SCHEDULE 4: SUB-LICENCE AGREEMENT

**Russian National Public Library for Science and Technology,** a body incorporated under the law of Russian Federation and whose principle place of business is 3rd  Khoroshevskaya str. 17, Moscow, 123298, Russian Federation (the ”LIBRARY”),

OFFERS to you, the Sub-Licensee, the permission to access and use the QUESTEL Database on the terms and conditions as set out in this Agreement. Upon completing and returning the enclosed Acceptance of Sub-Licence Form, your institution will become a non-exclusive Sub-Licensee of LIBRARY.

Acceptance shall be by delivery of a completed, signed and stamped copy of the Acceptance of Sub-Licence Form attached hereto to LIBRARY. Acceptance shall be acceptance of all terms of this Sub-Licence. In the event that no or partial compliance is made as to the manner or form described for acceptance, no sub-licence will be granted and this offer is deemed withdrawn.

**RECITALS**

**WHEREAS** QUESTEL owns all rights and title to the QUESTEL Database;

**AND WHEREAS** by an agreement between QUESTEL and LIBRARY, LIBRARY is permitted to sub-license the access and use of the QUESTEL Database to the Sub-Licensee in accordance with the terms of this Agreement.

 **LIBRARY AND THE SUB-LICENSEE AGREE AS FOLLOWS:**

**1. DEFINITIONS**

1.1 In this Sub-Licence, the following expressions shall have the following meanings:

|  |  |
| --- | --- |
| "Authorised Users" | means individuals who are authorised by the Sub-Licensee to access the Sub-Licensee’s information services whether from a computer or terminal on the Sub-Licensee’s Secure Network, or off site via a modem link to a valid IP address on the Sub-Licensee’s Secure Network and who are affiliated to the Sub-Licensee as a current student, faculty member or employee of the Sub-Licensee. Persons who are not a current student, faculty member or an employee of the Sub-Licensee, but who are permitted to access the Secure Network from computer terminals within the Library Premises ["Walk-In Users"] are also deemed to be Authorised Users, only for the time they are within the Library Premises. Walk-In Users may not be given means to access the QUESTEL Database when they are not within the Library Premises.  |
| "Commercial Use" | means use of the whole or parts of the QUESTEL Database with a view to a commercial gain. |
| "Educational Purposes""Fee" | means for the purpose of education, teaching, non-commercial distance learning, private study and/or research. means the fee as set out in clause 8 and subsequently in Schedule 1. |
| "Intellectual Property Rights""QUESTEL Database" | means patents, trademarks, trade names, design rights, copyright (including rights in computer software and moral rights), rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world.means the material listed in Schedule 2 or in new Schedules to this Sub-Licence that may be agreed by the parties from time to time. |
| "Library Premises" | means the physical premises of the library or libraries operated by a Sub-Licensee. |
| "Sub-Licensee" | means the sub-licensee whose details are set out in the Acceptance of Sub-Licence Form attached hereto and made a part hereof. |
| "Secure Network" | means a network (whether a stand alone network or a virtual network within the Internet) which is only accessible to Authorised Users whose identities are authenticated by the Sub-Licensee at the time of log-in and periodically thereafter consistent with current best practice and whose conduct is subject to regulation by the Sub-Licensee. A cache server or other server or network which can be accessed by unauthorised users is not a Secure Network for these purposes. |
| "Simultaneous users"  | means the number of Authorised Users per each Authorised Institution who can access the QUESTEL Database and conduct search at the same time |

1.2 Headings contained in this Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.

1.3 Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

**2. GRANT OF SUB-LICENCE**

2.1 LIBRARY hereby grants the Sub-Licensee a non-exclusive and non-transferable sub-licence to access and use the QUESTEL Database (Silver level) and to allow Authorised Users to access and use the QUESTEL Database throughout the term of this Agreement by means of a Secure Network for Educational Purposes only and in accordance with the terms or this sub-licence.

**3. USE OF THE QUESTEL DATABASE**

3.1 Throughout the term of this Agreement the Sub-Licensee may for Educational Purposes only:

* + 1. make local electronic copies of non-significant parts of the QUESTEL Database, provided that such use is subject to all the terms and conditions of this Agreement;
		2. provide Authorised Users with integrated access and an integrated article author, article title and keyword index to the QUESTEL Databases and all other similar material licensed from other publishers;
		3. provide single printed or electronic copies of single articles at the request of individual Authorised Users;
		4. allow Authorised Users to access the QUESTEL Database by means of a Secure Network in order to search, view, retrieve and display, and otherwise use portions thereof;

 3.1.5 allow Authorised Users to electronically save non-significant portions of the QUESTEL Database;

 3.1.6 allow Authorised Users to print out single copies of portions of the QUESTEL Database;

 3.1.7 allow Authorised Users to incorporate parts of the QUESTEL Database in printed or electronic course packs or multi-media works for the use of Authorised Users in the course of instruction. Each item shall carry appropriate acknowledgement of the source, listing title and copyright owner. Electronic copies of such items shall be deleted, when this Agreement is terminated. Course packs in non-electronic non-print perceptible form, such as Braille, may also be offered to Authorised Users;

* + 1. allow Authorised Users to incorporate parts of the QUESTEL Database in printed or electronic form in, assignments, portfolios and in dissertations, including reproductions of the dissertation for personal use and library deposit, if such use conforms to the customary and usual practice of the Sub-Licensee. Each item shall carry appropriate acknowledgement;
		2. supply to an authorised user of another library within the Sub-Licensee’s country only (whether by post, fax or secure electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing), a single paper copy of an electronic original of an individual document;

 3.1.10 display, download, print parts of the QUESTEL Database for the purpose of promotion of the QUESTEL Database to Authorised Users, testing of the product, or for training Authorised Users;

 3.1.11 publicly display or publicly perform as part of a professional activity, parts of the QUESTEL Database.

 3.1.12 make such copies of any network training material as may be required for the purpose of using the QUESTEL Database in accordance with this Agreement.

**4. RESTRICTIONS**

4.1 Save as provided herein, the Sub-Licensee and Authorised Users may not:

4.1.1 (i) use robots, automated intelligence agents, or any automated device in order to access the QUESTEL Database and retrieve information from it;

 (ii) download any database or significant segments of any QUESTEL Database;

 (iii) download more than ten thousand (10,000) patent copies per month and per Authorised User ;

(iv) engage in activities, or use the QUESTEL Database in a way that might reasonably be expected to cause congestion of the network, servers or prevent other users from making reasonable use of the Questel Database.

Any such improper usage of the QUESTEL Database will be deemed abuse and will result in suspension or cancellation of Customer access to the QUESTEL Database;

4.1.2 use all or any part of the QUESTEL Database for any Commercial Use or for any purpose other than Educational Purposes;

4.1.3 make printed or electronic copies of multiple extracts of the QUESTEL Database for any purpose, beyond those authorised by this Agreement;

4.1.4 distribute the whole or any part of the QUESTEL Database to anyone other than Authorised Users;

 4.1.5 display or distribute any part of the QUESTEL Database on any electronic network, including without limitation the Internet and the World Wide Web, and any other distribution medium now in existence or hereinafter created, other than by a Secure Network accessible only to Authorised Users;

4.1.6 remove, obscure or modify copyright notices, text acknowledging or other means of identification or disclaimers as they appear.

4.2 This Clause shall survive termination of this Agreement for any reason.

**5. RESPONSIBILITIES OF THE SUB-LICENSEE**

5.1 The Sub-Licensee shall:

 5.1.1 Issue access information only to Authorised Users and use all reasonable efforts to ensure that Authorised Users do not divulge access information to any third party;

* + 1. use all reasonable efforts to ensure that only Authorised Users are permitted access to the QUESTEL Database by means of the Sub-Licensee's Secure Network;
		2. use all reasonable efforts to ensure that all Authorised Users are made aware of and undertake to abide by the terms of this Sub-Licence;
		3. use all reasonable efforts to monitor compliance and notify QUESTEL by email sent to adv@questel.com and LIBRARY immediately and provide full particulars on becoming aware of any of the following(a) any unauthorised use of any of the Sub-Licensee's access to the QUESTEL Database ; or(b) any breach by an Authorised User of the terms of this Sub-Licence. Upon becoming aware of any breach of the terms of this Sub-Licence the Sub-Licensee further agrees promptly to fully investigate and initiate disciplinary procedures in accordance with the Sub-Licensee's standard practice and use all reasonable efforts to ensure that such activity ceases and to prevent any recurrence;
		4. use all reasonable efforts to comply with the computer security procedures required by QUESTEL and LIBRARY and take all reasonable steps to ensure the security of the QUESTEL Database;
		5. provide lists of valid IP addresses to LIBRARY and update those lists on a regular basis the frequency of which will be agreed by the parties from time to time. The Sub-Licensee warrants that such IP addresses belong to the Sub-Licensee and not to third parties.

 **6. RESPONSIBILITIES OF LIBRARY**

 6.1 LIBRARY shall make all reasonable efforts to ensure access and use of the QUESTEL Database in accordance with the provisions as laid down in this Agreement.

6.2 LIBRARY shall make all reasonable efforts to cause customer support services to be provided to the Sub-Licensee and to Authorised Users via e-mail or phone, including answering e-mail inquiries relating to the use, functionality and content of the QUESTEL Database.

**7. USAGE DATA**

7.1The Sub-Licensee shall be made available by LIBRARY usage data from the Publisher in accordance with Schedule 3. Such usage data shall be compiled by LIBRARY and/or the Sub-Licensee in a manner consistent with the applicable privacy and data protection laws that may from time to time apply to the parties.

**8. TERM AND TERMINATION**

8.1 The term of this Agreement will commence upon the date of signature and will remain in full force and effect until 31 December 2017, unless terminated earlier as provided for in this Clause 8.

8.2 Either party may terminate this Agreement at any time on the material or persistent breach by the other of any obligation on its part under this Agreement by serving a written notice on the other identifying the nature of the breach. The termination will become effective thirty days after receipt of the written notice unless during the relevant period of thirty (30) days the defaulting party remedies the breach forthwith by written notice to the other party.

8.3 Notwithstanding anything to the contrary herein, this Agreement will automatically terminate if the QUESTEL Licence Agreement between QUESTEL and LIBRARY terminates for any reason. LIBRARY shall make reasonable endeavours not to cause the QUESTEL- LIBRARY License Agreement between QUESTEL and LIBRARY to terminate.

8.4 Further notwithstanding anything to the contrary herein, upon a material or persistent breach by the Sub-Licensee, on-line access to the QUESTEL Database shall be terminated. All other rights will be automatically terminated, except for such rights of action as will have accrued prior to such termination and any obligation which expressly or impliedly continue in force after such termination.

8.5 Upon termination of this Agreement by the Sub-Licensee due to a material or persistent breach by LIBRARY, LIBRARY will reimburse the Sub-Licensee a pro rata proportion of the then remaining Fee for the unexpired period of the Agreement.

**9. ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

9.1 The Sub-Licensee acknowledges that all copyrights, patent rights, trademarks, database rights, trade secrets and other intellectual property rights relating to the QUESTEL Database are the sole and exclusive property of QUESTEL or are duly licensed to QUESTEL and that this Sub-Licence does not assign or transfer to the Sub-Licensee any right, title or interest therein except for the right to use the QUESTEL Database in accordance with the terms and conditions of this Agreement.

**10. REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION**

10.1 The Sub-Licensee represents and warrants that it has sufficient authority and rights to enter into and perform its obligations under this Agreement.

10.2 LIBRARY represents and warrants that it is entitled to grant the Sub-Licence in this Agreement and that the use of the QUESTEL Database by the Sub-Licensee and Authorised Users in accordance with the terms of this Agreement shall not infringe the copyright or other proprietary or intellectual property rights of any natural or legal person. The foregoing shall not apply to improper usage of the QUESTEL Database by the Sub-Licensee or Authorised Users. LIBRARY makes no representation or warranty, and expressly disclaims any liability with respect to the content of the QUESTEL Database including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

10.3 The Sub-Licensee agrees to notify QUESTEL by email sent to adv@questel.com and LIBRARY immediately and provide full particulars in the event that it becomes aware of any actual or threatened claims by any third party in connection with works contained in the QUESTEL Database. It is expressly agreed that upon such notification, or if QUESTEL becomes aware of such a claim from other sources, QUESTEL may remove such work(s) from the QUESTEL Database.

10.4 Nothing in this Agreement shall make the Sub-Licensee liable for breach of the terms of this Agreement by any Authorised User provided that the Sub-Licensee did not cause, knowingly assist or condone the continuation of such breach after becoming aware of a an actual breach having occurred.

10.5 Subject to the above and to the extent permitted by law, neither QUESTEL nor LIBRARY shall not be liable to the Sub-Licensee for any loss or damage including any loss of profits, goodwill, contract or any indirect or consequential loss including loss or damage suffered by the Sub-Licensee as a result of an action brought by a third party.

10.6 QUESTEL reserves the right to change the content, presentation, user facilities or availability of parts of the QUESTEL Database and to make changes in any software used to deliver the QUESTEL Database at their sole discretion. A notification will be given to LIBRARY of substantial changes to the QUESTEL Database.

10.7 Other than the express warranties stated in this Clause 10, the QUESTEL Database is provided on an “as is” basis, and QUESTEL and LIBRARY disclaim any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the QUESTEL Database or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. LIBRARY further expressly disclaims any warranty or representation to Authorised Users, or to any third party. QUESTEL and LIBRARY accept no liability for loss suffered or incurred by the Authorised Institution or Authorised Users as a result of their reliance on the QUESTEL Database.

10.8 The Sub-Licensee represents to LIBRARY that its computer system through which the QUESTEL Database will be used is configured, and procedures are in place, toprohibit access to the QUESTEL Database by any person other than an Authorised User; that it shall inform Authorised Users about the conditions of use of the QUESTEL Database; and that during the term of this Agreement, the Sub-Licensee will continue to make all reasonable efforts to bar non-permitted access and to convey appropriate use information to its Authorised Users.

**11. FORCE MAJEURE**

11.1 Either party’s failure to perform any term or condition of this Agreement as a result of circumstances beyond the control of the relevant party (including without limitation, war, strikes, flood, governmental restrictions, and power, telecommunications or Internet failures or damages to or destruction of any network facilities) ["Force Majeure"] shall not be deemed to be, or to give rise to, a breach of this Agreement.

11.2 If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.

**12. ASSIGNMENT**

12.1 Neither this Agreement nor any of the rights under it may be assigned or sub-licensed by either party without obtaining the prior written consent of the other party. All the terms of this Agreement will be binding upon any permitted successor to any party.

**13. GOVERNING LAW AND DISPUTE RESOLUTION**

13.1 This Agreement shall be governed by and construed in accordance with French law and the parties irrevocably agree that any dispute arising out of or in connection with this Agreement will be subject to and within the jurisdiction of the French courts.

13.2 Where the parties agree that a dispute arising out of or in connection with this Agreement would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement. In default of agreement upon whom to appoint as a suitable expert, such expert shall upon the request of either party be appointed by the President of the Law Society of France.

13.3 Any person to whom a reference is made under Clause 13.2 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.

13.4 Each party shall provide the expert with such information and documentation as he may reasonably require for the purposes of his decision.

13.5 The costs of the expert shall be borne by the parties in such proportions as the expert may determine to be fair and reasonable in all circumstances or, if no determination is made by the expert, by the parties in equal proportions.

**14. NOTICES**

14.1 All notices required to be given under this Agreement shall be given in writing in English and sent by electronic mail, fax or first class registered or recorded delivery to the relevant addressee at its address set out below, or to such other address as may be notified by either party to the other from time to time under this Agreement, and notices shall be deemed to have been received (a) 24 hours after successful transmission in the case of electronic mail or fax; (b) fourteen (14) days after the date of posting in the case of first class registered or recorded delivery:

if to LIBRARY: Elena Marinosyan, Department of National subscription,

3rd  Khoroshevskaya str. 17, Moscow, 123298, Russia

Tel. +7-495- 6989330 Email: marinosyan@gpntb.ru

 if to QUESTEL BP 239, 06904 Sophia Antipolis Cedex, France,
fax : +33 4 92 94 55 93 and +33 4 55 04 52 01

Email: adv@questel.com and laymonin@questel.com

 If to the Sub-Licensee [As stated in the Acceptance of Sub-Licence Form]

**15. GENERAL**

15.1 This Agreement and its Schedules constitute the entire agreement between the parties relating to the QUESTEL Database and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.

15.2 The Schedules shall have the same force and effect as if expressly set in the body of this Agreement and any reference to this Agreement shall include the Schedules.

15.3 No provision in this Agreement is intended to be enforceable by a person who is not a party to this Agreement.

15.4 The invalidity or unenforceability of any provision of this Agreement shall not affect the continuation in force of the remainder of this Agreement.

15.5 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

### **SCHEDULE 1 - FEE**

The Fee is covered by LIBRARY.

**SCHEDULE 2 – QUESTEL DATABASES**

The QUESTEL Database consists of the following:

ORBIT is a global patent portal allowing to search throughout a collection of patent applications and grants gathered from nearly 80 patenting Authorites in the world and updated very fast.

ORBIT allows to search patents, scan, display, analyse, exportand order copies of original documents in PDF format, all instantaneously. Links to official Internet sites are also provided whenever available.

Access is made via Internet at the address: <http://www.questel.orbit.com>

Weekly maintenance is performed on Sundays.

Access by IP addresses recognition with unlimited number of simultaneous users (as listed in the acceptance form of the Sub-Licence Agreement signed by each Authorised Institution). Due to technical restrictions, access by IP addresses recognition will be initially set up at 26 simultaneous users per Sub-Licensee. Whenever this limitation is reached, a message such as “the maximum number of simultaneous users is reached” will be displayed on the [www.orbit.com](http://www.orbit.com) login page. Sub-Licensee may then contact Licensee to have Publisher increase the simultaneous users limit.

**SCHEDULE 3: USAGE DATA**

For provision to each Sub-Licensee, and for all Sub-Licensees to LIBRARY:

Data on the usage by each Authorised Institution of each database, showing for each database:

- the database name ;

- the name of the Authorised Institution ; and
- the number of hits on table of contents, abstracts and full texts

**SUBSCRIPTION SUB-LICENCE AGREEMENT**

**ACCEPTANCE OF SUB-LICENCE FORM**

The Sub-Licensee hereby accepts and agrees to the terms and conditions of this Sub-Licence and its Schedules.

Name of Sub-Licensee (name of institution): ………………………………………………………

……………………………………………………………………………………………………………

**Full postal address of Sub-Licensee:** …………………………………………………………………

……………………………………………………………………………………………………………

# IP addresses:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Library Premise(s)** | **Contact person** | **Address** | **IP addresses/passwords** |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |

**Telephone:** ……………………**Fax:** ……………………………**E-mail:**……………………………

**Signature:**…………………………………………………………………………………….

**Signed by:** ……………………………………………………………………………………

**Position:**…………………………………………………………………………………………

**Date:**…………………………………….………………………………………………………

**Contact persons for** PUBLISHER **support and communications regarding the administration of the Agreement**

**Primary contact for Sub-Licensee:**

Dept:………………..

**Telephone:** ……………………**Fax:** ……………………………**E-mail:**……………………………

**Deputy contact for Sub-Licensee:**

Dept:…………………………….

**Telephone:** ……………………**Fax:** ……………………………**E-mail:**……………………………

**Note:** any changes to these contact details must be notified to **Library** in writing.

**Please sign two copies of this form and fax or post one original copy to:**

Russian National Public Library for Science and Technology, Department of National subscription,

3rd  Khoroshevskaya str. 17, Moscow, 123298, Russia

and retain **one** original copy for institutional records.