs with the express written consent of TetraScience), so long as the level of information being printed or copied is reasonably tailored for your purposes, insubstantial and used in compliance with these use and copying provisions.

- [Prohibited Uses](#)

You may not use the Site or Services for illegal or unlawful or malicious activities or for activities that we deem improper for any reason whatsoever in our sole judgment. We reserve the right to take preventative or corrective actions to protect ourselves and our users. Your use of the Site and Services is conditions in part on your compliance with the rules of conduct provided herein, and your failure to comply may result in termination of your access to and use of the Site and Services and being responsible for damages caused by your noncompliance. While using the Site and Services, you may not: (a) resell or transfer the Services or access to the Site; (b) use the Site to conduct illegal activities; (c) transmit, distribute or introduce documents or other material that infringe or violate any intellectual property rights, publicity/privacy rights, law or regulation, that are defamatory, obscene, or that contain any viruses or programming routines intended to damage or disrupt the Services or Site; (d) cause damage to, or circumvent the security or authorization procedures of, the Site; (e) view unauthorized portions or areas of the Site; (f) use the Site to transmit unsolicited, non-germane to the Site or Services, including "spam" mail; (g) tamper with email headers or other identifying features of messages sent within the Site; (h) create or forward chain letter or pyramid schemes of any kind; (i) cancel or postpone posted messages, other than the sender's own, without appropriate authorization to do so; or (j) modify, rent, lease, distribute, create a derivative or collective work of, reverse-engineer, decompile or disassemble all or part of the Site.

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### **Warranties, Disclaimers and Limitations of Liability**

#### Your Warranties

You represent and warrant to TetraScience that (a) all information, including, without limitation, Registration Information, that you provide to us is accurate and truthful, (b) you have the authority to share Registration Information with us and to grant us the right to use Registration Information as provided in these Terms, the Privacy Policy, (c) you have the right to grant us the licenses specified in the Section titled “Materials and Data” above, if applicable, (d) your acceptance and use of the Site pursuant to these Terms does not violate any applicable law or other contract or obligation to which you are a party or are otherwise bound, and (e) the Data do not infringe the intellectual property rights, including any copyrights, trademarks, trade secrets, right of privacy, or right of publicity, of any person.

#### Disclaimer of Warranties

**EXCEPT AS MAY BE SET FORTH IN YOUR SUBSCRIPTION AGREEMENT, IF ANY, THE SITE AND ALL PARTS THEREOF ARE PROVIDED “AS IS”, “WITH ALL FAULTS”, AND “AS AVAILABLE”. EXCEPT AS MAY BE SET FORTH IN YOUR SUBSCRIPTION AGREEMENT, IF ANY, TETRASCIENCE AND THE COMPANY PERSONS AND THEIR RESPECTIVE MANAGING MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES AND THIRD PARTY SUPPLIERS (COLLECTIVELY, THE “COMPANY PARTIES”) DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES OR GUARANTEES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION (A) AS TO TITLE, MERCHANTABILITY, FITNESS FOR ORDINARY PURPOSES AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SYSTEM INTEGRATION, WORKMANLIKE EFFORT, QUIET ENJOYMENT AND NO ENCUMBRANCES OR LIENS, (B) THE QUALITY, ACCURACY, TIMELINESS OR COMPLETENESS OF THE SITE AND ITS CONTENT, (C) THOSE ARISING THROUGH COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE; (D) THE SITE AND ITS CONTENT CONFORMING TO ANY FUNCTION, DEMONSTRATION OR PROMISE BY ANY COMPANY PARTY, AND (E) THAT ACCESS TO OR USE OF THE SITE OR ITS CONTENT WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. ANY RELIANCE UPON THE SITE AND ITS CONTENT IS AT YOUR OWN RISK AND THE COMPANY MAKES NO WARRANTIES.**

THE COMPANY RESERVES THE RIGHT TO RESTRICT OR TERMINATE YOUR ACCESS TO THE SITE AND ITS CONTENT OR ANY FEATURE OR PART THEREOF AT ANY TIME. IF YOU DOWNLOAD ANY CONTENT FROM THIS SITE, YOU DO SO AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH CONTENT.

The Services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. We are not responsible for any delays, delivery failures or other damages resulting from such problems. We do not guarantee the Site or Services will be operable at all times. We reserve the right to do any of the following, at any time, without notice: (a) to modify, suspend or terminate operation of or access to the Site and Services, or any portion of the Site; (b) to modify or change the Site or Services, or any portion of the Site or Services, and any applicable policies or terms; and (c) to interrupt the operation of the Site and/or provision of Services, or any portion of the Site or Services, as necessary to perform routine or non-routine maintenance, error correction, or other changes.

THESE DISCLAIMERS ARE INDEPENDENT OF ANY OTHER TERM IN THESE TERMS.

#### Limitation of Remedies

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**TETRASCIENCE AND THE COMPANY PARTIES SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSS INCLUDING: DAMAGE TO OR LOSS OF PROPERTY OR EQUIPMENT; LOSS OF REVENUE; LOSS OF CUSTOMER DATA; OR LOSS OF USE OF CUSTOMER'S MATERIAL, EQUIPMENT OR SYSTEMS. ANY SERVICES OR CONTENT MADE AVAILABLE OR OBTAINED THROUGH THE USE OF THE SITE, AND ALL OTHER USE OF THE SITE, IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS THEREFROM.**

**IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SITE OR ITS CONTENTS, OR WITH ANY OF THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE.**

### **Indemnification**

You will indemnify, defend, and hold harmless TetraScience and the Company Parties from and against any and all third party claims, suits, actions, demands, liabilities, expenses and/or losses, including reasonable attorneys' fees and expenses, arising out of or relating to (a) your gross negligence or willful acts or omissions or (b) your use of the Site and Services outside the scope of or in breach of these Terms.

### **Applicable Law**

These Terms shall be interpreted and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of law's provisions. This Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Any action by you against TetraScience arising out of or relating to these Terms may be brought only in the state and federal courts located in Boston, Massachusetts and Customer hereby consents to such jurisdiction. You acknowledge that TetraScience may be entitled to seek equitable and/or injunctive relief to protect such party's interest under these Terms.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and TetraScience as a result of these Terms or accessing or using the Site or its contents. TetraScience's performance under these Terms is subject to existing laws and legal process, and nothing contained in these Terms is in derogation of TetraScience's right to comply with governmental, court and law enforcement requests or requirements relating to your access or use of the Site or information provided to or gathered by TetraScience with respect to such use.

### **Miscellaneous**

If any provisions of these Terms, or portion thereof, is or becomes invalid under any applicable statute, rule of law or court order, it is to be deemed stricken and the rest of these Terms shall remain in full force and effect.

A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to the Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

Except as otherwise specified in these Terms, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (a) the second business day after mailing by

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certified mail, return receipt requested, (b) the first business day after sending via so-called next business day delivery service, or (c) the first business day after sending by email. Notices to us must be sent in writing to the following address: 41B Oak St., Somerville MA, [info@tetrascience.com](mailto:info@tetrascience.com), and notices to you will be sent to the email address you provide to us, which addresses may be updated from time to time upon written notice to the other party or, in the case of TetraScience, by updating these Terms.

The failure of either party at any time to enforce or require performance of any provisions of these Terms will not be construed to be a waiver of such provisions.

You agree that without obtaining prior written consent, TetraScience may assign its rights, interests and obligations in these Terms to any parent, subsidiary or Affiliate of TetraScience, or to a successor of substantially all of TetraScience's assets or stock. You may not assign any of your rights or obligations hereunder, whether by operation of law or otherwise, without TetraScience's consent, such consent not to be unreasonably withheld.

### **Term and Termination**

The term of these Terms will continue for as long as we allow you access to and use of the Site and/or Services. Sections titled "Materials and Data," "Warranties, Disclaimers and Limitations of Liability," "Applicable Law and Jurisdiction," "Interpretation," and "Indemnification," and this Section shall survive any termination or expiration of these Terms.

Questions? TetraScience, Inc. [info@tetrascience.com](mailto:info@tetrascience.com)