

## **General Terms and Conditions (GTCs) for the Use of the “Sciences Switzerland” Portals and the SCNAT Web/Data System**

### **1. Scope**

#### **a) General provisions**

- <sup>1</sup> These GTCs apply to all forms of use of the “Sciences Switzerland” Portals (hereinafter: Portals). Section 4 of the GTCs also applies to the use of the Portals and Database of Sciences Switzerland (hereinafter: Web/Data System) of the Swiss Academy of Sciences (SCNAT). The Sciences Switzerland Portals are all websites generated from the Sciences Switzerland Database, *inter alia* [naturalsciences.ch](http://naturalsciences.ch) (SCNAT knowledge), [scnat.ch](http://scnat.ch) (SCNAT network).
- <sup>2</sup> The Portals and the Web/Data System are intended to enable persons working in the field of science to maintain, exchange and use data, including by publishing them.

#### **b) User(s)**

- <sup>1</sup> A User is any natural person who uses the Portals and/or the Web/Data System.
- <sup>2</sup> Specifically, “use” is deemed to include:
  - viewing, reading and imaging of information on the Portals;
  - the processing of data of the Portals, i.e. any handling of the data accessible there, regardless of the means and processes used, in particular including copying, downloading, storing, using, altering, disclosing, archiving or deleting such data;
  - the use of the search functions provided on the Portals;
  - the use of the web shop, which is also subject to separate terms and conditions;
  - logging in to and all activities on the Web/Data System, in particular uploading data to the system, saving and processing data on the system and downloading data from the system.
- <sup>3</sup> If the “use” is undertaken on a professional basis in the context of an employment relationship, the Employer shall also be bound by and subject to these GTCs.

#### **c) Legally binding version**

- <sup>1</sup> The current legally binding version of these GTCs may be found on the Portals. The authoritative version of the GTCs is the current version in effect at the time of use.
- <sup>2</sup> Obligations arising out of previous versions of the GTCs that were legally binding at the time of a particular use shall remain unaffected hereby. Earlier versions of the GTCs may be obtained from SCNAT.

## **2. General use of the "Sciences Switzerland" Portals**

### **a) Warranty and liability**

- <sup>1</sup> As the operator of the Portals, SCNAT shall, to the extent possible and in the exercise of the due care required in the circumstances, seek to ensure that the Portals are available and function properly and that the information and data published on them are accurate, precise, current, reliable and complete, but does not assume any liability for this, in particular with regard to the correct, error-free transmission of data. SCNAT expressly reserves the right at any time to change, supplement, delete, temporarily cease to publish or permanently discontinue, in whole or in part, the functions of the Portals and any information and data published thereon without notice.
- <sup>2</sup> SCNAT shall not be liable for any errors, omissions, faults or defects of any kind of or on the Portals. As a general rule, no liability claims will lie against SCNAT for tangible or intangible losses arising from the access to, use or non-use of the published information and data, from misuse of the link to the Portals or from technical faults of any kind.
- <sup>3</sup> SCNAT shall likewise not be liable for any damage or infection of computers or other end devices caused by viruses or other malware in connection with the visit, use or downloading of data of any kind on Portals. Users of the Portals are responsible in all respects for protecting their devices against viruses, other malware and other hazards on the internet.
- <sup>4</sup> The foregoing is without prejudice to liability claims in cases of demonstrably intentional acts or gross negligence on the part of SCNAT.
- <sup>5</sup> To the extent permitted by law, SCNAT disclaims any warranty or liability, including for auxiliary persons and vicarious agents.

### **b) Intellectual property (authorship rights, copyright, other intellectual property rights, trademarks)**

- <sup>1</sup> The Portals and the information and data contained thereon and therein (texts, pictures, graphics, photos, raw data, etc.) are protected by intellectual property rights, in particular copyright and design rights of SCNAT and third parties. These rights are fully reserved by SCNAT and the third parties in question. Users of the Portals do not acquire any rights over the Portals or the information and data contained thereon or therein beyond the non-exclusive and non-transferable personal rights of use granted to them under these GTCs. The foregoing shall be without prejudice to any written agreements to the contrary.
- <sup>2</sup> The downloading, printing or storing of data from the Portals is permitted, provided that a reference to the source is made. Any use of information and data is limited to the private or internal business purposes of the companies and organisations to which the Users belong. By contrast, however, no commercial use of the Portals or of information and data published on them is permitted.
- <sup>3</sup> In accordance with strict principles on data quality and security, SCNAT publishes data with respect to persons from its network on the Portals. SCNAT is not responsible for any processing and publication of such data by third parties. Such third parties must clearly designate their own data compilations, which are not authorised by SCNAT, as third party data.
- <sup>4</sup> All brands and trademarks referred to on the website and possibly protected by third parties are subject to the provisions of the applicable trademark law and to the rights of their respective registered owners. The mere mention or representation of trademarks does not permit any inference regarding the absence of third-party intellectual property rights.

### **c) References and links**

- <sup>1</sup> SCNAT does not assume any responsibility for third-party websites, their operators and the content and services offered on them, which are referred to by references or links on the Portals. Access to and use of such websites are at the User's own risk. SCNAT expressly declares that it has

no control whatsoever over the design, content and offers of the linked or referenced websites. The third party in question is fully responsible for the information and services on linked or referenced websites.

#### **d) Responsibility of Users**

- <sup>1</sup> Use of the Portals is at the User's own risk.
- <sup>2</sup> Any use which is unlawful, fraudulent or excessive is prohibited. Users shall be liable to SCNAT for any losses arising from such use. SCNAT reserves the right to block use originating from specific IP addresses.

### **3. Data protection**

- <sup>1</sup> With regard to data protection, the "SCNAT Privacy Statement" published by SCNAT from time to time on the Portals shall apply. The SCNAT Privacy Statement constitutes an integral element of these GTCs. Any person accepting these GTCs is deemed to consent to data processing by SCNAT in accordance with the Privacy Statement.
- <sup>2</sup> The provisions of Section 4(g) of these GTCs shall also apply to the use of SCNAT's Web/Data System.

### **4. Use of the Web/Data System in particular**

#### **a) General provisions**

- <sup>1</sup> The provisions of this Section 4 shall apply in addition to the other provisions of these GTCs to the use of the Web/Data System. They govern the legal relations between Users and SCNAT regarding the use of the Web/Data System. Should any provisions of this section apply by way of derogation from the general rule, this will be expressly noted.
- <sup>2</sup> The Web/Data System identifies natural persons with the following characteristics as 'Users':
  - Individual Users: collect personal data on the Web/Data System
  - Group Users: manage and use the data collected on the Web/Data System
- <sup>3</sup> The grant of further roles and usage rights shall be determined by SCNAT.
- <sup>4</sup> All Users must accept these GTCs in order to use the Web/Data System. Group Users must also enter into a written agreement with SCNAT.
- <sup>5</sup> Any person is entitled to request a User account on the Web/Data System.
- <sup>6</sup> Where new Group Users apply to use the Web/Data System, SCNAT shall exercise due care to determine whether their objectives and tasks are consistent with those of the Web/Data System. The SCNAT will inform applicants of the outcome of its examination of the application.
- <sup>7</sup> The User is responsible for ensuring that all persons who make use of the Data/Web System for him/her (employees, agents, etc.) comply with the provisions of these GTCs. The User shall be fully liable to SCNAT for any breaches of the above-referenced provisions by the persons in question.

#### **b) Login data and access**

- <sup>1</sup> Access to the Web/Data System is protected by Username and password. The User is responsible for the safe storage of his or her login data. Users shall be liable to SCNAT for damages resulting from unauthorised access by third parties to the Web/Data System using a User's access data.
- <sup>2</sup> The transfer of the access data on the Internet is encrypted via the secure hypertext transfer protocol. SCNAT disclaims all liability for the security of the User's internet connection.

**c) Security**

- <sup>1</sup> SCNAT shall exercise due care to make the Web/Data System as secure as possible in order to preserve the integrity and confidentiality of the collected data and to protect the Web/Data System from unauthorised access and loss, fraudulent use or falsification of data. The storage and protection of the data is carried out using current technology. However, SCNAT cannot warrant that any unauthorised access, data loss, fraudulent use or falsification can be prevented.

**d) Copyrights and other proprietary rights to processed data**

- <sup>1</sup> When downloading legally protected data (texts, pictures, graphics, etc.) for further use, the User must make the necessary enquiries and conclude any contractual agreements in advance and guarantee that the intended use of the data on the Web/Data System is permitted by law.
- <sup>2</sup> The User is liable to SCNAT for legal defects of data uploaded by the User and shall support SCNAT in disputes with persons entitled to the data.

**e) Fraudulent use**

- <sup>1</sup> If there are indications that there is a risk of fraudulent use, SCNAT may issue a warning to Users, and where fraudulent use is found it may ban them from using the Web/Data System.

**f) Liability for use and content**

- <sup>1</sup> To the extent permitted by law, SCNAT disclaims any liability for improperly prepared content, infringement of copyrights and other intellectual property rights or other misuse in connection with the Web/Data System. This disclaimer also applies to content and data displayed on the Portals via inline frames. In the event of damage to third parties, SCNAT may take recourse against the Users.

**g) Handling of personal data**

- <sup>1</sup> The User is solely responsible for the content of the data collected through the use of his or her account in the Web/Data System. Group Users who can view data stored in the Web/Data System which do not originate from themselves are obliged to treat it in accordance with the provisions of these GTCs and, in particular, not to pass it on to unauthorised third parties.
- <sup>2</sup> The personal data stored in the Web/data System may not be used and processed for purposes other than those indicated at the outset in connection with the intended use of the Web/Data System. In particular, they may not be sold to third parties or improperly used or disclosed for any other commercial purpose or for any other purpose contrary to the objectives of the Web/Data System or the objectives of SCNAT.
- <sup>3</sup> Group Users are responsible for ensuring that, where necessary, the consent of data subjects is obtained when they record and provide their data on the Web/Data System.
- <sup>4</sup> The User is responsible for informing the persons whose data was previously the responsibility of the User regarding the migration of these personal data into the Web/Data System, the terms of use applicable to that system and their ability to verify the data concerning him or her by a specified time. If any person fails to consent to or refuses these GTCs, their data may not be used in the Web/Data System.
- <sup>5</sup> At the request of individual Users, their data will be deleted from the Web/Data System, subject to verification whether the person is a member of a SCNAT body. In the event of a manifest error, the relevant personal data in the Web/Data System will be changed or deleted.
- <sup>6</sup> Individual Users recorded in the Web/Data System shall have the right of access at any time to all stored personal data relating to them.
- <sup>7</sup> Individual Users are requested to update their data collected in the Web/Data System on an annual basis. Absent any notice to the contrary prior to the date indicated, their data are considered correct and may be used further.

#### **h) Data portability and right of use of SCNAT**

- <sup>1</sup> Upon termination of the contractual relationship, a copy of the personal data originally submitted by the User (as updated, if applicable), but not the elements enhanced during the use of the Web/Data System by other Users, shall be returned to the User in one of the file format supported by the Web/Data System. SCNAT retains the exploitation rights to such data (including enhanced elements) as they were the time of termination of the contractual relationship.
- <sup>2</sup> Data in organisational or thematic portals on the Portals are also returned to the User by forwarding a copy in one of the file formats supported by the Web/Data System, but SCNAT reserves the right to continue to use such data on its Portals.

#### **i) Technical requirements and support**

- <sup>1</sup> The Web/Data System offers a variety of services for managing data, in particular data in respect of persons, organisations, research projects, publications and events that are free of charge to Users operating organisational and/or thematic portals. SCNAT is free to change the services it provides. Users will be informed within a reasonable period of time of the resulting impact on the use of the Web/Data System.
- <sup>2</sup> The Web/Data System supports data and file formats as defined by the SCNAT. SCNAT is not obliged to process files that deviate from these provisions. Where it is not possible to process such files, Users will be informed accordingly.
- <sup>3</sup> SCNAT shall exercise due care to ensure the availability of the Web/Data System. Interruptions of normal operations which are capable of advance planning will generally be communicated in advance. SCNAT's support for enquiries about the Web/Data System is available via online help, e-mail and telephone. SCNAT does not guarantee any specific response times for its support desk.

### **5. Applicable law and jurisdiction and venue**

#### **a) Applicable law**

- <sup>1</sup> These GTCs / the use of the "Sciences Switzerland" Portals and the Web/Data System shall be governed exclusively by Swiss law, in particular Swiss private law. These GTCs are without prejudice to mandatory provisions of public law, in particular Swiss federal administrative law.
- <sup>2</sup> The Vienna Convention (United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980) shall not apply.

#### **b) Legal effectiveness**

- <sup>1</sup> If any provision of these GTCs should be or become invalid, or if these GTCs lack a provision that is necessary *per se*, this shall not affect the validity of the remaining provisions hereof. In lieu of the invalid provision or in order to fill the contractual gap, the parties shall be deemed to have agreed a legally permissible provision corresponding so far as possible to what the contracting parties intended or would have intended, in light of the meaning and purpose of the provisions of these GTCs, if they had known of the invalidity of the relevant provision or contractual gap.

#### **c) Jurisdiction and venue**

- <sup>1</sup> Jurisdiction and venue for all disputes arising from the application of these GTCs or from the use of the "Sciences Switzerland" Portals and the Web/Data System is vested in the courts of Bern (Switzerland).