

Trial By Fire Solutions
TERMS OF USE (for SimpleTrials CTMS)
POLICY VERSION DATE: 10 JAN 2022
POLICY EFFECTIVE DATE: 10 FEB 2022

THESE TRIAL BY FIRE SOLUTIONS, LLC, SIMPLETRIALS TERMS OF USE (TOU) CREATE A LEGALLY BINDING AGREEMENT BETWEEN YOU AND TRIAL BY FIRE SOLUTIONS, LLC (THE "TERMS"). PLEASE REVIEW THESE TERMS CAREFULLY BEFORE USING THE SERVICES OFFERED BY TRIAL BY FIRE SOLUTIONS, LLC ("TBFS", "WE", "US" AND/OR "OUR"). BY CREATING AN ACCOUNT OR BY USING THE SERVICES IN ANY MANNER, YOU, ("AUTHORIZED USER" OR "YOU") AS A VISITOR TO OUR WEBSITES OR AN AUTHORIZED USER OF A CLIENT, AGREE THAT YOU HAVE READ AND AGREE TO BE BOUND BY AND A PARTY TO THESE TERMS. YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ENTER THIS AGREEMENT. USE OF TBFS'S SERVICES IS EXPRESSLY CONDITIONED UPON YOUR ASSENT TO ALL THE TERMS AND CONDITIONS HEREIN, TO THE EXCLUSION OF ALL OTHER TERMS. IF YOU ARE UNWILLING OR UNABLE TO BE BOUND BY THESE TERMS NAVIGATE AWAY FROM THIS PAGE, DO NOT CREATE AN ACCOUNT, AND DO NOT USE THE SERVICES.

TBFS and you are hereinafter referred to from time to time, individually as "Party" and collectively as "Parties".

1. The Services

TBFS provides the SimpleTrials product, our online, on-demand, software-as-a-service, Clinical Trial Management System (CTMS) and Electronic Trial Master File (eTMF) product located at <https://www.simpletrials.com/> and associated subdomains ("SimpleTrials Product") and our related content, features, applications, and other services (collectively with SimpleTrials, the "Service(s)"). The Service allows Clients and their individual employees and contractors (or any other individuals designated by Client) who require access to the Services ("Authorized Users") to perform detailed clinical trial management activities in the pharmaceutical, biotechnology, medical device and life sciences industries. This includes contacts and organizations, calendars, tasks and milestones, contracts and payments, performance targets and metrics, documents, monitoring activities, and study subject metadata. THIS DOES NOT INCLUDE CASE REPORT FORMS, RANDOMIZATION, ELECTRONIC HEALTH RECORDS STORAGE OR PROCESSING, OR THE COLLECTION OF PROTECTED HEALTH INFORMATION ("PHI") AS THAT TERM IS DEFINED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND THE REGULATIONS PROMULGATED THEREUNDER ("HIPAA").

You can browse our websites pursuant to these Terms. Organizations that wish to access SimpleTrials need to enter into a Master Services Agreement or similar agreement ("Agreement") and complete the registration process to create an account for the organization ("Client") and each of the Client's Authorized Users. Notwithstanding anything to the contrary herein, in the event any agreement you or the legal entity you represent may have with TBFS regarding the Service (e.g., Master Services Agreement) conflicts with these Terms, that agreement (and not these Terms) will prevail to the extent necessary to resolve the inconsistency or conflict.

2. Additional Terms and Policies

Your use of our Service is subject to our Privacy Policy for Web Visitors, available at <https://www.simpletrials.com/privacy> ("Web Privacy Policy") and our Privacy Policy for Subscribers, available at <https://www.simpletrials.com/thank-you-legal> ("Subscriber Privacy Policy"), as applicable. By accessing our websites or using the Service, you consent to these policies, to the extent applicable to you, and you also agree to abide by any other policies or guidance we may post or otherwise make available from time to time which, to the extent indicated as being mandatory in such policy, are hereby incorporated by reference into these Terms (collectively with the Web Privacy Policy and Subscriber Privacy Policy, "Company Policies").

3. Modifications

To the extent allowed by law, TBFS reserves the right, in its sole discretion, to modify these Terms or our Company Policies at any time, with email notification to Clients no less than thirty (30) days prior to the effective date of the change. Notification will be provided to all Authorized Users with an active account, as well as an optional Client email address (or group address) that can be populated within the subscription settings of the Service. You should review these Terms and our Company Policies regularly.

Given the thirty (30) day notice, your continued use of the Service on or after the effective date of modifications to these Terms constitutes acceptance of those changes. If you object to any such changes, your sole recourse is to stop our Service.

4. Authorized User Eligibility

To access certain Services, including the SimpleTrials Product, you must create an individual account as described below. TBFS offers its Service for business purposes, and not for personal, household, or consumer use. All Authorized Users must be of legal age in the jurisdiction in which they reside and capable of forming a binding contract with us. By creating an account, you agree to abide by these

Terms. TBFS reserves the right, in its sole discretion, to refuse, suspend, or terminate access to the Service upon discovery (or reasonable suspicion) that any information provided on any form or posted by you via the Service is not true, accurate, or complete, or otherwise violates these Terms.

You may not create an account if you are (a) a citizen or resident of a geographic area in which access or use of the Service is prohibited by applicable law, decree, regulation, treaty, or administrative act; (b) a citizen or resident of, or located in, a geographic area that is subject to U.S. or other sovereign country sanctions or embargoes; or (c) an individual, or an individual employed by or associated with an entity, identified on the U.S. Department of Commerce's Denied Persons or Entity List, the U.S. Department of Treasury's Specially Designated Nationals or Blocked Persons Lists, or the Department of State's Debarred Parties List or otherwise ineligible to receive items subject to U.S. export control laws and regulations or other economic sanction rules of any sovereign nation. You also may not create an account or use the Service if your account has been previously disabled or we have previously banned you from using the Service.

5. Authorized User Accounts

To use the Service, you must be an individual person and you must create a unique account. In creating an account, you agree to provide a unique email address to serve as your username; select a user password; provide accurate, current and complete information as may be prompted by any registration forms on the Service; and maintain and promptly update such data and any other information provided to TBFS, to keep it accurate, current and complete.

If a Client provided you with your account (e.g., you are an employee or contractor for that Client), you understand that this Client has rights to your account and may (a) manage your account (including suspending or cancelling it); (b) reset your password; (c) view your usage data including how and when your account is used; and (d) view and manage the content you enter into the Service using your account. TBFS may act on the Client's behalf as requested in this regard.

You understand and acknowledge that use of a single Authorized User account by multiple people is prohibited. You are only entitled to receive the features and functionality the Client who provided you with access has purchased either via its Subscription or any products, services, features, and functionality which is not included in a given Subscription but which may be purchased from TBFS separately ("Add Ons").

Except as otherwise required by applicable law, you are responsible for all activity that occurs on your account, whether or not authorized by you, and it is your responsibility to maintain the confidentiality of your password and any other account credentials. You must notify us immediately of any unauthorized use (or suspicion of unauthorized use) of your password or your account, or any other breach of security related to your use of the Service. TBFS will not be liable for losses caused by any unauthorized use of your account, however you may be liable for the losses, damages, liabilities, expenses, and fees incurred by us or a third-party arising from someone else using your account, regardless of whether you have notified us of such unauthorized use.

You represent and warrant that you understand (and, where applicable, have received adequate training) on the requirements of these Terms and the appropriate use and protection of all information, data, or other content, in any form or medium that is submitted, posted, or otherwise transmitted by you through the Services ("Client Data") in light of applicable data protection laws (defined in Section 6 below).

6. Privacy and Data Security

1. **General.** You and TBFS shall each comply with all laws and regulations applicable to the processing of personal data (as such term or an equivalent is defined under applicable law) under this Agreement ("Applicable Data Protection Law"). For the sake of clarity, Applicable Data Protection Law includes, without limitation, (1) data protection laws and regulations of the European Union, the European Economic Area, and their member states and Switzerland; (2) data protection laws and regulations of the United Kingdom; and (3) data protection laws of the United States and its individual states.
2. **Privacy.** Our Web Privacy Policy and Subscriber Privacy Policy are hereby incorporated into and form an integral part of these Terms. Please read these policies carefully as they describe how we handle the information that we collect from and about you in connection with your use of and access to the Service. Where processing is based on consent and to the extent permitted by law, by entering into these Terms, you consent to TBFS's collection, use, and disclosure of your personal data as described in the applicable privacy policy.
3. **Data.** You represent and warrant that to the extent any Client Data includes personal data, you or the Client who provided you access (a) have provided, and will continue to provide, all notices and (b) have obtained and will continue to obtain, all consents legally required to make such personal data available to TBFS via the Service. You understand, agree, and covenant that you are solely responsible for the accuracy, quality, and legality of any Client Data you provide and the means by which you acquired such information. YOU AGREE NOT TO PROVIDE (OR CAUSE TO BE PROVIDED) ANY SENSITIVE DATA OR PHI VIA

THE SERVICE AND YOU ACKNOWLEDGE AND AGREE THAT TBFS HAS NO EXPECTATION OF PROCESSING SENSITIVE DATA OR PHI. Sensitive data means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, data relating to criminal convictions and offenses, or other information that falls with the definition of "sensitive data", "special categories of data", or any equivalent term under Applicable Data Protection Law. You agree to refer to and abide by all established Client policies and procedures with regard to the business need to collect or store any personal data within the Service and all Client policies and procedures for the review and removal of personal data that is no longer needed in the Services.

4. Compliance with Laws. You hereby warrant that you shall not use our Service in violation of any laws or regulations which may be applicable to you, us, or the persons whose information you choose to process through our Service. You acknowledge and agree that we do not pre-screen Client Data or your use of our Service and that we cannot directly influence the way you use our Service. You control and are solely responsible for the internal management and administration of the Service for your organization, including but not limited to (a) all decisions relating to levels of access granted to Authorized Users, (b) types of data entered into custom columns and custom fields within the Service, (c) types of data included in files uploaded or otherwise submitted via the Service, and (d) decisions to transfer or export data outside the Service.

7. Unauthorized Use of Service

You acknowledge and agree that you **must not**, and you **must not** authorize or encourage any third party to, perform the following actions:

1. Use another individual's account or share your password or account, including re-assignment of accounts via email address change, with any unauthorized person or third-party service;
2. Attempt to decipher, decompile, reverse engineer or otherwise discover the source code of any software making up the Service;
3. Modify, adapt, or hack the Service or otherwise attempt to gain unauthorized access to the Service or related systems or networks;
4. Defame, abuse, harass, stalk, threaten, or otherwise violate the legal right of others;
5. Publish, post, upload, email, distribute, or disseminate (collectively, "Transmit") any unlawful, profane, defamatory, libelous, inaccurate, racist, sexist, harassing, hateful, infringing, obscene, indecent, or other content we deem inappropriate;
6. Use the Service to store or transmit files, materials, data, text, audio, video, images or other content that infringes on any person's intellectual property rights;
7. Transmit or share files that contain viruses, corrupted files, or any other similar software or programs that may damage or adversely affect the operation of another person's computer, our Services, any software or hardware, or telecommunications equipment;
8. Use the Services or any Materials (defined in Section 13) for any commercial purpose, including without limitation, contacting, advertising to, soliciting or selling to, any other Client, unless you have our prior written consent to do so;
9. Transmit or share surveys, contests, pyramid schemes, spam, unsolicited advertising or promotional materials, other forms of duplicative or unsolicited messages or chain letters;
10. Download any file that you know or reasonably should know cannot be legally obtained in such manner;
11. Falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or the source of software or other material including falsely implying any sponsorship or association with TBFS;
12. Restrict or inhibit any other user from using and enjoying any authorized area within our Services;
13. Collect or store personal data, except to the extent required for business purposes;
14. Interfere or attempt to interfere with or disrupt the proper functioning of our Service, servers, or networks;
15. Perform stress testing, penetration testing or any act that may result in a denial of service to other users, on a live workspace environment or production server without prior written authorization by TBFS;
16. Impersonate any person or entity, including, but not limited to, a representative of TBFS, or falsely state or otherwise misrepresent your affiliation with a person or entity;
17. Use the Service for any unlawful purpose or for the promotion of illegal activities, including but not limited to violation of any person's privacy rights.
18. Use the Service to store or transmit PHI, sensitive data, or any personal data for which you lack appropriate permissions and valid consents.

YOU MAY USE THE SERVICE ONLY FOR LAWFUL AND APPROPRIATE INTERNAL BUSINESS PURPOSES AND SUBJECT TO YOUR FULL COMPLIANCE WITH THESE TERMS AND ANY APPLICABLE COMPANY POLICIES. YOU MAY NOT ACCESS OR USE THE SERVICE FOR ANY OTHER PURPOSE.

In the event we determine (or reasonably believe) that you have breached any of the aforementioned, we reserve the right to suspend or permanently deactivate your account at our sole discretion. Further, you agree that the consequences of commercial use or republication of TBFS' proprietary material or other violations of the foregoing proscriptions may be so serious and incalculable that monetary compensation may not be a sufficient or appropriate remedy. In such event, TBFS will be entitled to seek temporary and permanent injunctive relieve to prohibit such use or activity without the need to prove damages.

8. Third Party Websites

As part of the Service, TBFS may provide you with convenient links to third-party website(s) ("Third-Party Sites") as well as content or items belonging to or originating from third parties (the "Third-Party Applications, Software or Content"). These links are provided as a courtesy to you. TBFS has no control over Third-Party Sites and Third-Party Applications, Software or Content or the promotions, materials, information, goods or services available on these Third-Party Sites or Third-Party Applications, Software or Content. Such Third-Party Sites and Third-Party Applications, Software or Content are not investigated, monitored or checked for accuracy, appropriateness, or completeness by TBFS, and TBFS is not responsible for any Third-Party Sites accessed through the Service or any Third-Party Applications, Software or Content posted on, available through or installed from the Service, including the content, accuracy, offensiveness, opinions, reliability, privacy practices or other policies of or contained in the Third-Party Sites or the Third-Party Applications, Software or Content. Inclusion of, linking to or permitting the use or installation of any Third-Party Site or any Third-Party Applications, Software or Content does not imply approval or endorsement thereof by TBFS. If you decide to leave the Service and access the Third-Party Sites or to use or install any Third-Party Applications, Software or Content, you do so at your own risk and you should be aware that our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any site to which you navigate from the Service or relating to any applications you use or install from the Service.

9. Digital Signature

By registering to use TBFS's Service, you are deemed to have executed these Terms electronically, pursuant to California Civil Code § 1633.8 and the U.S. Electronic Signatures in Global and National Commerce Act (the E-Sign Act) (15 U.S.C. § 7001, et seq.). Your registration to use this Service constitutes an acknowledgement that you are able to electronically receive, download, and print these Terms.

10. Consent to Use Electronic Records

In connection with these Terms, you may be entitled to receive certain records, such as notices and communications, in writing. To facilitate your use of the Service, you give us permission to provide these records to you electronically instead of in paper form.

11. Right to Withdraw Consent

By registering to use TBFS's Services, you consent to electronically receive and access, via email or the Service, all records and notices for the services provided to you under these Term that TBFS would otherwise be required to provide to you in paper form. TBFS will generally communicate with you electronically; however, we reserve the right, in our sole discretion, to communicate with you via the U.S. Postal Service and other third-party mail services using the address under which you have registered. Your consent to receive records and notices electronically will remain in effect until you withdraw it by cancelling your subscription (e.g., deactivation of your account). To ensure that TBFS is able to provide records and notices to you electronically, you must maintain your email address directly in the SimpleTrials application.

12. Term

This Agreement commences upon the date you create an account or otherwise begin using the Service. Any data related to your account or account activity that has been provided into the Service remains available until the Agreement with the Client has been terminated or your access is earlier terminated by the Client.

13. License

- A. **TBFS Intellectual Property.** The Service, along with all content and other materials therein, including, without limitation, the TBFS and SimpleTrials logo, and all designs/prototypes, text, graphics, pictures, information, styling/dress/schema, data and or documents, databases, tables, spreadsheets, software, sound files, video files, other files and the selection and arrangement thereof (collectively, the "Materials") are the intellectual and proprietary property of TBFS or its licensors or users and are protected by U.S. and international copyright laws. TBFS shall maintain all rights, title, and interest in and to the Service and Materials, and all intellectual property contained therein.
- B. **License to the Service.** Authorized Users are granted a limited, non-exclusive, non-sublicensable, non-transferable license to access and use the Service solely for the purposes and in compliance with the terms of this Agreement ("License"). Such

License is subject to the Agreement between TBFS and the Client and does not include (a) the unauthorized distribution, public performance or public display of any Materials, or any software products or tools accessed, reviewed or used that is available from the Service; (b) modifying or otherwise making any derivative uses of the Service or any software products or tools accessed, reviewed or used that is available from the Service; (c) use of any data mining, robots or similar data gathering or extraction methods; (d) downloading, other than as expressly permitted subject to the terms and conditions of this Agreement, or any software product or tools accessed, reviewed, or used that is available from the Service, the Materials, or any information contained therein; or (e) any use of the Service, or the Materials other than for its intended purpose. Any use of the Service or tools accessed, reviewed or used that are available from the Service, or the Materials other than as specifically authorized herein, without the prior written permission of TBFS, is strictly prohibited and will terminate the License granted herein. Such unauthorized use may also violate applicable laws including without limitation copyright and trademark laws and applicable communications regulations, statutes, and privacy laws.

Except as provided above, nothing herein shall be construed as conferring any license to any intellectual property rights in the Service or Materials. Upon termination or expiration of the Agreement, this license(s) shall be revoked and have no further force or effect. At the time the license is revoked, Authorized Users shall delete or otherwise dispose of any Materials which fall under the terms of the confidentiality.

TBFS shall retain exclusive ownership of all proprietary and intellectual property rights in the Service and Materials, including any fixes or enhancements developed, including features that have been suggested by an Authorized User. We will consider all Authorized User data to be the property of the Client that provided you with access, and such data shall be freely useable by Authorized Users for any lawful purpose. Authorized User agrees that it shall have no rights of ownership in the Service, or any fixes or enhancements developed pursuant to the engagement but shall have full ownership rights to Authorized User information as entered into the Service.

Authorized Users will not copy, modify, rent, lease, loan, sell, assign, distribute, reverse engineer, grant a security interest in, or otherwise transfer any right to the technology or software underlying the Service. Authorized Users agree not to modify the software underlying the Service in any manner or form or to use modified versions of such software product or tools, including (without limitation) for the purpose of obtaining unauthorized access to the Service.

- C. License to Client Data. You or the Client you represent grant TBFS a non-exclusive license to host, copy, process, transmit, and display data you provided or submitted via the Service (and modifications and derivatives thereof) solely for the purpose of TBFS providing the Service to you in accordance with the Agreement. Subject to this limited license, as between Client and TBFS, Client retains all right, title, and interest, including all related intellectual property rights in and to the Client Data.
- D. Feedback. You hereby grant TBFS a royalty-free, worldwide, transferrable, sublicensable, irrevocable, perpetual license to use, reproduce, translate, modify, create derivative works from, distribute, and incorporate into the Service, any suggestions, enhancement requests, recommendations or other feedback you provide relating to the Service. Notwithstanding anything stated to the contrary herein, this irrevocable license will continue after the expiry or termination of these Terms for any reason.

14. Trademarks and Copyrights

“Trial By Fire Solutions LLC”, “SimpleTrials”, the TBFS logos and any other product or service name or slogan contained in the Service are trademarks of TBFS and its suppliers or licensors, and may not be copied, imitated or used, in whole or in part, without the prior written permission of us or the applicable trademark holder. You may not use any metatags or any other “hidden text” utilizing “Trial by Fire Solutions” or any other name, trademark or product or service name of TBFS without our prior written permission. In addition, the look and feel of the Service, including all page headers, custom graphics, reports, document templates, are the service mark, trademark, trade dress and/or copyright of TBFS and may not be copied, imitated or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in the Service are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof by us.

15. Export Control

This Service and any Materials may be subject to U.S. export control and economic sanctions laws. The materials on the Service are presented solely to promote and provide information about TBFS’s products and services available in the United States. TBFS makes no representation that the materials in the Service are appropriate or available for use in other locations and other countries. Those who choose to access or use the Service from other locations or other countries do so on their own initiative and are responsible for

compliance with all policies of the Client, and applicable laws and regulations in that territory. These laws include restrictions on destinations, end users and end use. You agree to not access or use the Service if you are located in any jurisdiction in which the provision of the Service is prohibited under U.S. or other applicable laws or regulations.

16. Support & Service Level

All Authorized Users will receive support for Services provided via email and web, during regular business hours, which are 8 am – 5 pm Pacific Time (which includes the shift from PST to PDT for daylight savings) in English. Phone support is not included as a core service offering for SimpleTrials Authorized Users but may be elected with Professional Services.

Additional Support details are available per the MSA or additional terms governing your use of the Service. Such details may include Service Level Availability (“SLA”) terms (e.g., server uptime percentages and related penalties) as well as targets for support ticket classification and handling as well as additional methods of requesting support (e.g., phone if available).

For the purposes of these Terms, an “Error” means a material failure of the Service to perform with TBFS documentation such that the Service is significantly impaired or degraded for the Authorized Users. As an Authorized User, you may report any suspected Error via the support ticket system. In such case, TBFS shall obtain from the Authorized User a detailed, written description and documentation of the suspected Error. The only responsibility of TBFS in relation to a reported Error is to use commercially reasonable efforts to correct the Error. An Error correction may consist of a separate patch, a workaround, or it may be included in the next available upgrade or release of the Service, at the discretion of TBFS.

TBFS reserves the right to change or upgrade any equipment, software or features associated with the Service without notice to Authorized Users. TBFS will install security patches, minor updates, upgrades and service packs (“Updates”) as it determines in its sole discretion, and reserves the right, but has no obligation, to roll back any Updates. Any such modification or replacement by TBFS shall not constitute default by TBFS under the Agreement between TBFS and the Client, provided such modification or replacement does not substantially decrease the Service offering as determined solely by TBFS. Downgrade of the Service by the licensed Client (e.g., Admin user) may cause the loss of features, content (e.g., associated with features no longer available), or capacity (e.g., data limits) of your account. TBFS does not accept any liability for such loss.

TBFS is not responsible for user management (e.g. creation of user accounts or study access setup) or data updates within your workspace. TBFS support will assist with user login issues, on a non-urgent basis, because users are provided tools to maintain an active account. Client admins may also assist users with account issues.

17. Technical Requirements

Authorized Users must access the Service via high speed internet connection of at least 10 mbps down and 2 mbps up (recommended speeds are at least 50 mbps down and 10 mbps up). Please note that if you disable your Web browser’s ability to accept cookies, you will not be able to successfully use the Services.

Supported platforms and browsers:

Windows version 10 and above:

- a. Google Chrome – latest major version and prior major version released within last 12 months.
The latest stable version of Google Chrome is the recommended browser for all SimpleTrials users.
- b. Microsoft Edge – latest major version and prior major version released within last 12 months.

Apple OS X version 10.14 and above:

- c. Google Chrome – latest major version and prior major version released within last 12 months.
The latest stable version of Google Chrome is the recommended browser for all SimpleTrials users.
- d. Apple Safari – latest major version and prior major version released within last 12 months.

18. Mutual Warranty

Each Party warrants and represents that it has the right to enter into and perform its obligations under these Terms.

19. Indemnification

You agree to defend, indemnify and hold harmless TBFS, its independent contractors, service providers and consultants, and their respective directors, employees and agents, partners and affiliates from and against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable attorneys’ fees) arising out of or related to your use of the Service, and any software tools accessed thereon, including without limitation any actual or threatened suit, demand or claim made against TBFS and/or its

independent contractors, service providers, employees, directors or consultants, partners and affiliates arising out of or relating to your conduct, your violation of these Terms, or your violation of the rights of any third party.

20. Disclaimer

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, THE SERVICE AND THE SERVICE MATERIALS CONTAINED THEREIN ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. TBFS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AS TO THE INFORMATION, CONTENT AND MATERIALS IN THE SERVICE. TBFS DOES NOT REPRESENT OR WARRANT THAT MATERIALS IN THE SERVICE ARE ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE. TBFS DOES NOT REPRESENT OR WARRANT THAT THE SERVICE OR ITS SERVERS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. TBFS IS NOT RESPONSIBLE FOR TYPOGRAPHICAL ERRORS OR OMISSIONS. WHILE TBFS ATTEMPTS TO MAKE YOUR ACCESS AND USE OF THE SERVICE SAFE, TBFS CANNOT AND DOES NOT REPRESENT OR WARRANT THAT THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; THEREFORE, YOU SHOULD USE INDUSTRY-RECOGNIZED SOFTWARE TO DETECT AND DISINFECT VIRUSES FROM ANY DOWNLOAD. TBFS reserves the right to change any and all content contained in the Service and any services or features offered through the Service at any time without notice. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof, or any affiliation therewith, by TBFS.

21. Limitation of Liability

IN NO EVENT SHALL TBFS, ITS DIRECTORS, MANAGERS, MEMBERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR LOSS OF DATA, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF OR INABILITY TO USE THE SERVICE, THE CONTENT OR THE MATERIALS CONTAINED IN OR ACCESSED THROUGH THE SERVICE, INCLUDING WITHOUT LIMITATION ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY AUTHORIZED USER ON ANY INFORMATION OBTAINED FROM TBFS, OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR EMAIL, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO TBFS'S RECORDS, PROGRAMS OR SERVICES.

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF TBFS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE USE OF OR INABILITY TO USE THE SERVICE EXCEED ANY FEES PAID OR PAYABLE TO TBFS DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO LIABILITY.

22. General Provisions

- A. Applicable Law and Venue. Except as otherwise provided in the TBFS Data Processing Addendum, these Terms and your use of the Service shall be governed by and construed in accordance with the laws of the State of California, USA, applicable to agreements made and to be entirely performed within the State of California, without resort to its conflict of law provisions. With respect to any disputes or claims not subject to arbitration, you agree that any action at law or in equity arising out of or relating to these Terms shall be filed only in the state and federal courts located in Alameda County, California and you hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction of such courts over any suit, action or proceeding arising out of these Terms.
- B. Severability. If any provision of this Agreement shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.
- C. Contact Information. Please direct any comments or questions for us to contact@simpletrials.com.
- D. Assignment. You may not assign any of your rights or obligations hereunder, without TBFS's prior written consent.
- E. Relationship of the Parties. The Parties are independent contractors. These Terms do not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship of the Parties.
- F. Third Party Beneficiaries. Except as otherwise provided in the TBFS DPA, there are no third-party beneficiaries under these Terms.
- G. Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.
- H. Surviving Provisions. The sections titled "Indemnification", "Disclaimer", "Limitation of Liability", and "General Provisions" will survive any termination of these Terms.
- I. Entire Agreement. These Terms supersede all prior agreements or arrangements with you regarding use of the Service unless explicitly stated otherwise.