

Terms of Use

Introduction

These Terms of Use govern your access and use of Plotly software technology solutions (the **“Software Product”**), the Plotly website (the **“Website”**), and the content, information, and services performed or provided by or through the Software Product and the Website (collectively the **“Services”**) by Plotly Technologies Inc. (**“Plotly”**). The Services are made available by Plotly solely to the user (**“you”**) under these Terms of Use and in accordance with the Privacy Policy available by clicking [here](#) (together, the **“Agreement”**). By using the Services, you agree to be bound by the terms of this Agreement, and you may access and use the Services only on the condition that you agree to abide by the terms of the Agreement. If you do not agree to the terms of the Agreement, do not access or use the Services.

1. Use of the Services

Subject to your payment of the applicable fees and other terms and conditions of this Agreement, Plotly hereby grants to you a non-assignable, non-transferable, non-exclusive, royalty-free right, authorization, and license to install and/or access and use the Software Product for your internal business purposes only.

The license granted in Section 1 does not include any right for you to use, or authorize the use of, the Software Product (and you covenant that you will not use, or authorize the use of, the Software Product): (a) for the benefit of any other person; (b) to offer outsourcing, service bureau, time-sharing or other computer-based services (including billing services) to any third party; or (c) for any purpose, other than for your internal business purposes. Without limiting the generality of the foregoing, you shall not rent, lease, lend or otherwise share the benefit of the Software Product to or with any third party or authorize any third party to do so.

The license granted in Section 1 includes your right to make one (1) additional copy of the Software Product for your backup or emergency use only. Except as expressly provided in this Section 2, you shall not make, or have made, any copies of the Software Product.

You shall: (a) use the Services only in accordance with this Agreement and any instructions provided by Plotly from time to time; and (b) be responsible for procuring and maintaining all equipment (including hardware and software) and subscribing to all third-party services (including telecommunications services) which are required for the operation of the Software Product, as specified in any documentation provided by Plotly.

You agree to fully comply with all applicable export control laws. You shall not cause, directly or indirectly, the export, re-export, or transfer of any data, information, technology or software to destinations or persons without obtaining any required prior authorization, governmental licenses, certification or approval from Canada, the United States, the European Union or other applicable authorities. You furthermore acknowledge and agree that the Services shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which Canada, the United States, or the European Union maintain an embargo or to or by a national or resident thereof or any person or entity on restricted party list maintained by the Canadian or United States Government or the European Union.

Plotly reserves the right to, at any time and in its sole discretion, audit your use of the Services to ensure it is being used in accordance with the terms and conditions of this Agreement and to monitor the performance of the Services. You agree to cooperate with any such audit and provide reasonable assistance and access to relevant books, records, and other information necessary to confirm such compliance. To the extent Plotly determines following an audit that you have violated the terms and conditions of this Agreement, Plotly reserves the right to take such action as it deems necessary, including suspending the license to the Software Product granted under this Section 1, terminating this Agreement with immediate effect, or, in cases where more than the designated number of developers or copies or instances of the Software Product are being used by you in violation of this Section 1, requiring that you pay any fees which would have been payable for such additional use, plus interest.

You agree that Plotly may reference you (through the use of your name and brand logo) in Plotly's marketing and promotional materials as a user of the Services.

To enter into this Agreement, you must be authorized by a customer of Plotly in relation to the Plotly Services and have the capacity and competence to enter into this Agreement and to abide by and comply with its terms. If you enter into the Agreement, you represent and warrant to Plotly that you have the capacity to be bound by the Terms of Use and agree to the collection, use and disclosure of your personal information per the [Privacy Policy](#).

2. Your Data

Plotly acknowledges and agrees that all rights, titles, and interests whatsoever, unless expressly stated herein, in and to your data, including all intellectual property and other proprietary rights therein, is, and shall be, owned solely and exclusively by you. Any access by Plotly to your data is subject to and shall be accessed and processed in accordance with Plotly's [Privacy Policy](#) and Data Processing Addendum.

You control all user access and are responsible for ensuring that all use of the Services is in accordance with this Agreement. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all your data. You are solely responsible for selecting and implementing procedures, processes, and controls regarding the access, use and transmission of your data to Plotly and ensuring the backup and recovery of any data. You are solely responsible for obtaining all consents necessary or required under applicable laws and all relevant privacy policies to collect, use, and disclose your data. You agree to bear all liability for all aspects of your data.

3. Updates

Plotly agrees to provide you with standard support and maintenance services in connection with the Software Product (the “**Support Services**”). Such Support Services include updates that Plotly may, at any time and in its sole discretion, develop and provide to the Software Product. You acknowledge and agree that Plotly has no obligation to provide any updates and that all updates provided by Plotly shall become part of the Software Product and be subject to all terms and conditions of this Agreement.

Plotly may require the payment of additional fees to provide an update to you, in which case you shall be required to pay such fees to install, access and use the update. Plotly may, in its sole discretion, designate an update as mandatory, in which case you shall be required to install such update to use the Software Product and maintenance and support services hereunder. If you do not complete the update

installation, the Software Product may not function correctly or at all. Plotly will not be responsible for any problems caused by your failure to complete the timely installation of any update.

4. Links

Any links or references to third-party information are provided solely as a convenience to you. These links do not and should not be taken as implying an endorsement or approval of any content or reliability of those websites or references or the activities of the people, organizations, and/or businesses responsible. When you use a link to go from the Services to another website or service, your browsing and interaction are subject to that website's rules and policies, not those of Plotly. Plotly shall have no liability to you for any content you may find offensive, indecent, or objectionable.

5. Termination

This Agreement is effective until terminated. Your rights under this Agreement will terminate when you cease to receive the Services. To the fullest extent permitted by applicable law, Plotly may terminate this Agreement, with or without notice to you, if you fail to comply with any term(s) of this Agreement. Upon termination of this Agreement, (a) you must cease all use of the Services; (b) Plotly shall issue an invoice for any accrued fees payable under this Agreement and any applicable ordering documents, which shall be immediately due upon your receipt of such final invoice; (c) you shall be entitled to a refund of any fees that you have prepaid under this Agreement; (d) you shall, as directed by Plotly, either delete or return the Software Product to Plotly, including all documentation provided; and (e) you shall, as directed by Plotly, either destroy or return any Confidential Information of Plotly in possession of Customer.

6. Intellectual Property Rights

Access to the platform through which the Services are provided (the "**Platform**") is under license. You acknowledge and agree that: (a) the Software Product is licensed, and not sold, by Plotly to you; (b) Plotly retains all title and exclusive ownership to the Services and all Intellectual Property Rights therein; (c) Plotly may incorporate into its software functionality any suggestion, enhancement request, recommendation, correction or other feedback that may arise in connection with your use of the Services whether provided by Plotly or you and Plotly shall retain exclusive ownership and right to commercialize its software as modified by any of the foregoing; (d) the Services constitute the valuable proprietary information of Plotly and are protected by applicable copyright laws and international treaty provisions; and (e) you are not permitted to reverse engineer, decompile or disassemble the Services, or otherwise derive any source code therefor, or use the Services in any manner that violates Plotly's Intellectual Property Rights.

All rights in the Platform and the Services not expressly granted to you are reserved by Plotly and its licensors.

7. CONFIDENTIALITY

"**Confidential Information**" means any information, data and materials (regardless of form) disclosed, made available or otherwise provided by or on behalf of one party ("**Disclosing Party**") to the other party ("**Receiving Party**") hereunder that: (a) is marked as confidential or proprietary or in a similar fashion at the time of disclosure, or if disclosed orally, is stated to be confidential at the time of

disclosure, or (b) that the Receiving Party could reasonably conclude to be confidential to the Disclosing Party. Plotly's Confidential Information includes the Services. Your Confidential Information includes your data.

The Receiving Party shall hold and maintain in strict confidence all Confidential Information of the Disclosing Party and shall: (a) use at least the same degree of care to prevent unauthorized use and disclosure of the Confidential Information as it does with its own confidential information of a similar nature, provided that in all cases, the manner and method used to prevent unauthorized use and disclosure is commercially reasonable in the circumstances; (b) use such Confidential Information only in the performance of its obligations under this Agreement; and (c) not disclose or grant access to such Confidential Information to any third party without the express prior written consent of the other party. Notwithstanding the foregoing, either party may disclose the Confidential Information of the other party to its consultants, directors, officers and employees, but only to the extent to which such disclosure is necessary in furtherance of this Agreement, provided the Receiving Party shall procure from such persons commitments to treat and maintain the Confidential Information in strict confidence and secrecy and to not use the information for any purpose whatsoever except in the performance of their duties in furtherance of this Agreement.

Both parties shall provide prompt written notice to the other party of any unauthorized disclosure or unauthorized use of Confidential Information and shall assist the other party in remedying to prevent and/or stop the disclosure or use of such Confidential Information. In the event that either party becomes legally compelled to disclose any Confidential Information, the compelled party shall provide the other party with prompt prior written notice of such requirement so that such party may seek a protective order or other appropriate remedy.

For this Agreement, "Confidential Information" shall not include any information that, in each case as demonstrated by written documentation: (a) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party; (b) is already known by or in the possession of the Receiving Party, without any obligation of confidence, at the time of disclosure by the Disclosing Party; (c) is obtained by the Receiving Party from a third party that has not breached any obligations of confidentiality; or (d) has been independently developed by Receiving Party without reference to the information of the Disclosing Party.

8. Warranty

Each party represents and warrants to the other party that: (a) this Agreement has been duly executed and delivered by the party and constitutes a legal, valid and binding obligation of such party, enforceable against it in accordance with its terms; (b) it has the full right, power and proper authority to enter into this Agreement and to perform its obligations hereunder and the execution and performance of this Agreement do not violate the articles, charter or by-laws of such party or any contractual obligation of such party; and (c) it will perform its obligations under this Agreement in accordance with all applicable federal, provincial and local laws, rules and regulations of any governmental authority.

EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN SECTION 8, AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, THE SERVICES ARE PROVIDED BY PLOTLY "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTIES OF ANY KIND, AND PLOTLY HEREBY

DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICES, WHETHER EXPRESS, STATUTORY, LEGAL OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. PLOTLY DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SERVICES, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE SERVICES WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE SOFTWARE PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS IN THE SERVICES WILL BE CORRECTED. YOU ACKNOWLEDGE AND AGREE THAT THE USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. ACCORDINGLY, PLOTLY IS NOT LIABLE TO YOU FOR ANY LOSS OR DAMAGE THAT MIGHT ARISE, FOR EXAMPLE, FROM YOUR RELIANCE ON THE QUALITY OR ACCURACY OF THE SERVICES OR THE DIGITAL MODELS OR RENDERINGS GENERATED THROUGH USE OF THE SERVICES.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, YOUR SOLE AND EXCLUSIVE RIGHT AND REMEDY IN CASE OF DISSATISFACTION WITH THE SERVICES OR ANY OTHER GRIEVANCE SHALL BE YOUR TERMINATION AND DISCONTINUATION OF THE USE OF SERVICES.

9. Limitation of Liability

IN NO EVENT SHALL PLOTLY BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY NATURE OR KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST BUSINESS OR PROFITS, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR PLOTLY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, THE MAXIMUM AGGREGATE LIABILITY OF PLOTLY TO YOU OR ANY THIRD PARTY FOR ANY CLAIM UNDER THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL FEES PAID BY YOU TO PLOTLY IN THE PRECEDING TWELVE MONTHS UNDER THIS AGREEMENT.

10. Changes

To the fullest extent permitted by applicable law, Plotly may modify this Agreement from time to time. Plotly will give you written notice of modifications to the Agreement by any reasonable manner of notice which it elects, and your use of the Services after the effective date of the modifications as set out in such notice constitutes your agreement to such modifications.

11. General

The relationship of the parties established by this Agreement is that of independent contractors. This Agreement does not establish any employment or agency relationship between the parties. Except as may be expressly provided herein, neither party shall have any right, power, or authority, nor shall they represent themselves as having any authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other party, or otherwise act as an agent for the other party for any purpose.

You may not assign this Agreement without the prior written consent of Plotly, which shall not be unreasonably withheld.

Neither party shall be liable to the other for failure or delay in the performance of any of its obligations under this Agreement for the time and to the extent such failure or delay is caused by earthquake, riot, civil commotion, war, terrorist acts, strike, flood, transportation interruption or governmental acts or restriction, or other cause that is beyond the reasonable control of the respective party. The party affected by such force majeure shall provide the other party with complete information thereof as soon as it becomes aware of the same (including its best estimate of the likely extent and duration of the interference with its activities) and shall use commercially reasonable efforts to overcome the difficulties created thereby and to resume performance of its obligations as soon as practicable.

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Quebec, without reference to conflict of laws provisions and the laws of Canada applicable therein. The parties agree to irrevocably attorn to the jurisdiction of the courts of the Province of Quebec in connection with any matter relating to this Agreement.

In the event you are dissatisfied with Plotly's performance of the Services, or a dispute otherwise arises between the parties in connection with this Agreement, before resorting to judicial process, you will immediately notify Plotly thereof, and you and Plotly will attempt to resolve the matter. If the dispute cannot be resolved by the liaisons within ten (10) business days of you informing Plotly in writing of the issue in dispute, then you will promptly refer the dispute to your senior management, and Plotly will quickly refer the dispute to its senior management. If these persons cannot resolve the dispute within ten (10) business days after the conclusion of the preceding ten (10) day period, then your senior management will refer the dispute to your senior vice president, who has responsibility for the project and Plotly senior management will refer the dispute to Plotly's senior vice president who has responsibility for the project. If these persons cannot resolve the dispute within ten (10) business days, then either party will have the right to proceed to settle the suit by judicial process.

You acknowledge and agree that the covenants and conditions under this Agreement are reasonable and necessary for the protection of Plotly and its business and that Plotly may not have an adequate remedy at law should you breach this Agreement, and therefore, Plotly shall be entitled to injunctive relief in the event of any breach of this Agreement by you (in addition to any other remedies).

The failure of Plotly to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition. No waiver by Plotly of any condition or term in any one or more instances shall be construed as a continuing waiver of such condition or term or another condition or term.

If any provision of this Agreement is held to be invalid, illegal or unenforceable in any jurisdiction, the parties shall negotiate in good faith a valid, legal and enforceable substitute provision that most nearly reflects the original intent of the parties and all other provisions hereof will remain in full force and effect in such jurisdiction and will be construed in order to carry out the intentions of the parties as nearly as may be possible. Such invalidity, illegality or unenforceability shall not affect such provision's validity, legality or enforceability in any other jurisdiction.

Each party shall, from time to time, promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other party may reasonably require as being

necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

The headings of this Agreement are for convenience only and shall not affect the meaning of the terms of this Agreement. References to a Section refer to this Agreement's applicable section, subsection, or exhibit.

Wherever the words “include”, “includes”, or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, and the words following “include”, “includes”, or “including” shall not be considered to set forth an exhaustive list.

This Agreement sets forth all the covenants, promises, agreements, warranties, representations, conditions, and understandings between the parties regarding the subject matter hereof and supersedes and terminates all prior and contemporaneous agreements and understandings between the Parties.

Contacting Us

Your feedback or advice about the Services and our business helps us improve. You agree that you provide your advice or feedback for free and for us to use in any way. If you wish to keep any business information, ideas, concepts, or inventions private or proprietary, please do not submit them to us by email, as email is not a safe or secure method of transmitting confidential or private information.

If you have questions regarding this Agreement, please contact us at legal@plotly.com or Plotly Technologies Inc., 118-5555 avenue de Gaspé, Montréal, Québec H2T 2A3.