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General Conditions of PREMIUM Service

last update: 13/06/2017

PREAMBLE

The Company OPENDATASOFT, a simplified joint-stock company with a capital of 331,051.00 euros, located at 130, rue de Lourmel, 75015 PARIS, RCS PARIS 538 168 329 (Hereinafter OPENDATASOFT), operates the platform accessible at https://www.opendatasoft.com/.

These General Conditions of Service, established pursuant to Article L.441-6 of the French Code of Commerce, are applicable as a matter of ordinary law to the benefits and services provided by OPENDATASOFT to its CLIENTS in the context of its activities. They prevail over all other general purchasing conditions except for the application of provisions of a public nature in the Code of Public Markets.

CAUTION: For all the people who would like to subscribe to OPENDATASOFT SERVICE through Amazon Web Services Marketplace, please consult the Annex 1: AWS specific conditions.

ARTICLE 1. DEFINITIONS

In the context of these General Conditions of Service, the following terms shall have the meaning given below:

"ACCOUNT": This designates the account of the CLIENT on the OPENDATASOFT PLATFORM enabling access to the SERVICES ordered pursuant to the choices identified in the Particular Conditions. Access to the ACCOUNT is achieved using the CLIENT's IDENTIFIERS.

"Amazon Web Services Marketplace" or "AWS Marketplace": this designates the Amazon Web Services Marketplace (https://aws.amazon.com/marketplace), where the CLIENT can subscribe to the OPENDATASOFT SERVICE.

"AWS CLIENT": This designates a CLIENT who subscribed to the OPENDATASOFT SERVICES and SOLUTIONS through the AWS Marketplace.

"BACK-OFFICE": This designates the administrative interface of the DOMAIN provided for the CLIENT by OpenDataSoft. Using the BACK OFFICE, the CLIENT can undertake to personalize the graphic interface of his DOMAIN, define administrator rights for the DOMAIN, as well as security levels for the creation of DATASETS, their modification, publication, etc. BACK- OFFICE functionalities are specified in detail at https://docs.opendatasoft.com.

"BENEFICIARY": This designates the end USER benefiting from a right of access to DATASETS published by the CLIENT.

"CLIENT": This designates the producer of DATASETS who has subscribed to one of the PREMIUM offers.

"CREATIONS": This designates any intellectual creation made specifically by OPENDATASOFT in the context of the performance of the SERVICES, particularly such as software, documents, reports, analyses, studies, manuals, visuals, maquettes, illustrations, drawings, results of work performed in the context of the SERVICES, including their supports of any kind whatsoever. The elements indicated above may be software, graphics, text, sound, audiovisual, visual, etc.

"DOMAIN": This designates the domain name of the type https://.opendatasoft.com opened by the CLIENT in connection with the offer subscribed for the purpose of publishing its DATASETS. Specific DOMAINS can also be opened subject to conditions (transmission of the relevant HTTPS certificate making it possible to secure access to the domain – private code, certificate and possible intermediate certificates)

"PUBLIC SPACE": This designates all of the spaces of the OPENDATASOFT PLATFORM freely accessible to all categories of USERS.

"IDENTIFIERS": This designates the confidential identification code and password enabling access to the ACCOUNT. These Identifiers are provided by OPENDATASOFT and are for the exclusive use of the CLIENT, who is solely responsible for them.

"CONFIDENTIAL INFORMATION": This designates (i) protected information (held by the disclosing Party or a third party with which the disclosing party has a non-disclosure obligation), particularly any information, know-how or software, including without limitation its source code and any translation, compilation, partial copy or derivative work; (ii) any information designated as confidential at the time of its disclosure to the receiving party, or when it is orally communicated, identified as being confidential and expressed in written form or other material form (including electronically), which encompasses a notice of confidentiality clearly stipulated and transmitted to the addressee within a period of thirty (30) days following the disclosure ; (iii) any information that should, in light of the circumstances of its disclosure, be treated in good faith as protected and confidential.

"DATASETS": This designates data produced by CLIENTS, published on the OPENDATASOFT PLATFORM and made accessible to all or some of the different categories of USERS, depending on the offer subscribed by the CLIENT and the licenses offered by the latter.

"WORKING DAYS": This designates every day from 9 :00 am to 6 :00 pm, except Saturday, Sunday and holidays in France

"OPEN LICENSE": This designates the kind of LICENSE applicable to DATASETS published on the PUBLIC SPACE of the OPENDATASOFT PLATFORM or accessible by the BENEFICIARIES without restriction. DATASETS published by CLIENTS with an OPEN LICENSE confer upon BENEFICIARIES a right of access and use, that is non-exclusive and free of charge, for the whole world and for the total duration of the intellectual property rights pursuant to the laws in force, both national as well as international. The right of use includes: reproduction, reuse, publication, dissemination, adaptation, modification, extraction and exploitation of DATASETS.

"PRIVATE LICENSE": This designates the specific type of LICENSE applicable to the DATASETS published by the CLIENT through his DOMAIN.

"OPENDATASOFT PLATFORM": This designates the platform published by OPENDATASOFT, as well as all of its graphic, audio, visual, software and textual components. The PLATFORM is the exclusive property of OpenDataSoft. It is accessible at https://www.opendatasoft.com/.

"SERVICE": This designates all services offered by OPENDATASOFT via the OPENDATASOFT PLATFORM. The Services are explained in detail in Article 2 of the Particular Conditions.

"PREMIUM SERVICE": This designates all the various services offered by OpenDataSoft through the OPENDATASOFT PLATFORM, within the bounds of technical constraints and depending on the service levels specified in the Particular Conditions at the time of subscribing. The PREMIUM SERVICES shall provide a series of options that can be activated by the CLIENT.

"SUPPLEMENTARY SERVICES": This designates the optional services presented in the Particular Conditions that can be activated directly by the CLIENT from his BACK OFFICE, being subject to specific contractual conditions.

"SOLUTIONS": This designates software applications offered on the OPENDATASOFT PLATFORM enabling the dissemination, organization, manipulation, aggregation, importation, sorting, etc. of DATASETS via the OPENDATASOFT PLATFORM. The various software SOLUTIONS, including BACK OFFICE, are described at https://docs.opendatasoft.com.

"USERS": This designates the various categories of OPENDATASOFT PLATFORM users. Accordingly, those considered to be USERS are:

- BENEFICIAIRIES navigating on the OPENDATASOFT PLATFORM and accessing DATASETS,
- CLIENTS, producer of DATASETS

ARTICLE 2. CONTRACTUAL DOCUMENTS

The CONTRACT is composed of the following contractual documents:

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The Particular Conditions, including, as appropriate, Specific Conditions encompassing the SUPPLEMENTARY SERVICES (if applicable),

The Annex 1, which provides the Specific conditions applying to any subscription made by a CLIENT through the AWS Marketplace.

The General Conditions of Service in force, pursuant to the provisions of Article 3 of these presents.

The General Conditions of Use in force, accessible at https://legal.opendatasoft.com/en/terms-of-use.html

It is understood that these Contractual Documents are mutually explanatory. However, in the event of any contradiction or divergence among the terms of these Contractual Documents, the terms shall prevail in the order in which they are listed above.

ARTICLE 3. PURPOSE - MODIFICATION

The purpose of these General Conditions of Service is to define the rights and procedures for the use of the OPENDATASOFT PLATFORM, the related SERVICES and SOLUTIONS. The Annex 1 especially defines the rules applying to the CLIENTS who subscribed to the SERVICES through Amazon Web Services Marketplace.

OPENDATASOFT reserves the possibility of modifying these General Conditions of Services at any time. Such modifications are to be brought to the attention of the CLIENT by any means, thirty (30) days prior to the entry into force of the changes. In the event of substantial modifications of these presents, it will be useful to distinguish among the following scenarios:

Whether the CLIENT consents to the aforesaid substantial modifications, in which case they are to enter into force automatically in thirty (30) days counting from the notification, without any other formality,

Whether the CLIENT refuses the substantial modifications, in which case:

For commitments subscribed for a specific duration that are affected by the substantial modifications, the contractual conditions applicable on the day of the initial commitment are to be maintained until the termination of the commitment

In the case of commitments of indefinite duration that are affected by the substantial modifications, the CLIENT shall have the option of early rescission of the CONTRACT without charge, by simply sending a registered letter with return receipt within a period of thirty (30) days counting from the notification. In this case, the CLIENT undertakes to pay to OPENDATASOFT the amounts corresponding to the SERVICES and SOLUTIONS used up until the date that the rescission takes effect, calculated, as appropriate, on a prorated basis for the initial commitment and the time that has elapsed.

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ARTICLE 4. USE RIGHTS

OPENDATASOFT grants the CLIENT a non-exclusive and non-transferable user license for the OPENDATASOFT PLATFORM and the related SERVICES and SOLUTIONS, adhering to the potential stipulations of the Particular Conditions. It is specified that this user license is agreed upon in counterpart to payment by the CLIENT of the amounts specified in the Particular Conditions or on the AWS marketplace.

The CLIENT may not under any circumstances assign, transfer, delegate or sub-license to a third party directly or indirectly in any manner whatsoever without the prior written agreement of OPENDATASOFT.

Except as required by law, which cannot be excluded by mutual agreement of the PARTIES, it is forbidden for the CLIENT to do the following things:

To try to copy, modify, reproduce, create any derivative work, alter, create a mirror, republish, download, attach, transmit or distribute all or part of the components of the OPENDATASOFT PLATFORM and/or the SOLUTIONS that are the object of the SERVICES in any way, in any medium, or by any means whatsoever.

To try to decompile, disassemble, perform any reverse-engineering or render comprehensible in any way all or part of the SERVICES, the SOLUTIONS and the OPENDATASOFT PLATFORM

To access all or part of the SOLUTIONS and SERVICES for the purpose of conceiving a competing application or service

To access SOLUTIONS in the form of source code or coding unlocked by comments

To try in any way whatsoever to suppress, override any Technological Protection Measure (TPM), or use or manufacture with a view to sale or leasing, importing, distributing, selling or renting, offering for sale or lease, promoting sale or lease or possessing for the purpose of private or commercial use any means serving to facilitate the unauthorized suppression or overriding of a TPM

To use SOLUTIONS and SERVICES in order to provide the services to third parties or grant under license, sell, rent, assign, allocate, distribute, display, disclose, commercially exploit or deliver the SOLUTIONS and SERVICES available in any way to any third party.

The CLIENT undertakes to take all reasonable steps to prevent any unauthorized access to or use of the OPENDATASOFT PLATFORM, the related SOLUTIONS and SERVICES and, in the event of such unauthorized access or use, to notify OPENDATASOFT thereof as quickly as possible.

ARTICLE 5. ACCESS PROCEDURES

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Access to the OPENDATASOFT PLATFORM and to the SERVICES shall give rise to the opening of an account protected by identifiers, and this account opening is to be done either directly by the CLIENT on the OPENDATASOFT PLATFORM, from the AWS Marketplace, or by OPENDATASOFT using the information provided.

In any case, the CLIENT must ensure the accuracy of the information and notify OPENDATASOFT when it must be updated.

In cases where information relating to the CLIENT's registration may not be up-to-date, complete and/or accurate, OPENDATASOFT reserves the right temporarily to suspend or definitively rescind CLIENT access, without any time extension or prior notice, after a request for correction has gone unanswered.

The CLIENT undertakes to keep the IDENTIFIERS strictly secret, to take every measure to preserve their confidentiality, and to notify OPENDATASOFT in case of any unauthorized use of its ACCOUNT as soon as it finds out about it. By express agreement between the PARTIES, all operations implemented through the use of the CLIENT IDENTIFIERS are held to come from the CLIENT, who is solely engaged in protecting them.

It is agreed between the PARTIES that any failure to uphold this Article could lead to the rescission of the CONTRACT as a matter of ordinary law.

Furthermore, the CLIENT states that he has been informed that OPENDATASOFT can refuse the opening of an ACCOUNT and thereby, refuse access to the OPENDATASOFT PLATFORM and the SERVICES:

   To a CLIENT who has been party to a contract with OPENDATASOFT cancelled less than one year previously, due to a failure to uphold his contractual obligations;

   To a CLIENT who has not fully paid amounts that he may owe to OPENDATASOFT in connection with an earlier CONTRACT;

   For any other legitimate reason.

ARTICLE 6. MODES OF USE

6.1. Obligations of the CLIENT

In the context of the use of the OPENDATASOFT PLATFORM, the CLIENT undertakes to not infringe the law and to obey the laws and regulations in force, to respect the rights of third parties and the provisions of this CONTRACT, including the General Conditions of Use accessible at https://legal.opendatasoft.com/en/terms-of-use.html, and any contractual stipulation entered into with a view to implementation of the SUPPLEMENTARY SERVICES activated by the CLIENT.

More particularly, with regard to the PREMIUM SERVICE, the CLIENT undertakes:

To inform the BENEFICIARIES of the type of LICENSE and the source for each DATASET released through the OPENDATASOFT PLATFORM

To respect Law n°78-17 known as the "Computer and Freedoms" law of January 6, 1978, as amended, as well as the recommendations of the CNIL at the stage of collection of the data comprising the DATASETS

To not infringe the rights of third parties, and particularly the intellectual property rights of third parties, at the time of the establishment, dissemination or manipulation of DATASETS created through the account opened on the OPENDATASOFT PLATFORM and distributed either through the DOMAIN or in the PUBLIC SPACE

To take note of use of the SERVICES, in whole or in part, for illicit purposes. He exclusively assumes responsibility for the content of his DOMAIN. The CLIENT is duly informed that it is forbidden for him to send and/or keep and/or disseminate data of a pornographic, pedophile, hateful and/or racist character, or that incites hatred or discrimination

At all events, it is noted that the CLIENT uses the OPENDATASOFT PLATFORM and the SERVICES under his full and exclusive responsibility. The CLIENT is in particular solely responsible for the DATASETS disseminated through the OPENDATASOFT PLATFORM and for his relations with the BENEFICIARIES, with OPENDATASOFT in this context having the role of a mere technical intermediary.

In order to enable OPENDATASOFT to perform the SERVICES in the best conditions, the CLIENT further undertakes:

To respect all the AWS Marketplace Terms of Use https://aws.amazon.com/fr/terms/

To cooperate with OPENDATASOFT on all matters pertaining to the SERVICES

To provide OPENDATASOFT, at its request, with all documents and information in its possession that are useful for the conduct of the SERVICES.

To undertake the provision of corrective maintenance following acceptance of the preliminary estimate drawn up by OPENDATASOFT when such supplementary services are subject to any dysfunction that may be the consequence of:

- Non-fulfillment by the CLIENT of the obligations assigned to it through these presents, and particularly wrongful use of the OPENDATASOFT PLATFORM, the SERVICES or the SOLUTIONS
- Use of the OPENDATASOFT PLATFORM, the SERVICES or the SOLUTIONS by an unauthorized third party,

- Deficiency on the part of the CLIENT in the training of his personnel,
- Lack of sufficient precision in any error report sent to OPENDATASOFT.

To take note of notifications addressed to him

To make regular backups of his data

To authorize OPENDATASOFT to make use of his name, company name, logo and a sample message as a "Model client" for purposes of communication or commercial promotion without any payment from OPENDATASOFT.

To authorize OPENDATASOFT to put forward testimonials whose content and procedures for presentation are to be defined through consultation between the PARTIES.

To follow any training program recommended by OPENDATASOFT before making use of the tools provided for him.

6.2. Non-compliance with the provisions of Article 6

It is agreed between the PARTIES that any failure to uphold this article may lead to temporary suspension or rescission of the CONTRACT as a matter of ordinary law.

At all events, it is noted that the CLIENT will remain bound to pay all amounts set in the Particular Conditions or on the AWS Marketplace, and to publish or have published, at the discretion of OPENDATASOFT, a statement holding OPENDATASOFT harmless, and this without impairment to any damages and interest that may be requested by OPENDATASOFT as a result of the failure to uphold these presents and the harm to its image and its reputation.

Finally, in the event of the receipt by OPENDATASOFT of complaints and/or claims and/or notifications directly addressed by internet users or any administrative or judicial authority as a result of the use of the SERVICES by the CLIENT, it is expressly agreed between the PARTIES that the CLIENT shall bear the entire cost of internal or external processing of their complaints and/or claims and/or notifications.

ARTICLE 7. OBLIGATIONS OF OPENDATASOFT

It is expressly agreed between the PARTIES that OPENDATASOFT is subject to a general obligation to undertake its best effort, and that it is not bound by any performance obligation or best effort with no fault obligation of any kind.

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Generally speaking, OPENDATASOFT does not guarantee that the use of the OPENDATASOFT PLATFORM, the SOLUTIONS and the SERVICES will generate an increase in turnover to the benefit of the CLIENT.

7.1. Accessibility / Availability

The OPENDATASOFT PLATFORM and the related SERVICES are accessible 24 hours a day, 7 days a week, except in cases of force majeure or an event beyond the control of OPENDATASOFT, and are subject to the reservation of possible breakdowns and interventions necessary to the proper functioning of the SERVICES.

Indeed, OPENDATASOFT shall deploy all means to guarantee the availability of the OPENDATASOFT PLATFORM, the subject of these presents, and to make it accessible to the CLIENT. To this end, OPENDATASOFT guarantees an availability of search services of 99.9% per month. Such availability is to be measured by OPENDATASOFT and reported to the CLIENT via the BACK OFFICE. Availability is defined by OPENDATASOFT as being the capacity of the OPENDATASOFT PLATFORM to attend to the requests (API's) of USERS on a DATASET that is already integrated. It does not therefore take into account possible cases of over fulfillment of quotas or of data that is poorly or partially integrated.

However, OPENDATASOFT shall not be held responsible for disruptions, cutoffs and/or errors that are not of its making and that could affect transmissions over the Internet, and more generally over the communications network, whatever their importance and duration may be.

It is moreover specified that OPENDATASOFT may be disposed to interrupt access to all or part of its Services for reasons of maintenance, for the improvement and installation of new functionalities, for auditing of proper functioning or else in case of breakdown or the threat of breakdown.

OPENDATASOFT shall inform the CLIENT through any means and at least 15 days in advance of the advent of rolling maintenance operations having an impact on the availability of the SERVICE.

In these circumstances, OPENDATASOFT cannot be liable for any indemnity or damages-interest with respect to the CLIENT, for any reason whatsoever.

7.2. Maintenance

Corrective maintenance

(i) Principles of intervention

OPENDATASOFT will see to the corrective maintenance of the OPENDATASOFT PLATFORM, and will make its best efforts to act in accordance with the following timetable:

Critical error: 4 hours (on working days) following the receipt of a notification of error report

Semi-critical error: 8 hours (on working days) following the receipt of a notification of error report.

Non-critical error: At most 5 working days following the receipt of a notification of error report.

It is specified that the corrective maintenance of SERVICES and SOLUTIONS associated with the OPENDATASOFT PLATFORM can, depending on the circumstances, be managed by the OPENDATASOFT subcontractor or by OPENDATASOFT itself.

In the context of these presents, it is appropriate to define the terms listed below as follows:

"Error": This designates a difficulty in the functioning of the OPENDATASOFT PLATFORM, of the related repetitive and reproducible SOLUTIONS and SERVICES. There are three kinds of Error:

- **"Critical error"**: any functional error making impossible the use of the OPENDATASOFT PLATFORM and the related Services and Applications
- **"Semi-critical error"**: any functional error allowing for use of the OPENDATASOFT PLATFORM, the related SOLUTIONS and SERVICES for a part of its functionalities
- **"Non-critical error"**: any minor functional error allowing for the complete use of the OPENDATASOFT PLATFORM, the related SOLUTIONS and SERVICES in all of their functionalities, even if this is accomplished using a bypass procedure.

(ii) Procedure to be followed

By "notification" it is appropriate here to understand this to refer to feedback from a documented ERROR allowing OPENDATASOFT in particular to identify the ERROR and to reproduce it in connection with its processing. The CLIENT can provide this feedback by e-mail and/or using a form specifically for this purpose.

In the absence of notification, or in case of insufficiently documented notification that does not allow OPENDATASOFT to identify or reproduce the ERROR, OPENDATASOFT shall not be bound to the timetables for correction stipulated above. In this regard, the liability of OPENDATASOFT cannot be asserted:

For failure to respect the timetables for correction following an ERROR that is not the subject of a notification as described heretofore, or that has been subject to insufficient notification (insufficiently documented).

In the case of abusive use of server resources,

In the case of an ERROR of an origin external to OPENDATASOFT

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Support

OPENDATASOFT also makes available to the CLIENT a service of assistance available at the e-mail address: support@opendatasoft.com within the following time slots: 8 :00 am to 6 :00 pm.

Rolling maintenance

OPENDATASOFT will see to the rolling maintenance of the OPENDATASOFT PLATFORM, and will inform the CLIENT via his ACCOUNT or by any other means prior to the installation of a new version of one or several SOLUTIONS. It is noted that the CLIENT is not under any circumstances entitled to maintenance of previous versions.

7.3. Security

OPENDATASOFT undertakes to make every effort to:

    Ensure the digital and physical security of its information systems

    Reduce to a minimum the risk of a security infraction.

In order to objectively measure the OPENDATASOFT PLATFORM security, the CLIENT can conduct, at its expenses, security audits – including penetration tests – on the OPENDATASOFT PLATFORM, in accordance with the conditions provided in this article and within the limit of one audit per year.

The CLIENT shall obtain the agreement of OPENDATASOFT at least 15 days before the beginning of the test.

During the audit, the CLIENT undertakes to comply with the general conditions of the Infrastructure provider (IaaS) hosting its DOMAIN. OPENDATASOFT shall upon request communicate the relevant general conditions.

The CLIENT shall communicate all useful information concerning the penetration test, including:

    Contact details of the auditor and the persons in charge of the audit

    IP addresses used for the Penetration tests

    The tools used for the test

The CLIENT will only be able to perform penetration tests from its DOMAIN and using its credentials.

The audit operations must not involve actions which could damage the infrastructure hosting the DOMAIN or interfere with other DOMAINS or SERVICES provided by OPENDATASOFT to other CLIENTS

All information obtained during the audit is CONFIDENTIAL INFORMATION.

If the CLIENT retains an external auditor, the latter will be asked to accept, in writing, conditions laid down in this Article.

The CLIENT shall, free of charges, submit the audit report to OPENDATASOFT which could present its observations.

7.4. Conservation of data

OPENDATASOFT respects the legal periods for the conservation of its CLIENT data. In application of Article L.123-22 of the Code of Commerce, CLIENT data will thus be conserved for 10 years to establish proof, and for 5 years to prove the existence of a CONTRACT in application of Article 2224 of the Civil Code.

Moreover, with respect to the data generated in the context of the SERVICES (DATASETS, statistics, reporting etc.) and of which the CLIENT is the owner, OPENDATASOFT is not bound by any obligation to conserve such data, the CLIENT being solely responsible to undertake regular backups.

In the event of rescission of the CONTRACT, procedures for the deletion of data are specified in the Article entitled "Consequences of rescission".

ARTICLE 8. LIABILITY

8.1. General principles

The CLIENT can establish the liability of OPENDATASOFT as long as he has previously given notice by registered letter with Return Receipt of the alleged breach, and OPENDATASOFT has not replied within a period of thirty (30) days counting from the receipt of such notification. At all events, it is noted that establishing the liability of OPENDATASOFT cannot be sought except in cases of proven error.

Furthermore, pursuant to the provisions of the General Conditions of Use accessible at https://legal.opendatasoft.com/en/terms-of-use.html, it is noted that OPENDATASOFT denies any kind of liability in the following cases:

For abnormal use or illicit operation of the OPENDATASOFT PLATFORM

For use of the OPENDATASOFT PLATFORM that is not in compliance with and not provided for by this CGS

For the temporary impossibility of temporarily accessing the OPENDATASOFT PLATFORM as a result of technical maintenance operations or interruptions having to do with the nature of the internet network independent of OPENDATASOFT

For viral attacks

Due to a fault of the CLIENT

Lack of compatibility of the SERVICE with the hardware and software used by the CLIENT or his BENEFICIARIES, of which they are solely responsible for assessing such compatibility.

It is also noted that OPENDATASOFT is subject to a general obligation to undertake its best effort, and that it is not bound by any performance obligation or best effort with no fault obligation of any kind

Generally speaking, OPENDATASOFT shall not guarantee that the use of the PREMIUM SERVICE will generate an increase in turnover and establish its liability for any indirect damage, and for example, though without limitation, any financial or commercial loss, lost profits, commercial difficulties, loss of earnings, harm to a third party, or action filed by a third party against the CLIENT as well as their consequences, associated with these presents or their execution. The CLIENT is solely responsible for any loss, direct or indirect, material or immaterial, caused by him or one of his employees to OPENDATASOFT or to third parties resulting from his use of the OPENDATASOFT PLATFORM and its related SERVICES.

At all events, it is expressly agreed between the PARTIES that if the liability of OPENDATASOFT were retained in the context of the execution of this CONTRACT, it would be limited for all losses and all claims incurred to 20 % of the amounts paid by the CLIENT in relation to these presents over the last twelve months.

These provisions establish a division of risks between OPENDATASOFT and the CLIENT. The prices set for the SERVICES in the Particular Conditions reflect this division as well as the limitation of liability described heretofore.

It is expressly agreed between the PARTIES that the stipulations of this clause shall continue to apply even in the case of the termination of this Contract established by a final court decision.

8.2. Host status

It is noted that for all DATASETS published by the CLIENT in the context of the PREMIUM SERVICE, OPENDATASOFT shall have the status of host in the sense of Article 6 I 2) of the Law of June 21, 2004, for Confidence in the Digital Economy. In this capacity, OPENDATASOFT undertakes to remove promptly any content that is manifestly illicit as soon as it shall have knowledge thereof, pursuant to the stipulations of the General Conditions of Use accessible at https://legal.opendatasoft.com/en/terms-of-use.html.

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ARTICLE 9. NON-SOLICITATION OF PERSONNEL

Each one of the PARTIES states that it will not engage or hire to work, directly or through intermediaries, any employee of the other PARTY. This undertaking is valid throughout the entire duration of the CONTRACT and for a period of at least two years after the termination thereof.

In the event of failure to uphold this provision, it is agreed between the PARTIES that the penalty assessed will be equivalent to one year of the salary offered by the new employer.

ARTICLE 10. INTELLECTUAL PROPERTY

Each one of the PARTIES shall retain ownership of the knowledge, know-how, processes, information, technical, industrial or commercial data, supplies, software and other creations that it possessed prior to the validation of these GCS.

10.1. Property of the CLIENT

The DATASETS published on the OPENDATASOFT PLATFORM by the CLIENT from his account shall remain the property of the CLIENT, who shall ensure the oversight of their dissemination and access via the BACK-OFFICE of his DOMAIN and the establishment of OPEN or PRIVATE LICENSES.

10.2. Property of OPENDATASOFT

The CLIENT recognizes that the OPENDATASOFT PLATFORM and all of its components are the exclusive property of OPENDATASOFT.

The brands, logos, slogans, graphic elements, photographs, animations, videos, software, databases and texts created, published or recorded by OPENDATASOFT are the exclusive property of OPENDATASOFT and cannot be reproduced, used or represented without express prior authorization, under penalty of legal prosecution.

In this light, the CLIENT is forbidden:

To use the name OPENDATASOFT in his campaigns without the prior written agreement of OPENDATASOFT;

To maintain any confusion with OPENDATASOFT in the context of his advertising campaigns and/or promotional notices;

To adapt, correct, modify or reproduce in whole or in part the OPENDATASOFT PLATFORM and the related SERVICES.

Any total or partial representation of the OPENDATASOFT PLATFORM or its components, through any behavior whatsoever, without the express prior authorization of OPENDATASOFT or, as the case may be, of CLIENTS with respect to DATASETS disseminated by their actions, is prohibited and shall constitute a counterfeit sanctioned by Articles L. 335-2 and following and Articles L. 713-1 and following of the Code of Intellectual Property.

Furthermore, OPENDATASOFT expressly prohibits the following:

Extraction by permanent or temporary transfer of all or a qualitatively or quantitatively substantial part of the content of the OPENDATASOFT PLATFORM, by any means and in any way whatsoever; as long as the party committing this extraction is acting without a LICENSE granted by OPENDATASOFT or its CLIENTS.

The reuse, through making available to the public all or a qualitatively or quantitatively substantial part of the OPENDATASOFT PLATFORM, in any way whatsoever as long as the party committing this reuse is acting without a LICENSE granted by OPENDATASOFT or its CLIENTS.

10.3. Management of LICENSES

In the context of the administration of its DOMAIN opened in the context of the PREMIUM SERVICE, it is up to the CLIENT to parameterize the level of security of the DATASETS that he wishes to publish (OPEN LICENSE, PRIVATE LICENSES).

It is specified that by default, DATASETS will be published in accordance with a closed LICENSE preventing any disclosure of DATASETS to third parties.

For each DATASET, the CLIENT also undertakes to specify its source in order to inform the BENEFICIARIES thereof.

Provisions specific to OPEN DATA

In the case of use by the CLIENT of so-called public data, the CLIENT undertakes to respect the legislation in force, and particularly:

Law n°78-753 of July 17, 1978

Directive 2003-98-CE of November 17, 2003 (so-called PSI Directive)

Order n°2005-650 of June 6, 2005

Decree n°2005-1755 of December 30, 2005

Decree n°2011-577 of May 26, 2011

Decree n°2011-193 of February 21, 2011

Directive 2013/37/UE of June 26, 2013 (so-called PSI Directive) and any text transposing into French law the aforesaid Directive.

In this light, the CLIENT must in particular ensure, in the context of the LICENSE granted (allowing free reuse for commercial or non-commercial purposes of public information), respect for the following principles:

Public information should not be altered or distorted

The source and date of their last updates must be stated

Reuse must adhere to the Computer and Freedoms Law of January 6, 1978, as amended

10.4. Ownership of CREATIONS

In the context of the Services, OPENDATASOFT may be inclined to perform services of intellectual creation consisting of the conception of specific CREATIONS by OPENDATASOFT teams on behalf of the CLIENT.

These CREATIONS remain the property of OPENDATASOFT, the CLIENT not disposing of any right over these CREATIONS besides a right of use pursuant to the provisions of Article 4 of these presents. It is noted in this regard that any exploitation of the CREATIONS by the CLIENT or use of the CREATIONS separate from the SERVICES shall give rise to legal prosecution.

Furthermore, the CREATIONS can, as appropriate, be created from documents, information, images or any other content issued by the CLIENT to OPENDATASOFT. In this case, the CLIENT guarantees that the aforesaid content does not constitute a violation of the intellectual property rights of a third party, nor any sort of act of unfair or parasitic competition. The CLIENT undertakes to pay all fees for any claim directly concerning the aforesaid content and its normal use by OPENDATASOFT in the context of the CONTRACT, under the reservation that the violation does not apply to modifications or enhancements contributed by OPENDATASOFT.

In all circumstances, it is agreed between the PARTIES that the ownership of the CREATIONS can be transferred to the CLIENT upon request by the latter following prior acceptance of a specific cost estimate.

ARTICLE 11. PERSONAL DATA

Each one of the PARTIES guarantees the other PARTY that it will respect the legal and regulatory obligations incumbent upon each of them in terms of each one's role concerning the protection of personal data.

11.1. Concerning processing performed by OPENDATASOFT

In the context of the operation of the OPENDATASOFT PLATFORM, OPENDATASOFT collects personal data when a CLIENT registers, and with the opening of his account.

Such data is necessary for processing the opening of the account and will be processed in accordance with this purpose.

In this regard, the USER is called upon to consult the Confidentiality Policy accessible at https://legal.opendatasoft.com/en/privacy-policy.html which will give him more complete information concerning the protection of personal data, and the processing performed through the OPENDATASOFT PLATFORM.

In this connection the CLIENT enjoys rights of access, to correct and to challenge the processing of his personal data, pursuant to Articles 38 and following of Law n°78-17 known as the "Computer and Freedoms" Law of January 6, 1978, as amended. These rights can be exercised under the law by a simple e-mail request addressed to cil@opendatasoft.com, by standard postal delivery to the address of the company headquarters of OPENDATASOFT, with proof of his identity and a legitimate reason if it is required by the law.

The data processing performed in relation with a subscription through AWS Marketplace are detailed in the Annex 1.

11.2. Concerning processing performed by the CLIENT

In cases of processing personal data implemented by the CLIENT from his DOMAIN, OPENDATASOFT shall have the status of a subcontractor in the sense of Article 35 of the law of January 6, 1978, cited above.

It is therefore expressly agreed between the PARTIES that OPENDATASOFT:

- Shall not perform any data processing operation if it is not at the instruction of the CLIENT and will do so always under the complete and exclusive responsibility of the CLIENT,
- Shall take all steps at its disposal to ensure the security and confidentiality of the personal data with which it is entrusted.

In order to ensure contractual security and confidentiality guarantees to potential transfer of personal data outside the EU in accordance with the Law n°78-17 known as the "Computer and Freedoms" law of January 6, 1978, the CLIENT gives a mandate to OPENDATASOFT to conclude, in its name and on its behalf,

Standard Contractual clauses following the model developed by the European Commission (commission decision of 5 February 2010 C(2010) 593 - 2010/87/UE).

ARTICLE 12. CONFIDENTIALITY

Each PARTY undertakes not to use CONFIDENTIAL INFORMATION, directly or indirectly, in whole or in part, except for the strict execution of this CONTRACT.

Each PARTY recognizes in advance that any disclosure would seriously harm the interests of the PARTY that is victim of the disclosure. In consequence, the latter will have grounds to institute legal proceedings against the other PARTY, and all fellow offenders or accomplices, and to claim damages and interest in cases where commitments have not been fulfilled, for any reason whatsoever.

The confidentiality obligations stipulated by this article do not apply to the entirety or to any part of the CONFIDENTIAL INFORMATION if:

They are or were made public other than by any action or omission by the recipient PARTY

They were legally held by the other PARTY before their disclosure

They were legally disclosed to the recipient PARTY by a third party without restrictions on disclosures

They are subject to a legal disclosure obligation by any competent tribunal, authority or administration.

This confidentiality clause shall be maintained upon expiration of the CONTRACT until the CONFIDENTIAL INFORMATION enters into the public domain in some way other than by an infraction of the recipient PARTY.

ARTICLE 13. FINANCIAL PROCEDURES

The CLIENT is required to pay invoices net, without a discount, and within the deadlines set by the Particular Conditions.

In the event that an invoice is not paid within the agreed upon deadline, OPENDATASOFT reserves the right to suspend access to its SERVICES, and this suspension cannot be construed as termination of the CONTRACT.

OPENDATASOFT may, in the event of a default of payment by the CLIENT, apply interest penalties calculated as follows:

Interest penalties = (TTC amount (total including tax) of invoice X Applicable Legal Rate) x (number of days of lateness / 365).

Pursuant to the provisions of the Code of Commerce, the Applicable Legal Rate is understood to be the interest rate applied by the Central European Bank to its most recent refinancing operation increased by 10 percentage points. Interest penalties can be demanded on the day following the date of settlement without a reminder being necessary. A CLIENT who is in arrears owes to OPENDATASOFT, as a matter of ordinary law, an allowance for recovery costs in the amount of forty (40) euros.

When conditions for settlement are agreed upon, such as payment in several installments, default on one single payment shall render payable the entirety of the debt. It shall entail the immediate suspension of the benefits and services under way, without payment of indemnities of any kind.

Possible rejections of discounts shall give rise to a re-invoicing of the CLIENT by OPENDATASOFT for bank fees paid.

It is also noted that termination does not release the CLIENT from his obligations, particularly financial ones, established prior to the latter.

Specific procedures for legal persons governed by public law__:

Missing a payment deadline entitles OPENDATASOFT, as a matter of ordinary law and without other formalities, to the benefit of penalty interest counting from the day following the expiration of the deadline. Pursuant to Decree n°2013-269 of March 29, 2013, concerning efforts against payment arrears in public sector contracts, the penalty interest rate is equal to the interest rate for the principal refinancing operation applied by the Central European Bank in its most recent principal refinancing operation transacted prior to the first calendar day in the semester of the civil calendar during which penalty interest began to accrue, with the addition of eight points.

ARTICLE 14. DURATION

This CONTRACT is concluded for the initial Contractual Period set in the Particular Conditions or on the AWS Marketplace, during the subscription to the SERVICES (few days, one month, one or several years,…).

Each commitment shall then be automatically renewed by tacit extension for periods of commitment identical to those subscribed for the Initial Contractual Period unless there is repudiation by one or the other of the PARTIES.

By exception to the above provisions, the AWS CLIENT shall, to terminate its CONTRACT, follow the procedure described in the Annex 1.

ARTICLE 15. SUSPENSION – TERMINATION

15.1. Circumstances for suspension and termination

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The AWS CLIENTS are invited to read carefully the specific provisions detailed in the Annex 1.

Suspension

OPENDATASOFT can suspend the CONTRACT as a matter of ordinary law, without indemnity to the CLIENT, and without prior notification in the following instances:

In the event of a lack of cooperation and/or unfairness ascertained by OPENDATASOFT, and if there is an urgent need to put a stop to the actions in question;

When the actions of the CLIENT in any way endanger the functioning of the OPENDATASOFT PLATFORM, the SOLUTIONS or the SERVICES;

In the event of violation of the commitments undertaken for this CONTRACT.

This decision is to be brought to the attention of the CLIENT by registered letter with return receipt *(or, for the AWS CLIENTS, with an email sent directly to OPENDATASOFT).*

The suspension can be lifted within a maximum period of three (3) working days counting from receipt by OPENDATASOFT of a registered letter with return receipt *(or for the AWS CLIENTS, an email sent directly to OPENDATASOFT)* explaining that the cause of the suspension reported to the CLIENT has been removed, and subject to acceptance by OPENDATASOFT.

Termination

In the event of a serious failure on the part of one PARTY to uphold at least one of his obligations in relation to these presents, this Contract can be terminated by the other PARTY. It is expressly agreed that such termination shall take place as a matter of ordinary law, seven (7) days after the sending of a notification for execution remains without effect. The notification, which must indicate the outstanding grievances, and the obligations whose non-fulfillment is alleged, is to be sent by registered letter with return receipt or by an email sent directly to OPENDATASOFT (for the AWS CLIENTS).

OPENDATASOFT can also terminate the CONTRACT as a matter of ordinary law in the event of the judicial recovery or liquidation of the CLIENT, takeover of the CLIENT by a third party, or assignment of the CLIENT's activities to a third party.

15.2. Consequences of termination

Termination of this CONTRACT shall entail immediate cessation of use rights granted to the CLIENT in connection with these presents.

Termination of this CONTRACT shall give rise to restitution to OPENDATASOFT by the CLIENT of all documents transmitted in the context of the execution of the CONTRACT.

In the event of unilateral termination of the Contract by the CLIENT, when the Services, as a whole, have been completed on schedule, the CLIENT shall pay by way of indemnity to OPENDATASOFT a termination indemnity in an amount equal to the outstanding amounts owed up until the end of the subscribed commitments. This indemnity is payable within thirty (30) days following notification by registered letter with confirmation of receipt of the unilateral termination.

The articles on Intellectual property, confidentiality, liability, and personal data shall remain in force in the event of the termination of these presents for a supplementary duration of five (5) years unless there is an express stipulation or legislative or regulatory provision to the contrary.

Reversibility

Within a period of thirty (30) working days counting from the closure of the account, OPENDATASOFT shall provide the CLIENT on the FTP site with the following elements:

    Metadata files of all datasets in JSON format

    Raw data loaded on the platform (resources, attachments), in their original format

    The resulting dataset, in JSON format

    Editorial content, in HTML format

    List and groups of users, as well as their related roles, in CSV format

OPENDATASOFT shall at the same undertake the definitive deletion of all of his elements on the OPENDATASOFT PLATFORM.

ARTICLE 16. GUARANTEES

Each PARTY undertakes towards and guarantees to the other PARTY:

    That it has the capacity and the authority to enter into this Contract, and that over the course of the relationship it shall see to and uphold all authorizations that may be necessary to the execution of its obligations

    That it holds, or has been granted the rights allowing its use for the purposes of this CONTRACT, and all necessary intellectual property rights with respect to its obligations

That it will execute its obligations in relation to this CONTRACT pursuant to all of the laws in force and demonstrating diligence and reasonable competency

That it will not do or fail to do anything that would lead the other PARTY into a violation of any law or regulation in force

That it will not denigrate the other PARTY

The CLIENT accepts that the OPENDATASOFT PLATFORM, the related SOLUTIONS and SERVICES were not developed for the purpose of satisfying his individual requirements. In this light, the CLIENT is bound to ensure that the OPENDATASOFT PLATFORM, the related SOLUTIONS and SERVICES are in accordance with his needs, requirements and constraints.

OPENDATASOFT guarantees to the CLIENT undisturbed enjoyment of the OPENDATASOFT PLATFORM, the related SOLUTIONS and SERVICES, and this guarantee cannot be opposed except by the use rights conferred in the application of these presents.

Furthermore, in the event that a third party claim or legal action is filed alleging that the use of the OPENDATASOFT PLATFORM, the related SOLUTIONS or SERVICES constitutes a violation of its intellectual property rights, OPENDATASOFT undertakes to settle directly with the claimant all sums that are being demanded of the CLIENT and to become involved voluntarily, if necessary, in all venues where action is pending against the CLIENT.

The guarantee set forth in the foregoing sub-paragraphs is understood to be subject to the reservation that:

The claim or action is not the consequence of a violation by the CLIENT of his contractual commitments

The CLIENT sends to OPENDATASOFT as swiftly as possible a written opinion concerning the claim or action, setting forth a detailed explanation of its character

The CLIENT shall not assume any responsibility, nor conclude any agreement or commitment concerning the claim or action without first obtaining the written agreement of OPENDATASOFT

The CLIENT shall allow OPENDATASOFT and its professional advisors at reasonable intervals (based on reasonable advance notice) to have access to its facilities and to converse with its agents, directors, employees, representatives or advisors, and to consult any pertinent document and allow them to make copies for the purpose of evaluating the claim or action

The CLIENT shall take every reasonable measure requested by OPENDATASOFT in order to avoid, challenge, reach a settlement or defend against the claim or action.

ARTICLE 17. GENERAL PROVISIONS

These General Conditions of Services do not under any circumstances confer upon OPENDATASOFT or on any of the members of its staff the status of employee, proxy, agent or representative of the CLIENT. The PARTIES declare, moreover, that these General Conditions of Services cannot under any circumstances be construed as an act establishing a juridical person or any legal institution whatsoever, and that any kind of "affectio societatis" is formally excluded from their relations.

No instruction or document can give rise to obligations that are not included in these General Conditions of Services, if they have not been the subject of a new agreement between the PARTIES.

The fact that one of the PARTIES may not have demanded the application of one of the clauses of these General Conditions of Service, whether on a permanent or temporary basis, may not under any circumstances be construed as a waiver of the said clause.

By express agreement, the signing of this CONTRACT entails the acceptance of electronic communications as a form of proof (e-mails, notifications on the OPENDATASOFT PLATFORM, etc.) exchanged between the PARTIES. The printout of these electronic communications is considered to be an original written document attested between the PARTIES.

In the event of any difficulty of interpretation between any of the titles appearing in the article headings, and any one of the articles themselves, the titles will be declared non-existent.

If any one of the stipulations of these General Conditions of Services should be found to be null in the light of a legislative or regulatory provision in force and/or a court decision with the authority of a final ruling, it will be deemed unwritten, but this will not in any way affect the validity of the other clauses which shall remain fully applicable.

ARTICLE 18. APPLICABLE LAW – COMPETENT JURISDICTION

These General Conditions of Services are subject to French law.

In the event of disputes arising between the PARTIES regarding the interpretation, execution or termination of these General Conditions of Services, the PARTIES shall strive to reach an amicable settlement.

IN THE ABSENCE OF AN AMICABLE SETTLEMENT WITHIN A PERIOD OF ONE (1) MONTH COUNTING FROM THE FILING OF A CASE IN COURT BY ONE OF THE PARTIES, THE LITIGATION COULD FALL WITHIN THE COMPETENCE OF THE TRIBUNALS OF THE COURT OF APPEALS OF PARIS TO WHICH THE ATTRIBUTION OF COMPETENCE IS EXPRESSLY MADE, REGARDLESS OF THE NUMBER OF DEFENDANTS OR WHETHER THERE IS AN APPEAL ON A WARRANTY, INCLUDING FOR EMERGENCY OR INTERIM MEASURES, SUMMARY PROCEEDINGS OR PROCEEDINGS BY MOTION.

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ANNEX 1: Specific conditions for AWS CLIENTS

ARTICLE 1. PAYMENTS

OPENDATASOFT appointed Amazon Web Services as its payment processing agent for the limited purpose of receiving payments on its behalf from AWS CLIENTS.

Thus, Amazon Web Services will process all payments and refunds on OPENDATASOFT behalf, for all the transactions operated on the AWS Marketplace.

All the fees and charges related to the SERVICES offered on the AWS Marketplace will only be billed and collected through the AWS Marketplace. No other alternative means of payment will be offered.

ARTICLE 2. CANCELLATION

This CONTRACT is concluded for the initial Contractual Period set by the AWS CLIENT during his subscription to the SERVICE (few days, one month, one or several years…).

After the AWS CLIENT decided how long would be the initial Contractual Period, he shall decide whether he wants the CONTRACT to be automatically renewed by tacit extension or not.

If he chose the tacit extension, each commitment shall then be automatically renewed by tacit extension for periods of commitment identical to those subscribed for the Initial Contractual Period.

The AWS CLIENTS willing to terminate his CONTRACT shall send OPENDATASOFT an email stating why he would like to terminate his CONTRACT.

ARTICLE 3. REFUNDS

In the event that the AWS CLIENT would like to be refunded of the fees he paid for the subscription to the SERVICE (for example, for the free trial subscription, or after having upgraded the SERVICES he would like to subscribe to), he shall ask OPENDATASOFT to be refunded.

To request a refund for a software purchase, the AWS CLIENT is invited to give at least:

- His email address (associated with his/her AWS Marketplace Account);
- His account number;
- The billing period(s) for which the AWS CLIENT would like a refund.

OPENDATASOFT may then forward this refund request to Amazon Web Services.

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The AWS CLIENT is informed that the potential refund doesn't include the AWS Marketplace usage fees, but only the license fees and/or the software charges. To be refunded of the Amazon Web Services infrastructure charges, the AWS CLIENT shall contact directly the Amazon Web Services customer service.

ARTICLE 4. CLAIMS

For any claims arising from the subscription to the SERVICE, the AWS CLIENT shall directly contact OPENDATASOFT.

ARTICLE 5. PERSONAL DATA

According the Terms and conditions for AWS Marketplace Sellers, OPENDATASOFT will use the AWS CLIENT's data only in order to:

- (i) Furnish the CLIENT SERVICES and SOLUTIONS he subscribed to;
- (ii) Provide the CLIENT training and technical support;
- (iii) Assist the CLIENT in the software activation, configuration and potential customization of the OPENDATASOFT PLATFORM.

Thus, OPENDATASOFT will use the AWS CLIENT's data for marketing purposes only if OPENDATASOFT first obtained the express consent of the AWS CLIENT for receiving such marketing or promotional communications.