

THE OEM SOFTWARE DISTRIBUTION & LICENSE AGREEMENT TERMS & CONDITIONS

The purpose of this agreement is to define the terms and conditions (the "**OEM Software Distribution & License Agreement Terms & Conditions**") that rule the relationship between, **Toucantoco SAS.**, a French limited company (société par actions simplifiée) with a capital of 26 028,77 euros, having its registered address at 59 rue de Ponthieu, Bureau 562, 75008 Paris – France, registered with the trade and companies registered of Paris under number 801 300 526 (hereinafter "**TOUCANTOCO**"), and the **Licensee** identified in the **OEM Agreement** (hereinafter the "**Licensee**").

The **Agreement** constitutes the entire Agreement between TOUCANTOCO and the Licensee for the provision of the rights to the Software. The provisions of the OEM Agreement shall prevail over the OEM Software Distribution & License Agreement Terms & Conditions. The Licensee expressly waives the application of its own terms and conditions. Unless otherwise stipulated in the OEM Agreement, by signing the OEM Agreement, the Licensee acknowledges that he/she has (i) read and (ii) accepted, without reservation, the OEM Software Distribution & License Agreement Terms & Conditions.

TOUCANTOCO and the Licensee are individually referred to as a "Party" and together referred to as the "Parties".

THE FOLLOWING IS SET OUT IN ADVANCE:

TOUCANTOCO designs, deploys and operates software and services for data analysis and visualization.

TOUCANTOCO has developed a solution allowing customers to create applications for monitoring and producing dashboards to visualize and exploit their data. TOUCANTOCO has the rights to the Software and is willing to grant certain rights and licenses to Licensee;

Licensee has the rights to the Licensee's Product defined in the OEM Agreement. The Licensee's activity is specified in the OEM Agreement .

After a discussion phase between the Parties during which the Licensee acknowledges that he has received from TOUCANTOCO all necessary information enabling him to assess the adequacy of the Software and the conditions of use to his needs and expectations, the Licensee desires to acquire a right and license to integrate Software into the Licensee Product that it sells to his End-users.

TOUCANTOCO has issued an OEM Agreement accepted by the Licensee for providing the Software and associated Services (defined in the OEM Agreement) according to the terms and conditions of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained in this Agreement, Toucantoco and Licensee agree as follows:

Section 1 – Definitions

1.1 "Agreement" shall mean the OEM Agreement, the OEM Software Distribution and License Agreement Terms & Conditions, its appendices and any amendments thereto that may supplement, modify or replace them.

1.2 "Combined Product" shall mean any work in which the Software is integrated into and embedded in Licensee Product and in which Licensee Product constitutes a significant portion of the code and content of the resulting product. Combined Product shall include all ports, modifications, improvements, enhancements, additions, derivative works, updates, releases and versions thereof, whether created or developed by or on behalf of Licensee. Combined Product shall be, by objective examination of features and functions, a product substantially different from the Software.

1.3 "Confidential Information" shall mean the content of the Agreement, any information that is technical, commercial, strategic, financial, economic, related to research, technical specifications, product, development and marketing plans and/or proposals, training methods and materials, inventions, processes, studies, records, reports, memoranda, drafts, trade secrets, know-how, ideas, concepts, strategies, and any and all other information which is confidential by its nature, no matter on which medium and in which form (verbal, visual or written) it is communicated to the other Party during the negotiations or the performance of this Agreement.

1.4 "Documentation" shall mean the operating manuals, user instructions, technical literature and all other documents regarding the use of the Software, in any form, provided to the Licensee by TOUCANTOCO under this Agreement. The Documentation shall be provided to the Licensee in electronic format and be available on TOUCANTOCO's main website.

1.5 "End User" shall mean a user of the Combined Product who acquires such Combined Product for its own internal use.

1.6 "Incident" means a malfunction, anomaly or error of the Software that prevents access to or use of the Software.

1.7 "Intellectual Property Rights" shall mean patent rights (including patent applications and invention disclosures), copyrights, rights in database, trademarks, service marks, trade secrets, moral rights, know-how and any other intellectual property rights recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed, or recorded.

1.8 "Maintenance" means the provision of End User's assistance by the Licensee and the provision of Updates by

TOUCANTOCO in accordance with the provisions of the Agreement.

1.9 OEM Agreement : means the document containing the details of the Services, rights and licenses as well as the duration and the applicable financial terms and conditions that are an integral part of the Agreement.

1.10 "Price List" means the price list applicable to the Licensee on the signature of the OEM agreement and provided by TOUCANTOCO in Appendix A of the OEM Agreement.

1.11 "Software" shall mean the complete and documented computer programs of TOUCANTOCO, in object code form, to which this Agreement is attached, for which license is granted to the Licensee or End-users, conceived and developed by TOUCANTOCO, as described in the Documentation. In any case, the Software shall remain the sole and exclusive property of TOUCANTOCO.

1.12 "Sublicense" shall mean the licensing of Combined Product by Licensee to End Users pursuant to a license agreement consistent with the terms of the Agreement, including, where the Combined Product consists of hardware and software, the sale of the hardware included with the Combined Product and the license of the software included in the Combined Product.

1.13 "Third-Party Software" means the complete and documented computer programs, in the version provided with the Software, in the form of object codes, licensed under a specific license (being either an open source license or a proprietary license), as described in the Documentation.

1.14 "Update" means one or more modifications to the Software that may contain patches as well as improvements of the Software, including changes that bring one or more major functional changes.

1.15 "White label" means the possibility of the Licensee to use the Software, transform it into the Combined Product and sell it under his own brand name.

Section 2 – Purpose

The purpose of the Agreement is to define the terms and conditions under which TOUCANTOCO grants to the Licensee the right to incorporate the Software in Combined Product and market and distribute the Combined Product to the End User.

Section 3 – License grants and restrictions

3.1 Use of the Software

3.1.1 Subject to the terms and conditions of the Agreement and subject to the payment of all sums defined under the Agreement, TOUCANTOCO hereby grants to the Licensee a limited, non-exclusive, revocable, in run-time format only, right to:

(i) integrate the Software into Combined Product;

(ii) use, reproduce, distribute, display the Combined Product, such use, reproduction, distribution and display may be exercised by itself or through its subsidiaries, distributors, resellers and agents ("Licensee's Distributors");

(iii) conclude Sublicense agreements, promote and market the Software as part of Combined Product to the End users;

(iii) provide the Software, integrated in the Combined Product, to the End user subject to the payment of the price.

3.1.2 TOUCANTOCO hereby grants to Licensee a non-exclusive, revocable, non-transferable, world-wide right to use the TOUCANTOCO name, logo and trademarks ("Toucantoco Marks") for the limited purpose of identification and marketing of the Combined Product and the Software including in the course of special events, shows and/or conferences, including but not limited to trademark usage and cooperative advertising policies under the Agreement. All use of the TOUCANTOCO Marks by Licensee shall insure to TOUCANTOCO's benefit.

3.1.3 Nothing in this Agreement shall restrict TOUCANTOCO from marketing and licensing through its own sales force, directly or indirectly, or from authorising or appointing any dealers, agents, representatives, distributors, original equipment manufacturers, value-added resellers, business partners or other third parties to promote, license, distribute or support the Software or otherwise.

3.1.4 The Licensee acquires on the Software no other rights than those which are expressly granted pursuant to this Section. The Licensee shall not make any other use of the Software except as expressly provided for in this Section 3.

3.2 Limitation to the granted license

3.2.1. According to the rights granted to the Licensee on the Software pursuant to section 3.1, the Licensee is expressly prohibited to:

- delete or remove any notice identifying TOUCANTOCO as the manufacturer indicated on the Software or the Documentation, if there is any;
- use any trademarks or trade names of TOUCANTOCO for any purpose other than as strictly necessary for the performance of the Agreement;
- copy, bypass or emulate the Software or circumvent the protection offered to the Software in any manner;
- analyse or cause a third party to analyse, meaning to observe, study and test the operation of the Software and/or of the Software in order to determine the ideas and principles forming the basis of the program's elements at the time that the program performs operations for loading, display, execution, transmission or storage of the Software, for any purpose other than as strictly necessary for the performance of the Agreement;
- reverse engineer, decompile, disassemble the Software, or create derivative works based upon the Software, or otherwise attempt to derive source code from the Software, for any purpose other than as strictly necessary for the performance of this Agreement, except for interoperability purposes as provided by article L122-6-1 IV of the French intellectual property code. If the Licensee needs

information necessary for the interoperability of the Software with any other software, it shall request such information to TOUCANTOCO, which shall provide the relevant information to the Licensee, subject to the payment of the corresponding costs by the Licensee;

- modify, enhance or translate the Software, including for the fixing of bugs or errors, which rights are exclusively reserved by TOUCANTOCO pursuant to the provisions of article L122-6-1 I 2° of the French intellectual property code, for any purpose other than as strictly necessary for the performance of the Agreement;
- transfer, lease, sublicense, assign, charge or otherwise deal in or encumber the Software, for any purpose other than as strictly necessary for the performance of the Agreement.

3.2.2 Licensee shall not, nor shall it enable or permit any of its End Users to:

- license or sublicense the Combined Product to any third party; or
- make available or expose Software including the pass-through of Software, or repackage of the Software other than as specifically permitted by the Agreement; or
- make available or expose to End Users, directly or indirectly, including via pass-through and translation mechanisms, the general-purpose ability to submit queries for evaluation by the Software; or
- use the Software to provide training or other professional services on the Software (other than as it exists in Combined Product) to third parties; or
- modify, adapt, translate or otherwise make any changes to the Software, or
- disclose or publish, without TOUCANTOCO's express prior written consent, performance or capacity statistics or the results of any benchmark test performed on Software.
- to give to the End User access to TOUCANTOCO's software directly or to access or use any other data sources than the data specified in Combined Product.

3.2.3 Except as otherwise expressly provided under the Agreement, TOUCANTOCO does not grant any right to and Licensee covenants and agrees that it will not, nor will it permit any of its End Users to, disassemble, decompile, reverse engineer, modify, translate, or otherwise attempt to derive source code, algorithms, tags, specifications, architectures, structures or other elements of the Software, including TOUCANTOCO's Confidential Information, in whole or in part, for competitive purposes or otherwise.

3.2.4 Upon expiration or termination of the Agreement, Licensee will immediately cease all display, advertising and use of all TOUCANTOCO Marks and will not thereafter use, advertise or display any trademark, trade name, logo or designation which is, or any part of which is, confusingly similar to any trademark, trade name, logo or designation associated with any TOUCANTOCO Marks.

3.3 Third-Party Software

The Software contains Third-Party Software.

TOUCANTOCO is not granting any right on the Third-Party Software, which remains subject to the specific licenses applicable to each Third-Party Software and as described in their related applicable documentation. Thus, TOUCANTOCO disclaims all warranties, indemnities, obligations, and other liabilities in connection with any third-party software downloaded or installed in the Software. In particular, the Licensee is solely responsible for checking and testing the compatibility of the Third-Party Software with Licensee Product

Section 4 – Ordering – Financial conditions

4.1 Ordering and delivery of Software

The initial order of the Licensee is specified in the OEM Agreement. The Effective Date and the Duration is specified in OEM Agreement in Section 1. Order. For all following/additional licences orders related to the OEM Agreement the Licensee should send the purchase order to TOUCANTOCO by email.

In no event shall the general terms and conditions of the Licensee apply to the orders issued under the Agreement.

Licensee shall not be entitled to cancel or modify any order issued under the Agreement, unless TOUCANTOCO expressly consents to such cancellation or amendment in writing.

All additional orders for Software licenses are made according to a quarterly report of usage of the Combined Product by email, as provided below.

The Licensee shall provide to TOUCANTOCO a quarterly report by email, on the first day of each following quarter, detailing what happened in the last quarter. The report shall contain all information related to the Combined Product usage: numbers, quantities, prices, etc. It also needs to include a forecasts for the current quarter, in order to allow TOUCANTOCO to evaluate the quantities to be manufactured

TOUCANTOCO will in no case refund the Licensee for any Software that has been ordered, including in cases where the Licensee has cancelled its order for any reason whatsoever.

4.2 Prices

Licensee shall pay TOUCANTOCO the royalties, licensee fees and/or other fees as set forth in the OEM Agreement in Section 1. Order and 2. Pricing for End Users. The prices do not include any and all applicable taxes, customs, tariffs, value-added tax or any other applicable taxes, which shall be paid by the Licensee in addition.

4.3 Payment terms

4.3.1 Plan payment terms - Except under specific conditions stipulated in the OEM Agreement, invoicing of the total amount of the first year of the Plan and all licences specified in the Section 1. Order will occur on Effective Date specified in the Section 1. Order of the OEM Agreement. All following yearly plan subscriptions will be billed on the anniversary date of the Agreement.

4.3.2. End User's payment terms - Except under specific conditions stipulated in the OEM Agreement, Licensee will be billed quarterly for End user's licenses for Combined Product activated during the past quarter. Billing for the terminated quarter will occur on the first day of the following quarter.

4.3.3. Payments are due within thirty (30) days from the date of invoicing.

Sums stated to be payable under this Agreement do not include any and all applicable taxes, customs, tariffs, value-added tax or any other applicable taxes, which shall be paid by the Licensee.

In case any amount shall not be paid by the Licensee to TOUCANTOCO when due under the Agreement, (i) such sums shall bear late payment interest immediately and automatically as of the first day the payment is late until the due date of payment equal to the interest rate applied by the European Central Bank to its latest refinancing operations increased by ten (10) points of percentage, without any prior formalities and without prejudice to any other right or remedy available to TOUCANTOCO; (ii) TOUCANTOCO shall have the right, at its sole option, to forbid any use of the Software to the Licensee; and/or (iii) TOUCANTOCO may exercise any termination rights it may have under the Agreement. Furthermore, the Licensee shall automatically and without prior notice be liable to pay the compensation for recovery costs provided for by articles L. 441-6 I 12° and D. 441-5 of the Commercial Code (40 euros). Should the recovery costs amount to more than 40 euros and provided that written evidence is produced, TOUCANTOCO will be entitled to a complementary compensation.

4.4 Retention of Title

Title to and ownership of the Software resides in and shall remain with TOUCANTOCO. Except as otherwise provided herein, title to and ownership of all ports, improvements, enhancements, additions, derivative works, bug fixes, updates, releases and versions of the Software shall reside in TOUCANTOCO. Licensee owns and has title to Licensee Product. Title to the COMBINED PRODUCT shall reside in Licensee, subject to TOUCANTOCO's ownership of the Software and license granted in this Agreement. Licensee acknowledges and agrees that title to and ownership of the Software incorporated in the Combined Product shall at all times remain with TOUCANTOCO. Any and all patent, copyright, trademark, and trade secret rights in Software remain with TOUCANTOCO.

The Licensee shall in all cases, and particularly in the context of any proceedings undertaken by creditors, ensure that the Software is clearly identified as not being the property of the Licensee, and the Licensee shall refrain from creating or allowing the creation of any preferential right, security interest, lien or charge over the Software. The Licensee shall protect the Software against any attempt to seize or otherwise gain possession of the Software and clearly inform third parties that TOUCANTOCO retains title thereto and ownership thereof.

Section 5 – Effective Date – Duration

The Agreement takes effect from the Effective Date specified in the Section 1.ORDER of the OEM Agreement. The Agreement is entered for a fixed term (the "Initial Term" or "Duration") as defined in the OEM Agreement, section 1.ORDER .

At the end of the Initial Term, the Agreement will be tacitly renewed, except otherwise specified in the OEM Agreement, for additional periods equal to the Initial Term (the "Additional Term"), unless terminated by either Party upon notice sent by registered letter with acknowledgment of receipt sent to the other Party at least (3) months prior to the expiry of the Initial Term or any Additional Term.

Section 6 – Undertakings of TOUCANTOCO

While performing this Agreement, TOUCANTOCO undertakes to:

- designate a member of its personnel as an Agreement manager, who will be the main contact person of Licensee for questions regarding the Agreement;
- keep the Licensee informed of all the evolutions or modifications of the Software;
- provide the Licensee with all technical and commercial information that TOUCANTOCO deems useful to enable the Licensee to perform the Agreement.

TOUCANTOCO reserves the right, at any time, to make any changes it deems appropriate to its Software and will notify the Licensee accordingly. In particular, TOUCANTOCO will keep the Licensee informed of all the evolutions or modifications of the Software.

Section 7 – Undertakings of the Licensee

No Software license or Maintenance service may be provided to an End User in the event of a breach of this Section.

7.1 The Licensee shall:

- not take any action to impair the reputation of the Software, the trademarks of TOUCANTOCO and any other product of TOUCANTOCO;
- not undertake any action that would impair or disrupt TOUCANTOCO's relationship with its clients or potential clients of the Software;
- be solely responsible for invoicing and collecting the licence fees for all Software integrated into Combined Products that Licensee sublicenses to its End Users;
- inform TOUCANTOCO immediately of any potential defects discovered when using the Software and of End Users' complaints relating to the Software defects;
- notify TOUCANTOCO immediately of any legal notices, claims or actions directly or indirectly relating to the Software and not enter into or compromise any legal action or other proceeding relating to the Software without the prior written consent of TOUCANTOCO;
- ensure that Combined Products do not adversely affect the Software;

- not use the Software for illegal purposes or in an illegal manner, including in violation of the intellectual property rights of TOUCANTOCO or any third party; and
- designate a member of its personnel as an Agreement manager, who will be the main contact person of TOUCANTOCO for questions regarding this Agreement.

7.2 Licensee agrees to use reasonable efforts to protect TOUCANTOCO's proprietary rights and to cooperate at Licensee's expense in TOUCANTOCO's efforts to protect its proprietary rights. Licensee agrees to promptly notify TOUCANTOCO of any known or suspected breach of TOUCANTOCO's proprietary rights that comes to Licensee's attention.

7.3 The Combined Product shall include all proprietary and copyright notices present in the originals of the Software received from TOUCANTOCO. Proprietary and copyright notices must appear in the same manner and form as Licensee uses to protect its own copyrights including, but not limited to, any user manuals, product documentation and appropriate screens (e.g., software editor/"splash screen", "Read Me file", the "About Box") of the Combined Product. Required attribution wording for the Software is shown in Attachment IV (Attribution), which may be updated from time to time at TOUCANTOCO's sole discretion. Licensee agrees not to alter, erase, deface or overprint any such notice on anything provided by TOUCANTOCO. Licensee also will include the appropriate trademark notices when referring to any Combined Product in advertising and promotional materials.

7.4 Unless otherwise specifically granted elsewhere in this Agreement, this license does not grant any right to Licensee for the resale of any services (including, but not limited to, renting, leasing or time-sharing incorporating the Software, service bureau or application service provider services) based on Software or any component or portion of the Software. This license does not grant any right to Licensee to offer the Software or any component or portion thereof without the Combined Product. Upon TOUCANTOCO's request, Licensee shall furnish to TOUCANTOCO evidence that Combined Product complies with the definition set forth in Section 1.2 of this Agreement. Licensee acknowledges and agrees that failure to comply shall be considered grounds for termination of this Agreement for material breach in accordance with Section 14.

7.5 Licensee has paid no consideration for the use of the Software, and nothing contained in this Agreement will give Licensee any right, title or interest in any of them. Licensee acknowledges that TOUCANTOCO owns and retains all trademarks, trade names, logos, designations, copyrights and other proprietary rights in or associated with Software, and agrees that it will not at any time during or after this Agreement assert or claim any interest in or do anything that may adversely affect the validity of any TOUCANTOCO Marks (including, without limitation any act or assistance to any act, which may infringe or lead to the infringement of any of TOUCANTOCO's proprietary rights).

Section 8 – Intellectual property

8.1 Software ownership

The Licensee acknowledges and agrees that the Software, including, but not limited to, any patches, workarounds, updates, upgrades, enhancements and modifications thereto provided to the Licensee, and all trade secret, copyright, patent, trademark, trade name and other intellectual and proprietary rights therein, are and at all times shall remain the sole and exclusive property of TOUCANTOCO.

8.2 Know-how

Any ideas, know-how, or techniques that may be developed by TOUCANTOCO including any enhancements or modifications made to TOUCANTOCO's computer software programs, shall be the sole property of TOUCANTOCO. TOUCANTOCO may at its sole discretion develop, use, market, and license any software or data processing material that is similar or related to TOUCANTOCO's developments for the Licensee. TOUCANTOCO will have no obligation to disclose any ideas, know-how, or techniques that may be developed by TOUCANTOCO and that TOUCANTOCO considers as being proprietary and confidential.

Section 9 – Non competition

For the duration of the Agreement and a six (6) month-period after its cessation for any reason whatsoever, the Licensee agrees not to sell products or services competing with TOUCANTOCO products or services.

This clause doesn't prevent the Licensee from contracting with an entity directly competing with TOUCANTOCO. This clause prevents the Licensee itself from engineering a Business Intelligence software that is directly competing with TOUCANTOCO during a six month period after the cessation of this Agreement.

Section 10 – Audit

For the duration of this Agreement and a two (2) year-period after its cessation for any reason whatsoever, the Licensee shall provide within five (5) days to TOUCANTOCO, upon request of TOUCANTOCO, all accounting, technical, sales and other documents and information relating to the use of the Software, in order to enable TOUCANTOCO to verify that the Licensee complies with its obligations under this Agreement.

For the duration of this Agreement and a two (2) year-period after its cessation for any reason whatsoever, TOUCANTOCO will also be entitled to proceed or have an agent proceed to the audit of the accounts, records and documents relating to the use of the Software at the Licensee premises. Such audit may be conducted twice a year upon a prior forty-eight (48) hours notice.

These audits shall be carried out at the expense of TOUCANTOCO, unless the results of the audit evidence that the Licensee failed to comply with this Agreement. In the latter case, the Licensee shall, immediately upon the presentation of an invoice by TOUCANTOCO, reimburse to TOUCANTOCO the expenses incurred by these audits, notwithstanding any other sums due to TOUCANTOCO by the Licensee, in particular all damages TOUCANTOCO would be entitled to.

Section 11 – Liability

Both Parties acknowledge that the limitations set forth in this section are fair, justified and proportionate in view of the terms and conditions of the Agreement, in particular the price granted to the Licensee by TOUCANTOCO.

TOUCANTOCO shall only be liable for direct and foreseeable damages, in the meaning of articles 1231-3 and 1231-4 of the French civil code, that TOUCANTOCO or any of its subcontractors could cause to the Licensee or any third-party in the course of the performance of the Agreement.

The Parties expressly agreed to exclude TOUCANTOCO's liability for indirect or unforeseeable damages and in case of loss or corruption of data, loss of profits, loss of revenue, loss of image, loss of goodwill or weakening of any elements of the assets of the Licensee and or of the End users

TOUCANTOCO shall not be liable for:

(i) any damage resulting from incorrectness of the data or programs, the destruction of files or programs, provision of the hardware, software, service or technology;

(ii) damages resulting (a) from the Licensee, (b) from one of the Licensee's contractors or service providers, (c) from a third party such as the Client, (d) from the Third-Party Software or (e) from a case of *force majeure*;

(iii) loss or damage incurred by the Licensee as a result of third party claims (except as provided in section 12.1); or

(iv) non-compliance with the provided user instructions or misuse of the Software by the Licensee.

TOUCANTOCO shall bear no obligation and no liability towards the End Users. The Licensee shall be the only one responsible and hold TOUCANTOCO harmless from any claim, action or reclamation made directly against TOUCANTOCO by any End Users related to Software integrated in the Combined Product.

TOUCANTOCO assumes no responsibility for delays or problems that result from the Licensee's computing or networking environment, the Licensee's third party vendors and/or the Licensee's Internet service provider.

In no event shall the global aggregate liability of TOUCANTOCO under this Agreement exceed an amount equal to the sums paid to TOUCANTOCO under this Agreement during the period of twelve (12) months prior to the event giving rise to the liability claim.

12 - Warranty

12.1 Infringement warranty of TOUCANTOCO

TOUCANTOCO represents and warrants that it has sufficient right, title and interest in and to the Software to enter into and perform this Agreement.

For the term of this Agreement, TOUCANTOCO shall defend, indemnify and hold Licensee harmless from any claim, action or other proceeding ("Claim") brought against Licensee alleging infringement by Software and/or the Documentation

of any issued patent or registered copyright of a third party in the country in which the Licensee is located, providing that Licensee (i) promptly notify TOUCANTOCO in writing of such Claim, (ii) allow TOUCANTOCO at TOUCANTOCO's expense to direct the defense, and (iii) give TOUCANTOCO full information and reasonable assistance required to defend such Claim. TOUCANTOCO shall have no liability for any Claim caused by acts or omissions by Licensee or for settlements or costs incurred without the knowledge and consent of TOUCANTOCO. This warranty shall not apply to any Claim caused by (a) modifications to the Software by a party other than TOUCANTOCO, (b) the combination of the Combined Product with other third party hardware, third party software, products or modifications thereof when the Claim would not have occurred but for said combination or modifications, or (c) a failure to use the most recent version of the Software if the Claim would have been avoided by the use of such most recent version.

In the event the Software in a Claim is held to constitute an infringement by a court decision that has become final or if TOUCANTOCO, on a good faith basis, believes the Software may infringe any third party intellectual property, TOUCANTOCO may, at its sole option, and at no charge to Licensee, (a) obtain a license or right to continue the use of the Software, or (b) modify the Software so it no longer infringes, or substitute an equivalent of the Software; or (c) if options (a) or (b) cannot be accomplished despite TOUCANTOCO's reasonable efforts, then TOUCANTOCO may terminate Licensee's rights and TOUCANTOCO's obligations hereunder with respect to such Software.

12.2 Infringement warranty of the Licensee

Licensee shall defend, indemnify and hold TOUCANTOCO harmless from any Claim brought against TOUCANTOCO alleging that the portions of the Combined Product other than the Software infringe any issued worldwide patent or registered worldwide copyright, provided that TOUCANTOCO (i) promptly notify Licensee in writing of any Claim, (ii) allow Licensee at Licensee's expense to direct the defense and (iii) give Licensee full information and reasonable assistance required to defend such Claim. Licensee shall have no liability for any Claim caused by acts or omissions by TOUCANTOCO or for settlements or costs incurred without the knowledge and consent of Licensee.

Licensee shall defend, indemnify and hold TOUCANTOCO harmless from and against any and all liability, including damages awarded, costs and expenses of investigation and defense, settlement amounts, investigation costs and other expenses, incurred by or assessed against TOUCANTOCO which arise from or are related to any and all Claims, other than Claims based upon an alleged infringement by the Software of any issued worldwide patent or registered copyright, by any Distributor, End User, other customer or other party that are based upon, or relate to, any representation or misrepresentation by Licensee regarding the Software.

12.3 Warranty exclusion

Any warranty other than set forth under Section 12.1 is expressly excluded by TOUCANTOCO. Specifically, TOUCANTOCO does not warrant the absence of any bugs, and as a consequence does not warrant that the use of the Software will be uninterrupted and error free. TOUCANTOCO

does not warrant that the Software will meet the End Users' expectations.

The Licensee acknowledges having a good understanding of the Internet and of its limitations. The Licensee agrees notably, but without limitation, that the transmissions on the Internet are not secured and can be delayed, lost, intercepted or corrupted, and that the transmission of confidential information on the Internet is made by the Licensee at its own risks.

13 - Disclaimer

The Software is not designed or licensed for use in hazardous environments such as operation of nuclear facilities, aircraft navigation or control. Licensee agrees not to license the Combined Product for any such use under any circumstances. Licensee agrees that TOUCANTOCO shall have no liability arising out of or in any way related to, and Licensee agrees to indemnify TOUCANTOCO and hold TOUCANTOCO harmless against, any liability arising out of or in any way related to the use of the Software in any such hazardous environments by licensee or any End-User.

Section 14 – Termination

14.1 Termination for breach

The Duration of the Agreement is specified in OEM Agreement and shall be non-cancelable except as expressly set forth in this Section 14.

Each Party may terminate the Agreement, immediately and *ipso jure*, in case of breach by the other Party of one of its obligations (in particular Sections 4, 6, 7, 8, 10, 12, 15, 16, 17, 8 and 18) under the Agreement (i) within twenty (20) days as of the notification of such breach by the Party to the breaching Party by registered letter if such breach has not been cured; (ii) immediately if the considered breach is incapable of remedy (for the purposes of this section, a breach by the Licensee of an obligation under Section 3 – “License”, , Section 9 – “Non competition” or Section 15 – “Confidentiality” of this Agreement shall be deemed to be incapable of remedy).

The Agreement shall immediately terminate if:

- (a) either Party or any other relevant third party files bankruptcy, insolvency, reorganisation, adjustment of debt or other forms of relief for debtors based on any proceeding under any applicable laws of any relevant jurisdiction, without prejudice to legal requirements;
- (b) any Party is the subject of any dissolution, or liquidation proceeding, without prejudice to legal requirements; and
- (c) the business license, registration or any other requirements for doing business of any Party is suspended or cancelled by the governmental authority.

14.2 Effects of termination

The termination of the Agreement, regardless of its reason, shall not impact the rights and obligations of the Parties accruing before the actual termination.

Upon termination or expiration of the Agreement for any reason, the license shall :

- (a) promptly cease the distribution of Combined Product;
- (b) promptly cease the use of the Software and TOUCANTOCO Marks as specified in Section 3.2.4
- (c) return or destroy all copies of Software, including all ports, supporting Documentation. Licensee may, however, retain one (1) copy of the Software, Documentation to be used solely for providing support to existing End-Users;
- (d) remove Software from Combined Product not returned or destroyed;
- (e) certify in writing to TOUCANTOCO, by a duly authorized officer of Licensee, that it has performed these acts. Licensee's obligations under Sections 4.4 and 18.1 shall remain in force until Licensee has performed these acts.

In addition to the other terms and conditions that the Agreement expressly states will survive termination or expiration of the Agreement, all valid Licensee Sublicenses to End Users that are in effect on the date of termination shall survive the termination or expiration of the Agreement.

Section 15 – Confidentiality

Each Party undertakes:

- not to use Confidential Information of the other Party for a purpose other than the performance of its obligations under the Agreement;
- not to disclose Confidential Information of the other Party to any person except with the prior written consent of the other Party or as authorized by this Section 15;
- to take all appropriate measures to protect the confidentiality of the Confidential Information.

The receiving Party may disclose Confidential Information to any of its directors, other officers, employees and authorized contractors, solely to the extent that such disclosure is strictly necessary for the performance of this Agreement, as well as to its professional counsels and to any potential investors, provided they are bound by an obligation of confidentiality at least as strict as that contained herein and they have been informed of the confidential nature of such information. The receiving Party will ensure that each recipient of Confidential Information is made aware of and complies with the receiving Party's obligations of confidentiality under this Agreement as if the recipient was a party to this Agreement and shall indemnify the other Party for all loss and damages incurred as a result of the recipient's breach of confidentiality.

Furthermore, the receiving Party may disclose Confidential Information pursuant to a final and enforceable judicial order of a competent court, a lawful requirement of a competent administration, or by operation of law, but then only to the extent legally required. In such a case, the receiving Party shall use its best efforts to timely advise the other Party prior to disclosure, so as to allow the other Party a reasonable opportunity to seek a protective order or equivalent, and shall

exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be granted to the Confidential Information.

The foregoing obligations of confidentiality shall not apply, however, to Confidential Information which:

- was already known to the receiving Party prior to the date it was received;
- is or later becomes publicly known or available without breach of the Agreement by the receiving Party;
- is lawfully obtained by the receiving Party from a third party not under obligation of confidentiality, directly or indirectly, to the other Party with respect to such Confidential Information;
- is developed independently, as evidenced by appropriate documentation, by employees, agents, subcontractors of the receiving Party or those of receiving Party's affiliates who have not had access to the Confidential Information.

Obligations of confidentiality under this Section 15 shall continue and survive, notwithstanding expiration or termination of the Agreement for any reason whatsoever, for as long as the other Party has an interest in keeping its Confidential Information as confidential and in any event for at least five (5) years after expiration or termination of this Agreement.

Section 16 – Personal Data

Each Party undertakes to process personal data in accordance with the applicable laws and regulations, and in particular, in accordance with Law No. 78-17 of 6 January 1978 as amended and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (hereinafter the “**Regulation**”). In this context, each Party acts as data controller and warrants that they respect all the obligations resulting from the Regulation (in particular concerning the obligation of information, to obtain the consent of the data subject);

Each Party warrants that the data collected and processed within the framework of the Agreement, including identity data, such as title, surname, first name, email address, telephone number of the representatives and / or agents of the Parties (the “**Data**”) are in compliance with the Regulations.

The collection and processing of Data by the Parties is for the purposes of the performance of the Agreement. The legal bases of the processing are the legitimate interest of the Parties and the execution of the Agreement. Data collection is mandatory: failing to provide such data, the Agreement may no longer be enforceable by the Parties.

The Data collected by the Parties may be communicated (a) in order to allow the proper management of the contractual relations, to all the services of the group to which the Parties belong and of third companies in connection with the execution of the contractual relations (in particular the third-party hosts) and (b) in order to meet, where appropriate, legal and regulatory obligations or at the request of an administration or a judicial authority.

Section 17 – Independence

In performing the activities contemplated by the Agreement, the Licensee at all times shall be acting solely as an independent contractor and not as a partner, agent, employee or subcontractor of TOUCANTOCO.

Nothing in the Agreement shall constitute or be deemed to constitute an association, a cooperation agreement or de facto or de jure company between the Parties. Similarly, the Parties shall not be considered, at any time and in any manner and for any reason, as an agent (in particular a commercial agent) or employee of the other Party. Furthermore, neither Party shall have the authority and the power to bind the other Party, to enter into agreement in the name and/or on behalf of that other Party or to create any liability to the other Party, in any way and for any reason whatsoever.

Section 18 – Miscellaneous

18.1 Transfer – Assignment

This Agreement is executed and performed *intuitu personae* in consideration of the skills and expertise of the Licensee. As a consequence, the Licensee may not assign or transfer, for any reason and in any form whatsoever (in particular in case of merger, acquisition, split, total or partial sale of assets and/or transfer of business), all or part of the Agreement to a third party without TOUCANTOCO prior written agreement.

The Licensee undertakes to inform TOUCANTOCO immediately of any event that could result in (i) any change in the control of the Licensee company (particularly by merger or absorption) or (ii) the change in the distribution of the share capital of the Licensee.

TOUCANTOCO reserves the right to terminate the Agreement by registered letter with acknowledgment of receipt, without compensation, in the event of a change in the distribution of the shareholder's share capital through the entry of a partner (s) whose activity is concurrent with TOUCANTOCO's activity.

Subject to the foregoing, TOUCANTOCO may assign the Agreement to any other company controlled by her, controlling her, or placed under a common control with her (the notion of control being understood within the meaning of article L 233-3 of the French Commercial Code) and by merger, acquisition, split, total or partial sale of assets and/or transfer of business. This clause is the Licensee's agreement within the meaning of Article 1216 of the French Civil Code. The assignment of all or part of its obligations under the Agreement by TOUCANTOCO will release it for the future with respect to these obligations, this clause being the express consent of the Licensee in this regard within the meaning of Article 1216-1 of the French Civil Code.

18.2 Insurance

The Licensee and TOUCANTOCO declare that they are covered by a professional indemnity insurance policy. The parties shall provide a copy upon written if requested.

18.3 Publicity

18.3.1 Without prior written consent of the other Party, except as specified herein, neither Licensee, nor TOUCANTOCO shall (a) make any news release, public announcement, public denial or confirmation of this Agreement or its subject matter, or (b) advertise or publish any facts or terms relating to this Agreement. Such consent shall not be unreasonably withheld or delayed.

18.3.2 If specified in OEM Agreement, Licensee and TOUCANTOCO agree to make a joint press release to announce this Agreement as soon as feasible after the execution of this Agreement. Both parties shall cooperate with and support the other party in its press release materials, and provide reasonable efforts in support of an event, if any, sponsored by the other party to highlight the COMBINED PRODUCT.

18.3.3 If specified in OEM Agreement, the Licensee agrees to prominently feature Software in press announcements and Websites regarding COMBINED PRODUCT and include Software's brand identity and logo in all announcement materials, promotional materials, Websites and programs associated with the COMBINED PRODUCT, to the extent said materials, Websites and programs materially portray or discuss Software.

18.3.4 TOUCANTOCO shall provide to Licensee relevant available Software marketing information and technical specifications. During the term of this Agreement, at its own expense, Licensee may include such information in any Licensee literature for the COMBINED PRODUCT, subject to the copyright and trademark attribution. Licensee may, at its option and expense, prepare its own promotional literature relating to Software and the COMBINED PRODUCT. TOUCANTOCO shall have the right to review and approve Licensee's use and representation of TOUCANTOCO's information in Licensee's literature prior to its publication by Licensee.

18.4 Cooperative marketing

If specified in OEM Agreement, the Licensee shall provide a hypertext link from Licensee's Web page for Combined Product to a TOUCANTOCO Website address identified by TOUCANTOCO. To the extent that TOUCANTOCO's Website for Software includes a Web page containing hypertext links or references to third party licensees of Software, said page shall also include a hypertext link or reference to Licensee.

The Licensee will actively participate in promoting the TOUCANTOCO products, this participation can take several forms, among which but not limited to, physical or online testimonies, communication with TOUCANTOCO prospects, participation to exhibition shows, etc.

18.5 White label

The Licensee has the possibility to use the Software, transform it into the Combined Product and sell it under his own brand name. All conditions of White label are specified in

Appendix A of the OEM Agreement and depend on the selected Plan.

18.6 Entire agreement

The Agreement states the entire agreement of the Parties with respect to the distribution of the Software and the provision of the Maintenance, and supersedes all prior negotiations and discussions.

No provision of this Agreement will be deemed to have been waived, supplemented or amended by one of the Parties without a prior written agreement signed by authorized representatives of both Parties in the form of an amendment, which specifically provides for the decision to supplement, modify or exclude the application of a clause.

18.7 Severability

Should any of the provisions of the Agreement be held or deemed to be invalid, void, inapplicable or unenforceable, it shall be replaced by a mutually acceptable provision which comes closest to the intention of the Parties underlying the invalid, void, inapplicable or unenforceable provision, and the other provisions will remain effective.

The fact that one of the Parties did not exercise any of its rights under the Agreement in a timely manner or did not exercise them at all shall not be considered as a waiver of the exercise of its rights, whether in relation to a past or future fact.

18.8 Notices

All notices under the Agreement shall be sent in writing at the address of the Parties stated on the first page of the Agreement. Any change of address must be promptly notified to the other Party. All notices and other communications under the Agreement shall be validly made by email, fax, registered letter with acknowledgment of receipt or hand delivery against receipt, except where a registered letter with acknowledgment of receipt is required under the Agreement. The date of notification shall be the date of presentation of the letter to the addressee or the hand delivery date.

18.9 Force Majeure

Except for the payment of fees, neither Party shall be liable for a breach of or failure to respect any of its obligations by reason of a force majeure event. Force majeure events are those usually accepted by the case law of the French courts and tribunals pursuant to Article 1218 paragraph 1 of the French Civil Code.

Should a force majeure event makes any one of the sections in the Agreement difficult to perform from an economic point of view for one of the Parties and incompatible with the spirit of the Agreement, the two Parties agree to act in good faith and to adapt the Agreement to the new conditions.

18.10 Hosting

TOUCANTOCO provides hosting for the Software on a dedicated and secure server located in France provided by a partner of TOUCANTOCO. The Licensee and End User's data are hosted by the partner up to a maximum volume of ten (10)

gigabit and are partitioned from other customer's data, hosted by the partner. Two (2) virtual centralized processing units (vCPUs) will be allocated. The allocated random access memory (RAM) will be of four (4) Go, eight (8) or twelve (12) Go, depending on the needs expressed by the Licensee and selected Plan specified in OEM Agreement and it's Appendix A.

At the express request of the Licensee, TOUCANTOCO may provide a hosting service exclusively dedicated to the Licensee at the financial conditions in force, on the date of the request.

TOUCANTOCO shall not be held liable for accidental destruction of the Licensee or End User data by the Licensee or a third party accessing the Combined Software by means of the Licensee' and/or End User's Identifiers. The Licensee acknowledges that the Agreement does not create any obligation on the part of TOUCANTOCO to store the End User data.

Section 19 – Applicable law – Jurisdiction

French law shall govern this Agreement.

Any dispute that arises between the Parties as to the validity, the interpretation and/or the performance of the Agreement will be the subject of an attempt to reach an amicable settlement between the Parties. If no amicable solution is reached within the thirty (30) days following such dispute arising, any litigation relating to the interpretation or performance of the Agreement will fall within the exclusive competence of the courts under the jurisdiction of the Appeal Court of Paris.

Section 20 – Maintenance provided to the End users

Maintenance is subdivided into several services that will be shared between the Licensee and TOUCANTOCO in accordance with the Agreement.

The services associated with the distribution of the Software such as installation, the first level of Maintenance, the training of the End user in the use and the specific adaptations of the Software will be provided to the End user by the Licensee. In respect of Update, TOUCANTOCO undertakes to provide corrective action as soon as possible in the event of an Incident affecting the Software and not resulting from any action or omission on the part of the Licensee and/or the End user.

Section 21 – Levels of Service

21.1. Availability

21.1.1 During the term of the Agreement, TOUCANTOCO undertakes to ensure the Software is available at a Monthly Availability Rate of 99.9%.

The "Monthly Availability Rate" is the percentage calculated, for a calendar month M, according to the following formula:

$$\frac{(\text{Total number of minutes of month } M - \text{duration in minutes of Interruption})}{\text{Total number of minutes per month } M}$$

An "Interruption" indicates for the domain associated with the Software, a server-side user error rate greater than five percent (5%).

The Availability Rate does not include Software unavailability resulting from the following cases:

- maintenance operations carried out by TOUCANTOCO;
- force majeure;
- events not attributable to TOUCANTOCO (such as problems with the Internet network, unavailability of the Licensee and/or End User's network or its Internet service provider, unreasonable and excessive use likely to affect the stability of the S software);
- interruptions related to changes made to the software by the Licensee or third parties without TOUCANTOCO authorization;
- inaccessibility due to non-compatible equipment and/or The Licensee's terminals.

21.1.2 Failure by TOUCANTOCO to comply with the Monthly Availability Rate entitles the Licensee to a liberating service credit corresponding to several days of subscription to the SaaS service offered which may be carried forward over the Agreement term (the "Credit Service") as follows:

Monthly Availability Rate	Credit Service (days)
between <99.9% and 98.0%, and	1
between <98.0% and >95.0%.	3
≤95,0%	10

At the Licensee request, TOUCANTOCO shall provide a statement of the month preceding the request to verify the Monthly Availability Rate.

The Credit Service constitutes the sole remedy to which the Licensee may be entitled for the unavailability of the software. The Licensee is required to apply for the Credit Service no later than one month after the non-compliance with the Monthly Availability Rate. After this period, the Licensee will no longer be able to exercise his right to obtain a Credit Service.

The total number of cumulative Credit Service granted to the Licensee by TOUCANTOCO in exchange for an Interruption during a given month may not exceed ten (10) days. The Credit Service may only be carried forward at the end of the Agreement and may not be offset in cash or against an asset.

21.2. Security

Access to the Software is secured by redundant firewalls. Data exchanges are subject to an SSL (Secure Sockets Layer) encryption procedure that ensures the authentication of persons, integrity and confidentiality of exchanged data.

TOUCANTOCO shall ensure that access to and use of the software is secure by using encrypted communication protocols in force, in accordance with customary practices.

21.3. Backup

The Licensee data are backed up weekly and daily. In case of accidental deletion, the recovery time for the Backed-up Data is up-to two (2) days.

21.4. Integrity

TOUCANTOCO guarantees to put in place control measures to provide reasonable assurance that the data processed with the Software and the results are not subject to omission, alteration, distortion or any other form of anomalies likely to harm their integrity.

Processing integrity extends to any component of the system that makes up the Software and to all phases of processing (data entry, transmission, processing, storage and output of data). These controls consist of checks on the consistency of processing, the detection and management of anomalies, as well as information to End Users in the event of non-compliance.

21.5. Monitoring

TOUCANTOCO carries out continuous access controls to the Software, 365 days a year, 24/7.

Section 22 – Maintenance conditions

22.1. Definition

Start of an Incident: refers to the time of receipt by Toucantoco of an Incident notification by the Licensee at help@toucantoco.com

Working Hours: means the days from Monday to Friday inclusive, from 10:00 am to 6:00 pm, excluding public holidays in France.

An Incident: means a malfunction, anomaly or error in the Software that prevents access to or use of Software.

Other Incidents: means any Incident that does not qualify as a Critical, Urgent, Important or Minor Incident.

A Critical Incident: means an Incident that (i) renders the Software inoperative for all Authorized Users, or (ii) violates the integrity of the data.

An Important Incident: means an Incident that impacts (i) one or more features of the Software intermittently or (ii) a limited number of Authorized Users. For example: common operations fail intermittently or an auxiliary operation systematically fails.

A Minor Incident: means Incidents concerning minor functionalities or operations of the Software such as routine technical operations, exports and/or imports of data, system configuration or navigation within the Software.

An Urgent Incident: means an Incident that affects one or more major functionalities of the Software or severely degrades the performance of the Software on a persistent basis for several End Users.

Compatible Browsers: means the versions of Internet browsers supported by TOUCANTOCO in accordance with the

Documentation in force. For your information, the Compatible Browsers on the Effective Date of the Agreement are: Internet Explorer (versions 11 and following versions), Firefox (versions 50 and following versions), Chrome (versions 35 and following versions), Safari (versions 9 and following versions).

22.2 Maintenance conditions

22.2.1 Scope of Services

During the duration of the Agreement, TOUCANTOCO ensures that the Software remains in operational condition and provides maintenance and support services for the Software for Compatible Browsers.

Software maintenance includes:

- providing updates, upgrades and/or additions to the Software;
- Correction of Incidents according to the conditions of article 23.2.2 below.

The Licensee is obliged to notify of any Incident by e-mail at help@toucantoco.com and to communicate any useful or requested information by TOUCANTOCO to enable the identification and, if necessary, the Incident consideration.

23.2.2. Response time in the event of an Incident

From the beginning of the Incident and subject to the condition that the Incident is reproducible in TOUCANTOCO's environment, TOUCANTOCO undertakes to make its best commercial efforts to consider and diagnose the Incident according to the following deadlines:

	Deadlines for intervention		Initial Incident Diagnostic Timeframe	
	Opening hours	Outside opening hours	Opening hours	Outside opening hours
Critical incident	4 hours	6 hours	6 hours	24 hours
Urgent incident	6 hours	N/A	24 hours	N/A
Important incident	10 hours		48 hours	
Minor incident	24 hours		7 days	

These levels of guarantees are subjected to the Licensee providing adequate information upon notification of an Incident. The initial diagnostic delay of the Incident is an initial technical analysis of the Incident to attempt to resolve it and is accompanied by a response from TOUCANTOCO by e-mail. The diagnosis does not include the definitive resolution of the Incident but may be accompanied, if

necessary, by the TOUCANTOCO's supply of a corrective or circumvention solution.

The qualification of the Critical, Urgent, Important, Minor or Other character of the Incident is the sovereign assessment of TOUCANTOCO.

In the event of an Urgent Incident, a technical representative of TOUCANTOCO will be made available to the Licensee within the deadlines.

TOUCANTOCO reserves the right not to correct any Other Incident and to integrate a correction later in an update or evolution of the Software.

22.2.3. Technical assistance

If the cause of the Incident is beyond the reasonable control of TOUCANTOCO, TOUCANTOCO undertakes to make technical suggestions that may temporarily or permanently resolve the Incident. However, in this case, TOUCANTOCO's commitments in terms of response time are not applicable.

Constitutes an incident outside the reasonable control of TOUCANTOCO, in particular the following cases without this list being exhaustive: (a) a failure of the Licensee hardware or software not provided by TOUCANTOCO, (b) a failure of the Licensee's connectivity, (c) an error in a the Licensee's user account, including unauthorized use of the Software by unauthorized persons accessing the Software via an Authorized User's authentication certificate, (d) an

unreasonable and excessive use of the Software, (e) a Corrupt data, (g) a non-compliant use by the Licensee of the Software after TOUCANTOCO has informed the Licensee by any means of the need to modify the use of the Software to remedy the Incident, (h) a case of force majeure as defined in the Agreement.

23.2.4 Exclusions

TOUCANTOCO's maintenance commitments do not apply in the following cases:

- the Licensee's failure to cooperate with TOUCANTOCO in resolving Incidents and to respond to TOUCANTOCO's questions and requests for information;
- Use of the Software in a manner that is inconsistent with the destination or Documentation;
- unauthorized modification of the Software by the Licensee or a third party;
- use of the Software with a non-compatible or obsolete browser;
- use of the Software with any software packages, software or operating system not compatible with the Software;
- failure of electronic communication networks;
- voluntary act of degradation, malice, sabotage on the part of the Licensee or a third party;
- force majeure as defined in the Agreement.