

## TÉRMINOS DE REFERENCIA

### SERVICIO DE ACCESO A PLATAFORMA CON DATOS SOBRE LA DEMANDA DE TICKETS AÉREOS INTERNACIONALES HACIA EL PERÚ 2025

#### 1. DEPENDENCIA QUE REQUIERE EL SERVICIO

La presente contratación es requerida por la Subdirección de Inteligencia y Prospectiva Turística.

#### 2. OBJETO DE LA CONTRATACIÓN

La presente contratación tiene como objeto asegurar el acceso a una plataforma que ofrezca datos estadísticos e indicadores sobre la demanda de servicios de transporte aéreo en el ámbito internacional.

#### 3. FINALIDAD PÚBLICA

La presente contratación tiene como finalidad pública obtener información pública sobre la demanda de asientos en los vuelos directos hacia el Perú, incluyendo datos de los vuelos programados con hasta 12 meses de anticipación. Además de permitir conocer la demanda aérea, esto facilitará el análisis del flujo de pasajeros desde países con vuelos no directos. Esta información es valiosa para la Subdirección de Turismo Receptivo tanto en el desarrollo de sus estrategias como en la formación de alianzas estratégicas. Asimismo, contribuye a identificar posibles nuevas rutas que podría recibir el Perú.

#### 4. VINCULACIÓN CON EL PLAN OPERATIVO INSTITUCIONAL

El servicio a contratar se encuentra contemplado en la siguiente actividad institucional:

APEX	0193.2025
Nombre	Acceso a plataforma del Sector aéreo comercial nacional e internacional
Categoría presupuestaria	POI
Tipo de Actividad	Análisis Big Data
Centro de Costo	Dpto. de Inteligencia de Mercados Turísticos
Fuente de Financiamiento	ROF

#### 5. ANTECEDENTES

Mediante Resolución de Presidencia Ejecutiva N° 000229-PROMPERÚ/PE de fecha 30 de diciembre del 2022, se oficializa el Plan Operativo Institucional 2023 de la Comisión de Promoción del Perú para la Exportación y el Turismo - PROMPERÚ, aprobado por el Consejo Directivo en la Sesión del 20 de diciembre del 2022. Asimismo, conforme a lo dispuesto en el artículo 63° del Texto Integrado del ROF de PROMPERÚ, aprobado por Resolución de Presidencia Ejecutiva N° 060-2019-PROMPERÚ/PE, la Subdirección de Inteligencia y Prospectiva Turística (SIT) es la unidad orgánica encargada de proponer, analizar, desarrollar estudios, investigaciones y prospecciones de mercado, que orienten la formulación de estrategias y acciones para la promoción del turismo a nivel nacional e internacional; y de proveer y difundir información estratégica-comercial de turismo a los actores involucrados en la promoción del turismo.

Por ello, la Subdirección de Inteligencia y Prospectiva Turística tiene dentro de sus funciones:

- Adquirir, consolidar, sistematizar y almacenar reportes estadísticos, estudios de mercado e investigaciones realizadas, administrando y promoviendo su uso y difusión a través del sistema de información comercial turística y otros medios de difusión.
- Gestionar la implementación, uso y mantenimiento del sistema de información comercial turística, y difundirlo a las partes interesadas del sector.
- Formular, proponer, organizar, difundir y supervisar el desarrollo de programas de capacitación y asistencia técnica en materia de inteligencia y mercadeo turístico, dirigidos a los prestadores de servicios turísticos nacionales, específicamente las pequeñas y medianas empresas, de tal manera que, contribuyan al desarrollo de la competitividad en la comercialización de los destinos turísticos.

En esa línea, la Subdirección debe proveer de información, a los especialistas de la Dirección de Turismo, de cómo está evolucionando la demanda y así poder desarrollar acciones orientadas a promover la conectividad aérea.

## 6. OBJETIVOS DE LA CONTRATACIÓN

El objetivo general es comprender la demanda de asientos disponibles hacia el Perú, con el fin de analizar la recuperación del sector aerocomercial.

## 7. ALCANCE Y DESCRIPCIÓN DE LOS SERVICIOS A CONTRATAR

- Identificar y examinar las rutas según el punto de venta, así como por origen y destino.
- Comparar las tarifas en distintas rutas.
- Supervisar el tráfico de pasajeros hacia países competidores.
- Prever el tráfico en nuevas rutas y evaluar sus impactos económicos.
- Estudiar el flujo y la demanda de rutas directas no operadas, incluyendo aquellas con una o más escalas.

### 7.1 ACTIVIDADES

- **Proporcionar (01) una cuenta de acceso a una plataforma por 12 meses.**  
Dicha plataforma deberá:
  - Contará como fuente MIDT (Marketing Information Data Tapes), basadas en datos de reservas de GDS (Global Distribution System).
  - Reservas por vuelos (Origen - destino) directos y con hasta dos conexiones.
  - Se podrá ver dónde se realizan las conexiones y qué aerolíneas son las que conecta destinos no directos.
  - La data deberá abarcar vuelos internacionales **hacia y desde todos los países del mundo**, pudiendo filtrar por región, país, ciudad o aeropuerto.
  - Información con 6 años históricos.
  - Los datos deberán reportarse con periodicidad diaria, semanal mensual, trimestral, semestral y anual.

- Todos los reportes podrán descargarse en .csv .pdf .xls y xls.

## 7.2 RECURSOS A SER PROVISTOS POR LA ENTIDAD

En un máximo de cinco (05) días calendario, contados a partir del día siguiente de notificada la orden de servicio, la Subdirección de Inteligencia y Prospectiva Turística brindará al proveedor, vía correo electrónico, el usuario (y correo) que deberá tener acceso a la plataforma.

## 7.3 VIGENCIA DE PLATAFORMA

La vigencia de acceso a la plataforma será de 12 meses contados a partir del día siguiente de la entrega y confirmación de acceso a la plataforma por parte de proveedor, previa notificación de la orden de servicio.

## 8. REQUISITOS DEL PROVEEDOR

El proveedor deberá contar con experiencia mínima de 1 servicio en el procesamiento de datos de consolidadoras de vuelos (oferta o demanda aérea) o en la extracción y análisis de datos del rubro de la aviación en el sector público o privado.

**Acreditación:** La experiencia se acreditará mediante la presentación copias de contratos u órdenes de servicio, constancias de prestación de servicios o comprobante de pago o cualquier otro documento que acredite de manera fehaciente la experiencia.

## 9. LUGAR Y PLAZO DE PRESTACIÓN DEL SERVICIO

Respecto al lugar de la prestación del servicio, cabe destacar que será donde el proveedor tiene ubicados sus servidores; pudiendo ser en el territorio nacional o en el exterior.

El plazo de ejecución del servicio será hasta 15 calendarios, contados a partir del día del día siguiente de la notificación de la orden de servicio.

El plazo de vigencia de la plataforma será por 12 meses, de acuerdo al numeral 7.3.

## 10. PRODUCTO

El proveedor deberá de hacer entrega de los siguientes productos, a través de la Ventanilla Virtual de PROMPERÚ (<https://ventanillavirtual.promperu.gob.pe/>) dirigido a la Subdirección de Inteligencia y Prospectiva Turística:

N°	Detalle	Plazo límite de entrega
1.	Acceso a un (01) usuario a la plataforma en el que se podrá tener acceso al análisis de la información detallada en el numeral 7.1.  Asimismo, deberá detallar la fecha de inicio y término del periodo de acceso a la plataforma.	Hasta 15 calendarios, contados a partir del día del día siguiente de la notificación de la orden de servicio

<p>Forma de entrega:</p> <p>En formato PDF, el proveedor presentará el correo electrónico remitido a la cuenta designada, con la cual se notificó la habilitación de acceso a la plataforma; además, se deberá adjuntar la orden de servicio.</p>	
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## 11. OTRAS OBLIGACIONES DEL CONTRATISTA

El contratista es el responsable directo y absoluto de las actividades que realizará, sea directamente o a través de su personal, debiendo responder por el servicio brindado.

## 12. COORDINACIÓN Y SUPERVISIÓN DEL SERVICIO

El servicio será coordinado y supervisado por la Subdirección de Inteligencia y Prospectiva Turística.

## 13. FORMA DE PAGO

Es importante detallar que la retribución que corresponde por el servicio a ejecutarse se encuentre dentro del ámbito de aplicación del Impuesto a la Renta, según normativa del Perú.

En cuanto a la forma de pago, se realizará un (01) único pago (100%), en moneda nacional o extranjera y por transferencia bancaria a la cuenta que indique el proveedor; dicho pago se efectuará después de la entrega del producto (según numeral 10) y una vez otorgada la conformidad.

Asimismo, el proveedor enviará su comprobante de pago electrónico a la dirección de correo electrónico [comprobantepago@promperu.gob.pe](mailto:comprobantepago@promperu.gob.pe) con copia a [fpanana@promperu.gob.pe](mailto:fpanana@promperu.gob.pe), indicando en el asunto el número de la Orden de Servicio, conteniendo los siguientes datos:

- Nombre: PROMPERÚ
- RUC: 20307167442
- Dirección: Calle Uno Oeste N° 50, Edificio MINCETUR, Piso 14, Urb. Corpac, San Isidro, Lima
- N° de orden de servicio:

Además, el proveedor deberá adjuntar, en formato PDF, los siguiente:

- Orden de Servicio
- Correo de confirmación del registro del producto, emitido por la Ventanilla Virtual.

## 14. CONFORMIDAD DEL SERVICIO:

Los productos entregados deberán contar con la conformidad de la Subdirección de Inteligencia y Prospectiva Turística de PROMPERÚ, dentro de los 07 (siete) días calendario de su entrega.

## 15. ACUERDO DE CONFIDENCIALIDAD

Información confidencial (en adelante LA INFORMACIÓN) es toda información de tipo turístico, económico, laboral, financiero, técnico, comercial, estratégico, accesos y permisos a sistemas de información, entre otra, de propiedad de PROMPERÚ, y cuya divulgación o uso no autorizado podría ocasionar riesgos o pérdidas a la organización.

El proveedor deberá mantener estricta reserva y absoluta confidencialidad sobre LA INFORMACIÓN de PROMPERÚ a la cual tendrá acceso en el marco de ejecución del servicio contratado, debiendo abstenerse de divulgarla a terceros, de forma total o parcial, ya sea de forma directa o indirecta, bajo ningún medio o procedimiento (oral, escrito, electrónico, imágenes y video), salvo autorización anticipada, expresa y por escrito de PROMPERÚ. Esta obligación seguirá vigente incluso luego de la culminación del vínculo contractual.

Toda información y materiales de propiedad de PROMPERÚ, a los que tenga acceso el proveedor, así como su personal, es estrictamente confidencial. Al suscribir el contrato el proveedor y su personal, se comprometen de manera tácita, a mantener las reservas del caso y están impedidos de transmitir dicha información, a ninguna persona (natural o jurídica) o cualquier medio de comunicación sin la autorización expresa y por escrito de PROMPERÚ.

## 16. PENALIDADES

En caso el contratista no cumpla con la ejecución de las prestaciones objeto del contrato dentro del plazo establecido, la Entidad aplicará una penalidad por mora por cada día de atraso. La penalidad se aplicará automáticamente y se calculará de acuerdo a la siguiente fórmula:

$$\text{Penalidad diaria} = \frac{0.10 \times \text{monto}}{F \times \text{plazo en días}}$$

Donde F tiene los siguientes valores:

- Para los plazos menores o iguales a sesenta (60) días, para bienes, servicios en general y consultorías:  $F=0.40$ .
- Para plazos mayores a sesenta (60), para bienes, servicios en general y consultorías:  $F=0.25$ .

El monto máximo de la penalidad aplicable no puede exceder el monto máximo del diez por ciento (10%) del monto total contratado. La Entidad tiene el derecho a exigir, además de la penalidad, el cumplimiento de la obligación.

## 17. PROTECCIÓN DE DATOS PERSONALES

En el supuesto que, para la ejecución del presente servicio, el contratista accediera a datos personales almacenados o recopilados por PROMPERÚ, se obliga a guardar absoluta confidencialidad conforme a lo dispuesto en la Ley N° 29733 - Ley de Protección de Datos Personales. En cualquier caso, será PROMPERÚ, el que decidirá sobre la finalidad, contenido y uso de estos.

El proveedor, en su calidad de encargado de tratamiento, queda obligado al cumplimiento de lo establecido en la Ley N° 29733 – Ley de Protección de Datos Personales y su Reglamento, y en particular, se compromete específicamente a:

1. Custodiar los datos personales a los que tendrá acceso, adoptando las medidas de índole jurídica, técnica y organizativa necesarias, en especial las establecidas en el Reglamento de la Ley N° 29733 y demás disposiciones de desarrollo, para garantizar la seguridad de los datos personales y evitar su alteración, pérdida, tratamiento indebido o acceso no autorizado.
2. Utilizar los datos personales accedidos exclusivamente para la ejecución del servicio pactado.
3. Garantizar que los datos personales a los que acceda sean tratados únicamente por personal cuya intervención sea necesaria para la prestación del servicio. Es responsabilidad del proveedor comunicar a sus colaboradores las medidas de seguridad que deben aplicar y el deber de secreto que han de mantener, incluso una vez concluido el servicio.
4. Admitir revisiones y auditorías que, de forma razonable, pretenda realizar PROMPERÚ, respecto al cumplimiento de la normativa vigente en protección de datos personales, en el marco del presente servicio.
5. Una vez concluido el servicio, el proveedor deberá devolver a PROMPERÚ los soportes y documentos que contengan datos personales, de ser el caso. Asimismo, deberá eliminar definitivamente cualquier copia generada.

En el supuesto que, el proveedor incumpla con lo establecido a la suscripción del contrato o con las obligaciones derivadas de la legislación aplicable en materia de protección de datos, el proveedor asumirá la total responsabilidad frente a las acciones civiles y/o penales que se puedan generar.

## **18. MODIFICACIONES DE CONTRATO**

Cualquier modificación pactada del contrato no implicará incrementos en el monto del contrato y deberá guardar vinculación con el objeto y la finalidad del contrato.

## **19. SUSPENSIÓN DEL CONTRATO**

Cuando se produzcan eventos no atribuibles a las partes que originen la paralización de la ejecución del contrato, estas pueden acordar por escrito, la suspensión del plazo de ejecución contractual, hasta la culminación de dicho evento, sin que ello suponga el reconocimiento de mayores gastos generales y costos directos, salvo aquellos que resulten necesarios para viabilizar la suspensión.

La suspensión tendrá la formalidad establecida en la contratación originaria. Una vez finalizado el hecho que motivó la suspensión, la Entidad deberá comunicar al contratista para que pueda reiniciar la ejecución del contrato, debiendo el área usuaria evaluar realizar las gestiones para modificar el respectivo contrato en lo que corresponda.

## **20. RESOLUCIÓN DE CONTRATO**

El área usuaria puede solicitar por escrito a la Oficina de Administración a través de un informe técnico, la resolución del contrato por las siguientes causales:

- a) Incumplimiento injustificado de obligaciones contractuales, legales reglamentarias a su cargo, pese a haber sido notificado para ello;
- b) Acumulación del monto máximo de la penalidad por mora o el monto máximo para otras penalidades, en la ejecución de la prestación a su cargo; o
- c) Paralización o reducción injustificada de la ejecución de la prestación, pese a haber sido notificado para corregir tal situación;
- d) Por acuerdo entre las partes.
- e) Cualquiera de las partes puede resolver el Contrato por caso fortuito, fuerza mayor o por hecho sobreveniente al perfeccionamiento del Contrato que no sea imputable a las partes y que imposibilite de manera definitiva la continuación de la ejecución del Contrato.

## **21. SOLUCIÓN DE CONTROVERSIAS EN CONTRATACIONES CON PROVEEDORES NO DOMICILIADOS**

Las controversias que surjan entre las partes sobre la ejecución, interpretación, resolución, ineficacia, modificaciones al contrato, conformidad por la prestación del bien o servicio, aspectos vinculados al pago, intereses por mora en el pago, u otros supuestos que surjan de la ejecución del Contrato, la OC u OS, se resolverán mediante acuerdo entre las partes o conciliación.

Toda controversia que no pueda ser resuelta por acuerdo entre las partes o conciliación, se resolverá mediante arbitraje de derecho, según el reglamento y las normas del Estado Peruano, salvo excepción. Dicho arbitraje será realizado en la ciudad de Lima (Perú) y en idioma español por un Tribunal Arbitral conformado por tres árbitros, nombrando cada una de las partes a un árbitro y éstos a su vez designarán al tercer árbitro, quien ejercerá la presidencia del Tribunal Arbitral. Las partes acatarán el laudo arbitral emitido como fallo definitivo de cualquier desacuerdo o controversia.

## **22. ANTICORRUPCIÓN**

EL CONTRATISTA declara y garantiza no haber, directa o indirectamente, o tratándose de una persona jurídica a través de sus socios, integrantes de los órganos de administración, apoderados, representantes legales, funcionarios, asesores o personas vinculadas a las que se refiere la Ley General de Contrataciones Públicas, ofrecido, negociado o efectuado, cualquier pago o, en general, cualquier beneficio o incentivo ilegal en relación al contrato.

Asimismo, el CONTRATISTA se obliga a conducirse en todo momento, durante la ejecución del contrato, con honestidad, probidad, veracidad e integridad y de no cometer actos ilegales o de corrupción, directa o indirectamente o a través de sus socios, accionistas, participacionistas, integrantes de los órganos de administración, apoderados, representantes legales, funcionarios, asesores y personas vinculadas a las que se refiere la Ley General de Contrataciones Públicas.

Además, EL CONTRATISTA se compromete a i) comunicar a las autoridades competentes, de manera directa y oportuna, cualquier acto o conducta ilícita o corrupta

de la que tuviera conocimiento; y ii) adoptar medidas técnicas, organizativas y/o de personal apropiadas para evitar los referidos actos o prácticas.

Finalmente, EL CONTRATISTA se compromete a no colocar a los funcionarios públicos con los que deba interactuar, en situaciones reñidas con la ética. En tal sentido, reconoce y acepta la prohibición de ofrecerles a éstos cualquier tipo de obsequio, donación, beneficio y/o gratificación, ya sea de bienes o servicios, cualquiera sea la finalidad con la que se lo haga.

### **23. OTRAS DISPOSICIONES**

El proveedor se sujetará a las disposiciones contenidas en la Directiva que regula las Contrataciones con proveedores no domiciliados en el País en PROMPERU, y de manera supletoria a la Ley General de Contrataciones Públicas, su Reglamento y demás normas complementarias.





## OAG License Agreement

Effective from the date of the last signature below (the **"Effective Date"**), **OAG Aviation Worldwide LLC ("OAG")**, a Delaware limited liability company with its principal office at 550 West Van Buren Street, Suite 1520, Chicago, Illinois 60607 USA, and **PromPeru**, with its offices at Calle Uno Oeste N° 50, Piso 14, Urb. Corpac, Edificio MINCETUR, San Isidro-Lima, 27, Peru (**"Customer"**), agree as follows:

### SPECIAL TERMS

TERM SUMMARY	
Term (commencing from JUNE-1-2025)	1 Year, fixed for that period
Contract Amount (excluding usage based fees)	\$26,420.00
Currency	USD
Invoicing Frequency	Upfront
Payment Term	14 days from date of invoice

### SPECIAL INSTRUCTIONS

RUC# 20307167442 (Tax Number)

Analyzer User will be:  
Fiorella Panana Injoque  
fpanana@promperu.gob.pe

Please include the following information in the invoice.

1. Business Name: PROMPERU
2. RUC # 20307167442
3. Address: Calle Uno Oeste N° 50, Piso 14, Urb. Corpac, Edificio MINCETUR, San Isidro-Lima 27 Perú
4. Order #: : OS23100556

### PRODUCT FAMILY: ANALYSER

DATA PRODUCT	DETAILS	PERMITTED USAGE	PRICE
Ana-Traffic Analyser	Version: Traffic Analyser For Region: WW1 Number of Users: 1 Historical Years: 6	1	\$26,420.00
		Total	\$26.420.00

## PERMITTED USAGE

### Full Details:

#### **Usage 1:**

For the Customer's personal use or internal business purposes only.

Any use of the Data outside of the Permitted Usage may be subject to an additional charge.

This OAG License Agreement shall be comprised of the terms and conditions set forth herein, together with the attached General Terms and Conditions and any other attachment annexed hereto, which are incorporated by this reference (collectively, the "**Agreement**").

AS WITNESSED by the duly authorized representatives of the parties:

**PromPeru**

**OAG Aviation Worldwide LLC**

Signature:

Signature: *Jodie Novotny*

Print Name:

Print Name: Jodie Novotny

Title:

Title: Vice President of Sales, Americas

Date:

Date:

## OAG Aviation Worldwide LLC GENERAL TERMS AND CONDITIONS

(version: 01 April 2025)

**For the definition of any defined term used and not defined below see the front pages of this Agreement.**

### 1. Data Products/Services

- 1.1. OAG grants Customer a non-exclusive, non-transferable, limited and revocable, worldwide license to use the Data Products and Services (as listed in the Special Terms) solely for the Permitted Usage until termination or expiry of this right under this Agreement (the "License"). Customer shall ensure that the Data Products (including extractions and/or compilations thereof) and Services may only be accessed and used by authorized users on a Customer owned or controlled system, in accordance with the Permitted Usage, and as otherwise expressly permitted under the Permitted Usage.
- 1.2. This License is granted for the Term (as set forth in the Special Terms). After this Term, the License and Agreement will automatically renew for the successive terms indicated in the Special Terms, unless either party gives written Non-Renewal Notice as per terms indicated in Special Terms.
- 1.3. OAG shall provide to Customer a license to use the Data Products and Services listed in the Special Terms in accordance with the terms and conditions of this Agreement. From time to time, OAG may add, delete, or alter data, design, navigation, or other content related to the Data Product or Service or may change the form in which or the means by which the Service or Data Product is accessed by the Customer (in particular to make changes in the maintenance hours and user identification procedures). OAG may modify any Data Product or Service on reasonable prior written notice to Customer, provided such modified Data Product or Service will provide no material deviation to the features and functionality provided to Customer, unless such modification is imposed on OAG by industry rules or standards or applicable laws or regulations, international or domestic.

### 2. Payment

- 2.1 All charges are payable in the currency shown in the Special Terms of this Agreement, clear of all setoffs and deductions, within the Payment Terms specified in the Special Terms. All charges payable hereunder are exclusive of any applicable shipping charges and/or taxes, duties and similar governmental assessments. Customer shall pay any shipping charges and/or taxes, duties and assessments resulting from this Agreement, including any value-added, sales, use or other similar taxes (excluding taxes based on OAG's net income) and related interest and penalties. If any deduction or withholding is required by law, the Customer shall pay the required amount to the relevant governmental authority, provide Service Provider with an official receipt or certified copy or other documentation acceptable to Service Provider evidencing the payment, and pay to Service Provider in addition such amount as is necessary to ensure the net amount actually received by Service Provider equals the full amount Service Provider would have received had no such deduction or withholding been required. Where Customer opts to make payment using a credit card, payments above the value of \$25,000.00 or its equivalent in other currencies, OAG reserves the right to charge a 5% transaction fee.
- 2.2 Undisputed invoices not paid in full within specified Payment Terms are past due. Without prejudice to any other right or remedy, OAG may charge a late payment

fee equal to the lesser of one and one-half percent (1½%) per month or the maximum permitted by applicable law on any unpaid amount for each calendar month or fraction thereof that payment is overdue. If the Customer's account is fourteen (14) days or more overdue, OAG reserves the right to suspend provision of the Data Products and Service, without obligation or liability to the Customer by reason of such suspension, until such overdue amount (including interest thereon) is fully paid.

- 2.3. In the event Customer requires a purchase order for its own internal purposes, and/or a purchase order number to be stated on the OAG invoice, and Customer fails to issue a purchase order/number within 14 days of execution of this Agreement or date of any renewal term, OAG shall have the right to raise an invoice for the use of the Data Products and/or Services indicated in the Agreement and Customer has the obligation to pay such invoice in accordance with the payment terms of this Agreement, regardless if a purchase order is subsequently issued or not, as the case may be. For the avoidance of doubt, notwithstanding anything in a purchase order or other document submitted by Customer to the contrary, the parties hereby agree that the terms and conditions of this Agreement shall take precedence.
- 2.4 If Customer is a consumer, Customer has the right to cancel the Data Products and/or Services ordered hereunder within 14 days of receipt of such Data Products or, in the case of Services, within 14 days of entering into this Agreement, provided the Data Product remains sealed or has not been installed, accessed or downloaded and the Services have not been completed by OAG. In order to exercise such cancellation right, Customer must notify OAG in writing, and in the case of Data Products, return the Data Products to OAG within 14 days of such cancellation in the same condition as received from OAG.
- 2.5. Fees set forth in the Special Terms are automatically adjusted upwards as it is indicated in the Special Terms. Should OAG raise fees by more percent than is indicated in the Special Terms, OAG shall notify the Customer at least ninety (90) days prior to the fee adjustment date. In that case, the Customer has the right to renegotiate the entire Agreement. If Customer (after having received notice of an increase in fees with more percentage than indicated in the Subscription Form) wants to exercise this right, Customer must inform OAG in writing no later than thirty (30) days after Customer has received such information from OAG.

### 3. Ownership

- 3.1 The data or information contained within the Data Products and Services ("Data") is licensed, not sold. As between the parties, OAG owns all right, title and interest in and to the Data, Data Products and Services. Customer acknowledges that certain aspects of the Data Products and Services, including but not limited to the databases, programs, protocols and displays (as well as the selection, arrangement and sequencing of the contents thereof), are proprietary and unique to OAG, as to which copyright, patent or other proprietary rights may be held by OAG or third parties from whom OAG has licensed or otherwise acquired such rights. Customer agrees to comply with all copyright, trade mark, trade secret, patent and other

laws necessary to protect OAG's (or its licensors') rights in such proprietary information, and agrees not to remove or conceal any copyright or similar notices from the Data Products, Services or other material supplied by OAG and to only display any Data delivered as graphics in its entirety. Customer shall not block or obstruct OAG's logo contained in any Data delivered as graphics. Any report or document Customer creates that contains any Data, excluding Pricing Data supplied via Product Family: INFARE, shall include an appropriate attribution reflecting that the relevant Data was furnished by OAG.

- 3.2. Customer will, at the OAG's request, do all such further reasonable acts, deeds and things and execute all such further documents, deeds, and instruments, both during the Term of this Agreement and thereafter, necessary for the protection and enforcement of the OAG's intellectual property rights.
- 3.3. OAG shall be entitled to use any data (including, but not limited to, usage and operations data in connection with the Customer's use of the Data Products and Service, including query logs and metadata (for example, object definitions and properties) derived from the provision of the Data Products and Services in aggregated, aliased, or anonymous form, for analysis, machine learning and the improvement of OAG products and services. If Customer gives OAG feedback regarding improvement or operation of Data Products and Services, OAG may use the feedback without restrictions or obligation of any kind. Feedback and their content with related intellectual property rights with automatically become the property of OAG.
4. **Restrictions on Use; Compliance with Laws; Confidentiality**
  - 4.1 Except as expressly allowed in writing by OAG, the Services and Data Products (including extractions and/or compilations thereof) may not be copied or reproduced (except for internal back-up purposes), used, amended, modified, reverse engineered (unless applicable law prohibits such restriction), distributed, sold, sublicensed, displayed, transmitted or broadcast in any form without the prior written permission of OAG.
  - 4.2 Except as necessary to achieve the Permitted Usage, Customer shall not permit any user of the Data Products or a Service to download, extract, copy or otherwise reproduce all or any substantial part of the Data and place such Data into a secondary database, including, without limitation, caching of the Data.
  - 4.3 Customer warrants that Customer will not: (i) interfere with another user's use and enjoyment of any Data Product or Service; (ii) interfere with or disrupt: (a) the security measures of any Data Product or Service; or (b) the networks connected to any Data Product or Service; or (iii) perform any potentially disruptive actions such as stress testing or scripting/automation of user interfaces without OAG's prior written approval.
  - 4.4 Customer shall promptly notify OAG if Customer becomes aware of any breach of the Permitted Usage or any other unauthorized use or copying of any Data Product or Service.
  - 4.5 Each party shall ensure that the supply and use of the Data Products and Services will comply with all local, state, national and international laws, and regulations to the extent applicable to each party.
  - 4.6 The fact that the parties entered into this Agreement, the terms and conditions of this Agreement, all access codes and user IDs and passwords issued to Customer by OAG hereunder, and all information as to the business methods or operations of either party acquired or learned by the other party, shall be treated as confidential and only disclosed to a party's

employees, permitted service providers and agents on a need-to-know basis, unless disclosure is otherwise required by law or court order. The Customer is solely responsible and liable for using user credentials by authorized users and will promptly withdraw user credentials from terminated employees or other persons who are no longer authorized to access the Service and/or Data Products. As between the parties the Data is the confidential information of OAG.

- 4.7 In the event Customer provides data or a data feed to OAG that Customer wants to have integrated into a Data Product or Service, Customer hereby grants OAG a non-exclusive, royalty-free, perpetual, irrevocable, worldwide license to use such data or data feed in such Data Product or Service, as well as in other OAG products and services, in general.

## 5. Artificial Intelligence Usage Restrictions

- 5.1 Artificial Intelligence ("AI") definitions. For purposes of this Agreement: (a) "**AI Processing**" means any use of OAG Data with artificial intelligence technologies, including large language models, machine learning systems, or generative AI tools; (b) "**Training**" means using OAG Data to develop, train, fine-tune, or improve any AI model's parameters or capabilities; and (c) "**Inference**" means generating outputs using an AI tool without modifying or improving the underlying model.
- 5.2 Restricted Activities. Customer shall not: (a) Use OAG Data for Training any of AI foundational models; (b) Upload OAG Data to public or consumer AI platforms (including but not limited to free versions of ChatGPT, Bard, or similar services); (c) Process bulk OAG Data through any AI system without OAG's prior written approval; or (d) Allow any third party to perform any of the above activities with OAG Data.
- 5.3 Permitted AI Usage. Customer may use OAG Data for Inference purposes only, subject to the following conditions: (a) Customer uses only Enterprise AI Systems with contractual data protection guarantees; (b) Customer implements technical controls preventing data retention by the AI system; (c) Customer maintains comprehensive logs of all AI Processing activities; and (d) Customer promptly reports any unauthorized AI Processing to OAG within 48 hours of discovery.
- 5.4 Enterprise AI Systems must include, at minimum: (i) encryption of OAG Data in transit and at rest; (ii) contractual commitments from the AI provider not to use customer data for Training; (iii) data minimization capabilities; and (iv) configurable data retention controls.

Remediation. If Customer discovers any violation of this clause, Customer shall immediately: (i) cease the non-compliant AI Processing; (ii) notify OAG; (iii) take all reasonable steps to remove OAG Data from any unauthorized AI system; and (iv) provide OAG with a written remediation plan within five (5) business days.

## 6. Termination

- 6.1 Either party may terminate this Agreement by notifying the other party in writing of its desire to terminate within the Non-Renewal Notice Period stated on the Special Terms (excluding fixed-term, and ad-hoc or one-time delivery agreements).
- 6.2 Either party may suspend performance of, or terminate, this Agreement if the other party breaches any material term hereof and such breach is not remedied within 30 days after written notice to the breaching party. In the event Customer terminates this Agreement due to a breach by OAG, OAG shall refund to Customer any



portion of the charges prepaid as of such termination date with respect to the cancelled term of this Agreement.

- 6.3** Either party may, at its option and without prior notice, terminate this Agreement, effective immediately, should the other party (or the Customer entity that OAG has been billing) become the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors in any jurisdiction.
- 6.4** In the event a data provider (or a data source) requires OAG to suspend provision of its data to Customer or one of Customer's customers, OAG (or Customer if it is one of its customers) will be required to do so with immediate effect until a resolution is reached. OAG will use commercially reasonable efforts to assist Customer to obtain such data provider's data. Additionally, OAG may (i) cease provision of Data Products or Services hereunder if required to comply with applicable laws or regulations, international or domestic; or (ii) terminate this Agreement upon 30 days prior written notice in the event a third-party data or service provider discontinues provision of or materially alters its respective data or services, which discontinuance or alteration adversely impacts OAG's provision of Data Products or Services hereunder. In such instances, OAG shall refund to Customer any portion of the charges prepaid as of such cessation date with respect to the cancelled term of this Agreement.
- 6.5** Upon the termination or expiry of this Agreement (excluding ad-hoc or one-time delivery agreements), Customer will cease to have any rights to use the Data Products or receive the Services and will destroy all copies of the Data and any derivatives thereof in its possession or control and purge all electronic versions of the same. If requested by OAG, Customer shall promptly certify in writing, signed by an authorized representative of Customer, that it has so removed and destroyed the Data.
- 6.6** Termination or expiry of this Agreement will not affect any accrued rights or liabilities of either party.
- 7. Limitation of Liability and Indemnification**
- 7.1** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, OAG MAKES NO REPRESENTATIONS, CONDITIONS, GUARANTEES OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, REGARDING SATISFACTORY QUALITY OR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE DATA PRODUCTS OR SERVICES WILL BE AVAILABLE FOR USE, UNINTERRUPTED, ERROR FREE OR THAT ANY ERRORS WILL BE CORRECTED. THE DATA IS PROVIDED "AS IS" AND "AS AVAILABLE". CUSTOMER HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY WARRANTY, CONDITION, GUARANTEE OR REPRESENTATION MADE BY OAG, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT. CUSTOMER ASSUMES ALL RISK FOR ANY RESULTS IT OBTAINS BY OR AS A RESULT OF USING THE DATA PRODUCTS OR SERVICES.
- 7.2** SUBJECT TO CLAUSE 7.6, AND EXCEPT FOR OAG'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL OAG HAVE ANY LIABILITY FOR ANY LOST PROFITS OR REVENUES, OR INDIRECT, INCIDENTAL,

PUNITIVE, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES OR LOSSES SUFFERED BY CUSTOMER OR ANY THIRD PARTY, INCLUDING ANY LOSS OF OPPORTUNITY, ANTICIPATED SAVINGS OR GOODWILL, EVEN IF OAG HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME.

- 7.3** Customer shall indemnify, defend and hold OAG harmless from and against any and all liability, damage, loss or expense (including reasonable attorney's fees and expenses of litigation) incurred by or imposed upon OAG in connection with any third-party claim, suit, action, demand or judgment ("Claim") to the extent arising out of or related to a claim for (i) breach of the terms of this Agreement, including, but not limited to, any use of the Data Products or Services by any person or entity permitted access thereto under the Permitted Usage that is outside of the Permitted Usage, (ii) negligence or willful misconduct in the use of the Data Products or Services, (iii) infringement of any third-party proprietary rights by a Customer product or website in which the Data Products or Services are incorporated, or (iv) breach of applicable laws or regulations.
- 7.4** Except as expressly stated elsewhere in the Agreement, OAG shall indemnify, defend and hold Customer harmless from and against any and all liability, damage, loss or expense (including reasonable attorney's fees and expenses of litigation) incurred by or imposed upon Customer in connection with any Claim to the extent arising out of or related to a claim for (i) OAG's breach of applicable laws or regulations or (ii) infringement of any third-party intellectual property rights by Customer's use of the Data Products or Services pursuant to the terms of this Agreement. OAG shall not have any responsibility or liability for any Claim if (a) the use or activity alleged to be infringing is not a Permitted Usage, (b) such Claim results from (1) any modification or development of the Data Products or Services by Customer or a third party without OAG's prior written approval, or (2) Customer's combination or use of the Data Products or Services with software, services or products not provided by OAG under this Agreement, or (c) Customer does not notify OAG of the Claim within 30 days of becoming aware of it.
- 7.5** SUBJECT TO CLAUSE 7.6, IN NO EVENT WILL OAG'S MAXIMUM TOTAL AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AGGREGATE CHARGES CUSTOMER HAS PAID TO OAG FOR THE DATA PRODUCTS AND/OR SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO THE DAMAGE ALLEGED TO HAVE BEEN CAUSED.
- 7.6** NOTWITHSTANDING ANY OTHER CLAUSE IN THIS AGREEMENT, NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; (II) DAMAGES CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (III) FRAUD.

**8. Notices**

- 8.1** All notices required or permitted to be given under this Agreement shall be in English and in writing or such electronic means as are agreed between the parties and shall be sent by letter, email, or delivered by hand to the registered office address or such other address as the receiving party may from time to time designate. If delivered by private express delivery service, notice shall be deemed conclusively made upon delivery by such service. If delivered by mail, notice shall be deemed conclusively made 5 days after deposit thereof

in the mail. If delivered by email, notice shall be deemed to be received on the following business day. Notices to OAG shall be sent to: Legal Counsel via [support@oag.com](mailto:support@oag.com). Notices to the Customer will be sent to the primary contact email as provided by the Customer. A party shall be obliged to immediately notify the other party of any changes in its address (including email address), telephone numbers, and contact persons. Either party which fails to comply with the afore-mentioned requirement shall not be entitled to bring claims or replies against the other party that the obligations of the latter performed according to the most recent available details of the other party do not meet the requirements of this Agreement or that the notices sent according to such details have not been received.

## 9. Force Majeure

**9.1** Neither party shall be liable for any delay in performing or failure to perform any obligation under this Agreement (save for a payment obligation), to the extent that the delay or failure results from events or circumstances outside its reasonable control, including but not limited to, war, riot, civil commotion, strike, lockout or any other industrial action, act of God, storm, fire, earthquake, flood, disruption of communication systems, disruption of data feeds, electrical failure or action of government. If any such event occurs then the periods in which the parties are required to perform their obligations hereunder shall be extended by the period of the duration of any such event and the party prevented from performing its obligations hereunder shall as soon as practicable give notice to the other of the occurrence of such event and of its cessation. Notwithstanding the foregoing, in the event of a delay exceeding 3 months, either party may terminate this Agreement on written notice to the other party.

## 10. Assignment

**10.1** The terms and conditions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties and their permitted successors and assignees, and references in this Agreement to a party shall include its permitted successors and assignees.

**10.2** Neither party may assign or transfer this Agreement or any rights or obligations under it (and any such attempted assignment shall be deemed null and void), except (i) as approved in writing by the other party, which consent shall not be unreasonably withheld; (ii) to any company which is that party's subsidiary, holding company, or a subsidiary of any such holding company, so long as it remains a subsidiary or holding company as the case may be; or (iii) to any company to which all or the relevant part of its business is transferred, provided that the purchaser of the business agrees in writing to be bound by the obligations of that party under this Agreement; and provided further that the assignee under (ii) or (iii) above is not a competitor of the other party.

## 11. Governing Law

**11.1** This Agreement shall be governed by and construed in accordance with the laws of the state of Illinois, USA without regard to its principles of conflicts or choice of laws. Each party, as a condition of entering into this Agreement, hereby submits to the jurisdiction of and venue with the state and federal courts of the State of Illinois.

**11.2** The parties exclude the application of United Nations Convention on Contracts for International Sale of Goods (CISG) to this Agreement.

## 12. General

**12.1** This Agreement supersedes all prior agreements, arrangements and understandings between the parties, whether written or oral, in respect of its subject matter and constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement. This Agreement may only be modified, amended, or any of its terms waived, by a written document signed by authorized representatives of each party.

**12.2** Notwithstanding clause 2.3, any terms and conditions contained in a Customer purchase order or in any other document submitted by Customer which are additional to or inconsistent with the terms and conditions of this Agreement are null and void.

**12.3** Where this Agreement is translated into a language other than English that translation shall be for reference only. In the event of any conflict between the non-English and English language versions then the English language version of this Agreement shall take precedence.

**12.4** Nothing in these terms shall constitute or be deemed to constitute either party as agent or partner of the other for any purpose whatsoever.

**12.5** Except where Customer is using the Data in connection with Permitted Usage 5, notwithstanding anything on the contrary herein, during the term of this Agreement, either party may identify the other party as its customer or service provider, as the case may be, and use the other party's name and logo in connection with proposals (e.g. brochures and presentations) to prospective customers or otherwise refer to the other party in print or electronic (including video) form for marketing purposes (e.g. in webinars, white papers and newsletters). Each party has the right to revoke the consent, given as per this clause 12.5, with written notice to the other party.

**12.6** Nothing in this Agreement confers or purports to confer on any person who is not a party to this Agreement any beneficial rights, or any other right, to enforce any term or provision of this Agreement.

**12.7** If any one or more provisions of this Agreement is held to be unenforceable, such provision shall be reformed to permit its enforcement in a manner that most closely accomplishes the original objectives of the provision, and the other provisions of this Agreement will remain in full force and effect.

**12.8** A failure or delay of either party to enforce a provision of this Agreement or a previous waiver or forbearance by either party shall not be construed as a continuing waiver of any provision of this Agreement.

**12.9** If any litigation results in connection with this Agreement, the prevailing party shall be entitled to reasonable fees, costs and expenses, including, but not limited to, court costs, expert witness fees and attorneys' fees. The prevailing party shall be the party who receives substantially the relief sought, whether by judgment, summary judgment, dismissal or otherwise.

**12.10** Notwithstanding termination or expiry of this Agreement, the terms of clauses 2, 3.1, 4.6, 6.5, 6.6, 7, 8, 11, 12 and 13 shall survive termination or expiry and remain in full force and effect.

**12.11** This Agreement or any amendments thereof may be executed by means of an electronic signature or a comparable electronic procedure. The parties agree that the electronic signature shall not be denied concerning the legal effect and its admissibility as evidence in legal proceedings because of its electronic form or its missing for qualified electronic signatures.

**13. Personal Data**

- 13.1** Notwithstanding any other provision of this Agreement, in exercising its rights and performing its obligations under this Agreement the Parties shall, to the extent necessary, at all times comply with all applicable personal data protection laws and regulations established in their respective country and shall not do or omit to do anything which has the effect of placing the other party in breach of any such laws or regulations. Each party is responsible for the security of the received personal data and must ensure its protection by using the appropriate technical and organisational measures.
- 13.2** OAG collects, uses and processes personal data of Customer representatives (preferred salutation, title,

name, business contact information, credentials to access Products and Services, profile data, Products and Services usage data) for the purposes of performing, and processing the Agreement. In order to fulfil contractual obligations, it is necessary to forward some of Customer information to OAG's affiliates and partner companies that process this data on OAG behalf. This information is used in accordance with legal stipulations and only for the defined purposes. OAG's Privacy Policy can be found online <https://www.oag.com/privacy-notice>.