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CAHIER DES CLAUSES TECHNIQUES PARTICULIERES

ENTRE LES SOUSSIGNES

Agence bibliographique de l'enseignement supérieur (ABES), établissement public national à caractère administratif, n° de SIRET 180 044 224 00020, dont le siège est situé 227 avenue du Professeur Jean-Louis Viala, CS 84308, 34193 Montpellier Cedex 5, représenté par Monsieur David Aymonin, en qualité de directeur.

CI-DESSOUS DENOMMEE : «L'ABES»

D'UNE PART

ET

The Chancellor, Masters, and Scholars of the University of Cambridge sous le nom commercial Cambridge University Press, dont le siège social est situé à University Printing House, Shaftesbury Road, Cambridge, CB2 8BS, Royaume-Uni, représentée par Monsieur Chris Bennett en qualité de Global Sales Director.

CI-DESSOUS DENOMMEE : « l'Editeur »

D'AUTRE PART

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Article 1. Préambule

1. Créée par le décret 94-921 du 24 octobre 1994, l'ABES est un établissement public national à caractère administratif, placé sous la tutelle du Ministère chargé de l'enseignement supérieur et de la recherche. Son rôle est de recenser et localiser les fonds documentaires des bibliothèques de l'enseignement supérieur dans le but de faciliter l'accès aux catalogues bibliographiques, aux bases de données ainsi qu'aux documents.

2. Dans le cadre de ses missions, l'ABES est mandatée par le GIS CollEx-Persée dont elle est membre, pour conclure, au niveau national, pour le compte des bibliothèques et établissements d'enseignement supérieur, des licences sur des bases de données et/ou des données éditées par des éditeurs français ou étrangers. Une convention passé entre l'ABES et le GIS CollEx-Persée encadre la mise en œuvre de cette mission.

Le GIS CollEx-Persée est une infrastructure de recherche spécialisée en information scientifique et technique qui regroupe de grandes bibliothèques de recherche, une plate-forme nationale (Persée), la BnF et des opérateurs nationaux en IST (ABES, CTLES, Inist). Son objectif principal est de faciliter l'accès et de favoriser l'usage des gisements documentaires présents dans les bibliothèques et institutions patrimoniales par les communautés de chercheurs, qu'il s'agisse de documents imprimés, de corpus numérisés, de ressources électroniques, de fonds patrimoniaux, d'archives et plus généralement de matériaux de recherche intéressant toutes les disciplines scientifiques. L'achat de ressources électroniques sous licence, financées par le GIS CollEx-Persée, doit permettre de compléter l'offre documentaire de ressources de niveau recherche accessible aux communautés de chercheurs répartis sur le territoire national. L'accès à ces ressources est adossé au dispositif mis en place dans le cadre du projet ISTEEX.

3. La plateforme ISTEEX, développée dans le cadre du Programme des investissements d'avenir ISTEEX est une plateforme numérique aux meilleurs standards internationaux et accessible à partir de toutes les bibliothèques et établissements d'enseignement supérieur et recherche français.

Elle propose, outre l'accès aux données et métadonnées disponibles, des services à valeur ajoutée basés sur le traitement des données en texte intégral (par exemple et de manière non limitative, interrogation en texte intégral sur les objets numériques indexés dans leur totalité, production de synthèse documentaire par analyse de sous-corpus individualisés pour l'occasion et auxquels sont appliquées des méthodes de *text-mining*...). Elle est opérée par le Centre National de Recherche Scientifique (CNRS).

4. L'Editeur a développé et exploite une base de données (la Base de données) contenant un ou plusieurs ensembles de données sur différents thèmes (les Données) décrites dans le présent marché.

5. Dans le contexte exposé ci-dessus, l'ABES souhaite souscrire une licence nationale sur la Base de données et les Données de l'Editeur, et l'Editeur est intéressé de consentir une telle licence à l'ABES.

6. Cette licence est conclue dans le cadre du marché de prestations de services n°2019-10 relevant des Articles L2122-1 et R2122-3 du code de la commande publique.

7. Après une phase de négociation, les parties se sont rapprochées sur les bases suivantes.

Article 2. Définitions

8. Les termes ci-dessous définis auront dans le cadre du présent CCTP la signification suivante :

- « Base de données » : une base de données est légalement définie comme un recueil de données ou d'autres éléments indépendants disposés de manière systématique ou méthodique, et individuellement accessibles par des moyens électroniques ou par tout autre moyen. Ce terme désigne ici la Base de données de l'Editeur accessible via le site internet de l'éditeur ;
- « Bénéficiaires » : personnes morales pour le compte desquelles le contrat est souscrit à savoir l'ensemble des personnes ou organismes publics ou privés ayant une activité d'enseignement supérieur ou de recherche ainsi que la BnF et les bibliothèques publiques ; ces établissements ont accès à la plateforme ISTEEX en contrepartie d'une participation financière destinée à financer la maintenance de la plateforme.
- « Configuration d'accès » : ensemble des moyens matériels et logiciels permettant d'accéder aux Données via la plateforme de l'Editeur et détaillé à l'annexe « Modalités d'accès » ;
- « Documentation » : désigne les informations afférentes à la façon dont sont structurées les Données, en langue française ; le contenu minimal de la Documentation est précisé à l'annexe « Description de la Documentation » ; la Documentation est remise à l'ABES par l'Editeur, dans le cadre du présent contrat ;
- « Données » : informations, documents ou autres éléments, y compris les métadonnées, contenus dans la Base de données. Les Données sont plus amplement définies à l'annexe « Description des Données ». Les Données sont livrées par l'Editeur sur support physique. Les modalités d'accès aux données sont définies à l'article « Les Données ». Les droits concédés sur ces données sont énumérés à l'article « Droit de propriété » du présent CCTP ;
- « Droit d'accès » : droit de consulter, d'utiliser, d'extraire et de réutiliser, sous réserve de ce qui est prévu à l'article « Droit de propriété » du présent contrat

la Base de données et/ou les Données pour un usage pédagogique et de recherche, pour un autre usage conforme aux missions des Bénéficiaires, ainsi que pour un usage personnel à des fins privées ;

- « Métadonnées » : ensemble structuré d'informations techniques, de gestion et de description attaché à une donnée servant à décrire les caractéristiques des Données en vue de faciliter leur repérage, leur gestion, leur consultation, leur usage ou leur préservation ;
- « Plateforme ISTEEX » : plateforme informatique permettant l'accès à et le traitement de l'information opérée par le CNRS ;
- « Titre » : nom donné à un élément contenu dans la Base de données ;
- « Utilisateur autorisé » : s'entend de toute personne membre temporaire ou permanent d'un Bénéficiaire, y compris les membres affectés en vertu d'un programme d'échange, pour la durée de cet échange, et y compris les membres du public autorisés par un Bénéficiaire à accéder à la Base de données par le réseau d'un Bénéficiaire conformément au présent contrat ou à accéder aux Données de l'Editeur via la Plateforme ISTEEX.

Article 3. Objet

9. Le présent CCTP a pour objet de définir les conditions dans lesquelles l'Editeur concède aux Bénéficiaires et aux Utilisateurs autorisés un Droit d'accès à la Base de données et aux Données conformément aux articles « Modalités d'accès », « Données » et « Droit de propriété ».

Article 4. Documents contractuels

10. Les documents contractuels du marché, dont le présent CCTP fait partie, et leur hiérarchie sont définis à l'article « Documents contractuels » du Cahier des Clauses Administratives Particulières (CCAP) du marché n° 2019-10.

Article 5. Durée – Entrée en vigueur

5.1. Durée du marché

11. Le présent marché entre en vigueur à compter de la date de notification du présent contrat dont le présent CCTP fait partie intégrante.

12. Les droits aux données objets du marché, sont consentis pour toute la durée légale, actuelle ou future, des droits de propriété intellectuelle sur la Base de données et les Données, qu'il s'agisse du droit d'auteur ou du droit du producteur de base de données.

5.2. Durée du droit d'accès à la base de données

13. L'Editeur concède un Droit d'accès distant à sa Base de données étendue au contenu « Collection sciences politiques », composée des sous-collections « Comparative politics », « European government, politics and policy » et « International relations and international organisations », à titre gratuit, pour une durée de 6,5 mois ou jusqu'à notification de l'ordre de service arrêtant l'annexe « Description des données » si celle-ci intervient avant.

14. L'Editeur concède un Droit d'accès distant à sa Base de données correspondant à l'annexe « Description des données », à titre gratuit, pour une durée de cinq (5) ans.

Article 6. Base de données

6.1. Hébergement par l'Editeur

15. La Base de données est accessible via le site internet de l'Editeur dont l'adresse est indiquée à l'annexe « Modalités d'accès ».

6.2. Utilisateurs autorisés

16. Les Utilisateurs autorisés selon la définition prévue à l'article « Définitions » sont autorisés à accéder à la Base de données et à utiliser les Données conformément à l'article « Droits concédés ».

17. L'accès à la Base de données par les Utilisateurs autorisés se fait de manière simultanée et le nombre de connexion doit être illimité.

6.3. Identification des Bénéficiaires et des Utilisateurs autorisés

18. Dès signature du présent contrat, l'Editeur concède aux Utilisateurs autorisés un droit d'utilisation à distance de sa Base de données. Les Bénéficiaires ne partagent pas l'accès avec des tiers non éligibles à la qualification d'Utilisateur autorisé, que ce soit directement ou indirectement.

19. Les Bénéficiaires doivent limiter strictement l'accès distant aux Utilisateurs autorisés. Le contrôle des identités doit se faire sur la base des adresses IP des Bénéficiaires, ou via un mécanisme de propagation d'identité. L'ABES communique à l'Editeur la liste des adresses IP des Bénéficiaires. L'Editeur se réserve le droit de vérifier auprès de l'ABES, par tous les moyens légaux, la régularité des accès par rapport à ce qui est contractuellement prévu.

20. A la notification du marché, l'ABES transmet à l'Editeur les adresses IP des Bénéficiaires en sa possession. L'Editeur s'engage à ouvrir les accès à la Base de données aux Bénéficiaires dont les adresses IP lui auront été fournies par l'ABES dans un délai maximum de trois (3) semaines à compter de la fourniture. L'Editeur s'engage à communiquer à l'ABES l'ensemble des éléments permettant le paramétrage des solutions d'accès de type reverse proxy.

21. Par la suite, l'ABES fournit à l'Editeur les adresses IP collectées auprès des autres Bénéficiaires, par vague mensuelle. L'Editeur dispose à chaque transmission d'un délai de trois (3) semaines pour ouvrir les accès concernés. L'Editeur s'engage à informer l'ABES et les Bénéficiaires de tout changement technique intervenant sur sa plateforme, notamment concernant les changements de domaine et le paramétrage des solutions d'accès de type reverse proxy.

22. Il appartient aux Bénéficiaires d'informer les Utilisateurs autorisés des conditions d'accès et des usages autorisés de la Base de données de l'Editeur et du présent CCTP et de délivrer le cas échéant des identifiants et des mots de passe aux Utilisateurs autorisés.

23. Les Bénéficiaires s'engagent à informer l'Editeur s'ils pensent que la sécurité de leurs accès a été compromise.

6.4. Disponibilité de la Base de données

24. L'Editeur s'engage à rendre accessible 7 jours sur 7 et 24 heures sur 24 sa Base de données, à compter de la date d'entrée en vigueur du présent CCTP.

25. Le taux maximal d'indisponibilité de l'accès à la Base de données de l'Editeur s'élève à trois (3) journées maximales par an, soit 72 heures, hors intervention technique ou de maintenance planifiée. Ces délais s'entendent à l'exception des défaillances techniques extérieures au système de l'Editeur (réseau de télécommunication, etc.) et des cas de force majeure décrits à l'article « Force Majeure ».

26. L'Editeur, sous réserve d'en informer l'ABES 24 heures au préalable par email, se réserve le droit de fermer l'accès à la Base de données, afin de réaliser des interventions techniques ou de maintenance étant précisé que l'Editeur doit planifier ces interventions pendant les périodes de faible affluence.

27. L'Editeur s'engage à s'assurer qu'une adresse URL pérenne soit attribuée pour chaque Titre de la Base de données.

6.5. Configuration

28. La liste des matériels, équipements et fournitures nécessaires à une exploitation de la Base de données conforme aux règles de l'art est précisée en annexe « Modalités d'accès ».

Article 7. Données

7.1. Modalités d'accès

29. L'utilisation des Données est sujette à ce qui est prévu à l'article « Droit de propriété » du présent contrat. L'Editeur reconnaît qu'aucune mesure technique de protection (DRM) empêchant ou restreignant l'utilisation de la Base de données ou des Données n'est mise en œuvre.

30. Les Métadonnées sont livrées en XML et une DTD ou un schéma de données y sont associés. Les métadonnées doivent inclure l'intégralité des informations bibliographiques disponibles. Le format des métadonnées doit être structuré, et le niveau de granularité doit être au minima le niveau chapitre pour les ouvrages. La documentation du format est livrée en même temps que les métadonnées.

31. Les notices Marc décrivant les ouvrages sont livrées en complément des métadonnées en XML. Les notices doivent inclure l'intégralité des informations bibliographiques disponibles.

32. Les Données (texte intégral) doivent être livrées dans les formats utilisés par l'éditeur pour sa propre plate-forme. Elles sont fournies en XML et une DTD ou un schéma de données y sont associés. Les données doivent également être fournies en PDF, mode texte uniquement. Une DTD décrivant les métadonnées et le lien entre métadonnées et le full text est impérativement fournie. Concernant les données, le découpage des unités documentaires fournies doit être effectué au niveau de granularité le plus fin (chapitre d'ouvrage pour les ouvrages). Pour chaque unité documentaire, les métadonnées de l'objet doivent pouvoir être reliées automatiquement au texte intégral, grâce au nommage des fichiers.

33. L'Editeur reconnaît que les Données et Métadonnées livrées sont dans un format manipulable permettant l'exercice des Droits Concédés décrits à l'article 9.2 du présent CCTP. Les caractères doivent utiliser le codage UTF8.

34. Données et Métadonnées sont livrées sur un support physique. L'Editeur s'engage à fournir la Documentation afférente aux Données et Métadonnées.

7.2. Hébergement des données

35. Les Données sont hébergées sur la Plateforme ISTEEX et accessibles sur cette Plateforme via internet par les Utilisateurs autorisés.

36. L'hébergement des Données est assuré par le CNRS.

7.3. Normes et protocoles

37. Afin de faciliter l'échange de Données et notamment afin de faciliter la recherche des informations dans la Base de données l'Editeur s'engage à respecter les normes et protocoles référencés en annexe « Modalités d'accès ».

7.4. Conservation

38. Dans le cadre du présent marché, l'Editeur s'engage à participer à un programme de conservation des Données à l'échelon international de type Portico ou LOCKSS (Lots of Copies Keep Stuff Safe) et à charger des copies de sauvegarde dans ces archives permanentes.

39. Les Données doivent faire l'objet d'un archivage pérenne par l'Editeur en utilisant les meilleures techniques en vigueur.

40. L'ABES est autorisée à établir deux (2) copies de sécurité sous format analogique ou numérique et à les faire héberger par un Bénéficiaire, à savoir l'institution suivante : le CINES (Centre Informatique National de l'enseignement supérieur) ou tout autre Bénéficiaire amené à reprendre ses missions, sous réserve d'en informer préalablement l'Editeur, et conformément aux termes définis dans le présent contrat.

Article 8. Documentation

41. La Documentation associée aux Données est remise par l'Editeur à l'ABES dans le cadre du présent contrat.

42. L'Editeur tient également à la disposition de l'ABES une documentation électronique disponible sur son site web, dont l'adresse figure à l'annexe « Modalités d'accès ».

43. La Documentation mise à disposition par l'Editeur est rédigée en langue française ou anglaise.

Article 9. Droit de propriété

9.1. Droits de propriété sur la Base de données et les Données

44. L'Editeur garantit qu'il dispose de l'intégralité des droits nécessaires pour conclure le présent accord avec l'ABES. Tous les droits relevant de la propriété intellectuelle, incluant notamment et de manière non limitative droit d'auteur et droit sui generis du producteur de base de données, demeurent la propriété exclusive de l'Editeur. Aucun droit n'est concédé par l'Editeur à l'ABES à l'exception de ceux expressément cités dans cet accord.

9.2. Droits concédés

45. Dans le cadre du présent contrat, l'Editeur concède à l'ABES, aux Bénéficiaires et aux Utilisateurs autorisés, à titre non-exclusif et pour le monde entier, les droits de propriété intellectuelle nécessaires et suffisants pour qu'ils puissent utiliser la Base de données et les Données telles que définies dans l'article « Définitions » de ce contrat.

46. Les droits concédés le sont pour la version disponible de la Base de données et des Données à la date de signature des présentes, ainsi que le cas échéant pour les nouvelles versions et les mises à jour.

47. Les droits spécifiques concédés par l'Editeur à l'ABES, aux Bénéficiaires et aux Utilisateurs autorisés sont les suivants :

- utiliser la Base de données, effectuer des recherches, interroger et visualiser les Données, télécharger et imprimer, et utiliser les Données à des fins conformes aux missions des Bénéficiaires ;
- télécharger et imprimer les Données, à des fins de promotion et de test des Données, ainsi que dans le cadre de la formation des Utilisateurs autorisés à l'utilisation de la Base de données ;
- représenter publiquement les Données, dans le cadre de supports de cours ou autres activités pédagogiques comme, à titre d'exemple, des séminaires, des conférences, des ateliers ;
- reproduire les Données dans des travaux universitaires tels que les thèses et mémoires ;
- reproduire ou représenter publiquement, par exemple sur un site internet les travaux et documents intégrant les Données dans les conditions mentionnées ci-dessus ;
- fournir les Métadonnées à l'ensemble des Bénéficiaires afin qu'ils puissent les intégrer dans leur catalogue local ou leur outil de découverte. Les Métadonnées sont également fournies à l'ensemble des catalogues collectifs (à titre d'exemple le SUDOC et WorldCat) et à la base de connaissance nationale BACON. Les Métadonnées sont placées sous le régime de la licence ouverte/open licence Etalab ;
- modifier le format des Métadonnées et les enrichir par ajout de contenus ou de liens ;
- enrichir les Données par l'ajout de contenus et de liens.

48. Les droits spécifiques concédés dans le cadre de l'utilisation des données hébergées sur de la plateforme ISTEEX sont les suivants :

- concéder au CNRS le droit de charger les Données et les Métadonnées, communiquer les Données et les Métadonnées via un réseau sécurisé et plus spécifiquement via la Plateforme ISTEEX, rendre les Données et les Métadonnées disponibles, fournir l'accès et permettre l'utilisation des Données et des Métadonnées, en conformité avec les termes et conditions du présent contrat ;

- concéder au CNRS et aux Bénéficiaires, le droit d'exposer les Données par l'intermédiaire d'un outil de découverte ou d'autres fournisseurs de services pour les bibliothèques ;
- concéder aux Bénéficiaires et aux Utilisateurs autorisés le droit d'utiliser les Données hébergées sur la Plateforme ISTEEX pour se livrer à des opérations de fouilles de texte (*text-mining* et *data-mining*), conformément aux missions des Bénéficiaires ;
- concéder aux Bénéficiaires et aux Utilisateurs autorisés le droit d'enrichir les Données par liaisons et annotations, fournir un accès libre aux Données annotées pour l'ensemble des Utilisateurs autorisés ;
- concéder aux Bénéficiaires et aux Utilisateurs autorisés le droit de mettre à disposition des tiers dans un but scientifique et non commercial, dans le cadre d'une licence libre permissive de type *Creative Commons*, des extraits enrichis ou annotés, dans la limite de 5% d'un Titre, et de 15 % de la Base de données ;
- concéder aux Bénéficiaires et aux Utilisateurs autorisés le droit de diffuser dans le cadre d'une licence libre de type *Creative Commons*, les résultats de recherches issus de l'exploitation des Données d'ISTEX (lexiques, ontologies, réseaux de connectivité lexicaux, thématiques, d'auteurs ou d'institutions par exemple), à l'exclusion des textes eux-mêmes ;
- concéder aux Bénéficiaires et aux Utilisateurs autorisés le droit de diffuser les Métadonnées des documents support d'une recherche en vue de la présentation ou de la valorisation de recherches exploitant le corpus de Données d'ISTEX.

9.3. Restrictions d'usage

49. Ne sont pas autorisés :

- la rediffusion de la Base de données ;
- la rediffusion des Données en tant que telles, notamment sur les propres sites web des Bénéficiaires ou des Utilisateurs autorisés, indépendamment des travaux et documents intégrant ces Données réalisés conformément aux usages autorisés ;
- la revente des Données ;
- à noter que, conformément à la définition des bénéficiaires, ceux-ci contribuent financièrement à la maintenance de la plateforme ISTEEX. Cette participation, non substantielle ne peut être assimilée à de la revente des données ou à un usage commercial des données ;
- l'usage d'un robot ou d'un aspirateur de site web ;
- l'utilisation de tout ou partie des Données à des fins lucratives, sans l'autorisation écrite préalable de l'Editeur ;
- tout droit et toute forme d'utilisation ou d'exploitation qui n'est pas expressément accordé ci-dessus.

Article 10. Statistiques d'utilisation

50. L'éditeur fournit à l'ABES des données statistiques d'usage compatible avec la dernière recommandation COUNTER et ce conformément à l'annexe « Statistiques ».

Article 11. Garantie de jouissance paisible

51. L'Editeur garantit à l'ABES qu'il détient les droits lui permettant de concéder les droits tels que prévus à l'article « Droits concédés » du présent contrat.

52. L'Editeur garantit à l'ABES que la Base de données et les Données ne portent pas atteinte à un droit quelconque appartenant à des tiers. En particulier, l'Editeur garantit que la Base de données et les Données ne constituent pas en tout ou partie un acte de contrefaçon, de concurrence déloyale ou de parasitisme.

53. L'Editeur garantit l'ABES, les Bénéficiaires et les Utilisateurs autorisés contre toute action, réclamation, revendication ou opposition de la part de toute personne invoquant un droit de propriété intellectuelle ou un acte de concurrence déloyale et/ou parasitaire auquel l'exécution du contrat aurait porté atteinte.

54. L'Editeur s'engage à faire son affaire personnelle de toute réclamation et/ou procédure quelle qu'en soit la forme, l'objet ou la nature qui serait formée contre l'ABES, les Bénéficiaires et les Utilisateurs autorisés et qui se rattacherait directement ou indirectement à l'exploitation de la Base de données ou des Données. Si une telle réclamation et/ou procédure survenait, l'ABES le notifierait promptement et coopérerait raisonnablement avec l'Editeur.

55. L'Editeur doit prendre dans ce cadre à sa charge toute condamnation prononcée à l'encontre de l'ABES, les Bénéficiaires et les Utilisateurs autorisés ainsi que les frais et honoraires exposés par ceux-ci pour leurs défense, l'ABES s'engageant de son côté à collaborer loyalement à l'action en communiquant à l'Editeur les éléments utiles à la défense qui seraient en sa possession.

56. L'Editeur doit indemniser de même l'ABES, les Bénéficiaires et les Utilisateurs autorisés contre les conséquences des troubles de toute nature subis par ceux-ci dans sa jouissance paisible, notamment dans le cas où une exploitation serait interdite, restreinte, ou soumise à contrepartie financière.

Article 12. Prix et facturation

57. L'ABES en sa qualité de pouvoir adjudicateur règle le prix à l'Editeur pour le compte des Bénéficiaires.

58. Les modalités de facturation sont définies dans le cahier des clauses administratives particulières.

59. Les prix sont indiqués dans l'acte d'engagement. Ils sont définis hors taxes et majorés de la TVA en vigueur au jour de la facturation.

Article 13. Responsabilité

13.1. Responsabilité de l'Editeur

60. L'Editeur est soumis à une obligation de résultat en ce qui concerne la fourniture de la Base de données et des Données ainsi que leur disponibilité.

13.2. Responsabilité de l'ABES, des Bénéficiaires, des Utilisateurs autorisés

13.2.1. Dispositions générales

61. Chaque Utilisateur autorisé n'est responsable que de ses propres actes et il appartient en conséquence à l'Editeur en cas d'utilisation non conforme de poursuivre la personne responsable notamment en se fondant sur l'adresse IP d'accès à sa Base de données.

62. L'ABES ne peut être tenue pour responsable des utilisations faites de la Base de données et des Données par les Bénéficiaires et les Utilisateurs autorisés.

63. L'ABES tient les Bénéficiaires informés de leurs obligations au titre du présent marché souscrit pour leur compte par la mise à leur disposition de ce CCTP.

64. Si l'ABES a connaissance d'une utilisation non-autorisée ou autre violation des droits de l'Editeur, elle s'engage à en aviser l'Editeur, lequel est autorisé à suspendre sous sa responsabilité tout accès aux Données au Bénéficiaire ou à l'Utilisateur autorisé contrevenant.

Article 14. Réparation du préjudice

65. La responsabilité de l'Editeur peut être engagée, dans les conditions de droit commun, à raison des dommages directs subis par l'ABES, les Bénéficiaires et leurs Utilisateurs autorisés.

66. En aucun cas, l'Editeur ou ses sous-traitants, d'une part, et l'ABES, les Bénéficiaires et leurs Utilisateurs autorisés, d'autre part, ne peuvent être tenus responsables les uns envers les autres de toute perte de chiffre d'affaires ou de bénéfices ou de tout autre dommage indirect lié à l'utilisation de la Base de données et des Données.

Article 15. Assurance

67. L'Editeur s'engage à maintenir pendant la durée du présent contrat, à ses propres frais, une assurance garantissant sa responsabilité civile professionnelle souscrite auprès d'une compagnie d'assurance européenne notoirement solvable et à en justifier à toute demande de l'ABES.

68. Les conditions d'application de cette clause sont encadrées par l'article 9 du CCAG-FCS.

Article 16. Données à caractère personnel

16.1. Formalité préalable

69. Chacune des parties fait son affaire des formalités lui incombant au titre de la réglementation relative à la protection des données à caractère personnel, en particulier le Règlement (UE) 2016/79 du Parlement européen et du conseil du 27 avril 2016 abrogeant la Directive 95/46/CE, applicable à partir du 25 mai 2018 (ci-après le « RGPD »).

16.2. Garantie

70. Chacune des parties garantit l'autre partie du respect des obligations légales et réglementaires lui incombant au titre de la protection des données à caractère personnel.

16.3. Droit des personnes

71. En application du Règlement (UE) 2016/79 du Parlement européen et du conseil du 27 avril 2016 abrogeant la Directive 95/46/CE, les personnes physiques dont les noms sont utilisés par chacune des parties peuvent faire l'objet d'un droit de questionnement, d'accès, de modification et de rectification auprès de chaque partie concernée par la demande, à l'adresse de leur siège social respectif, à défaut de précisions particulières figurant sur les documents de collecte de données à caractère personnel.

Article 17. Résiliation

17.1. Cas de résiliation

72. Le contrat peut être résilié selon les dispositions des articles 29 à 36 du CCAG-FCS, qui s'appliquent intégralement.

17.2. Conséquence de la résiliation sur les Données

73. A compter de la date de cessation des relations contractuelles, l'ABES s'engage à informer les bénéficiaires de la rupture des relations contractuelles.

74. En cas de résiliation du contrat, pour quelque cause qu'elle survienne, les Utilisateurs autorisés ne seront plus autorisés à accéder à la Base de données de l'Editeur à compter de la date de fin du contrat.

75. En revanche, les droits concédés à l'article 9.2 « Droits concédés » sur les données intégrées à la plateforme ISTEEX et/ou réutilisées sous quelque forme que ce soit pendant la durée du contrat seront conservés par le CNRS et seront toujours accessibles aux Utilisateurs autorisés depuis la plateforme ISTEEX.

Article 18. Force majeure

76. Dans un premier temps, les cas de force majeure suspendront l'exécution du contrat.

77. Si les cas de force majeure ont une durée d'existence supérieure à deux mois, le présent contrat sera résilié automatiquement, sauf accord contraire des parties.

78. De façon expresse, sont considérés comme cas de force majeure ou cas fortuits, ceux habituellement retenus par la jurisprudence des cours et tribunaux français.

Article 19. Tolérance

79. Les parties conviennent réciproquement que le fait pour l'une des parties de tolérer une situation n'a pas pour effet d'accorder à l'autre partie des droits acquis.

80. De plus, une telle tolérance ne peut être interprétée comme une renonciation à faire valoir les droits en cause.

Article 20. Indépendance

81. Les parties reconnaissent agir chacune pour leur propre compte, de manière indépendante et ne seront pas considérées agent l'une de l'autre.

82. Le présent CCTP ne constitue ni une association, ni une franchise, ni un mandat donné par l'une des parties à l'autre partie.

83. Aucune des parties ne peut prendre un engagement au nom et pour le compte de l'autre partie.

84. En outre, chacune des parties demeure seule responsable de ses actes, allégations, engagements, prestations, produits et personnels.

Article 21. Cession du contrat

85. Le présent CCTP ne peut faire l'objet d'une cession totale ou partielle, à titre onéreux ou gracieux sans l'accord de l'autre partie.

86. L'Editeur peut toutefois transmettre le présent CCTP en totalité dans le cadre d'une fusion-absorption, d'une scission ou d'un apport total ou partiel d'actif ou toute autre opération juridique de même nature ayant pour effet de transférer l'activité de l'Editeur.

87. L'Editeur peut également transférer ses obligations contractuelles à toute société qui ferait partie, actuellement ou dans le futur, du groupe de l'Editeur.

88. L'ABES serait quant à elle autorisée à céder le contrat si la mission qui lui a été confiée par le GIS Collex-Persée venait à être transférée à une autre entité administrative.

Article 22. Titre

89. En cas de difficultés d'interprétation résultant d'une contradiction entre l'un quelconque des titres figurant en tête des clauses et l'une quelconque des clauses, les titres seront déclarés inexistant.

Article 23. Nullité

90. Si une ou plusieurs stipulations du présent CCTP sont tenues pour non valides ou déclarées comme telles en application d'une loi, d'un règlement ou à la suite d'une décision passée en force de chose jugée d'une juridiction compétente, les autres stipulations garderont toute leur force et leur portée.

Article 24. Règlement des litiges

91. Les litiges sont réglés dans les conditions fixées par l'article « Litiges » du CCAP.

Article 25. Domiciliation

92. Pour l'exécution du présent CCTP et sauf dispositions particulières, les parties conviennent de s'adresser toute correspondance à leur siège respectif.

Article 26. Loi

93. Le présent CCTP est régi par la loi française.

94. Il en est ainsi pour les règles de fond et les règles de forme et ce, nonobstant les lieux d'exécution des obligations substantielles ou accessoires.

Article 27. Annexes

95. Le présent CCTP comprend les annexes suivantes :

- Annexe 1 Description de la Base de Données étendue à la Collection Sciences Politiques
- Annexe 2 Description de la Documentation
- Annexe 3 Modalités d'accès
- Annexe 4 Statistique
- Annexe 5 Bordereau de livraison

Article 28. Signature

Fait à Montpellier

En deux originaux

Pour L'ABES

Pour l'Editeur

Nom David Aymonin

Nom Chris Bennett

Qualité Directeur

Qualité Global Sales Director

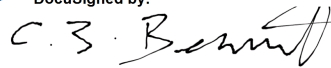
Date

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Annexe 1 Description de la base de données étendue à la « Collection Sciences Politiques »

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Annexe 2 Description de la Documentation

96. Chaque livraison doit être accompagnée d'un document précisant de façon la plus précise et la plus exhaustive possible :

- Une référence au contrat signé, des contacts (notamment un correspondant technique) chez l'éditeur et une datation des données ;
- Le type de documents contenu dans la livraison ;
- Pour chaque type de document, il faut préciser le nombre total d'éléments et de sous-éléments. Par exemple pour un titre d'ouvrage, le nombre de chapitres et de PDF associés ;
- Si pour un type de document, la DTD a changé de version au cours du temps, il faut une table associant pour chaque période, la version de DTD qui correspond aux métadonnées ;
- Une description du format des données, c'est-à-dire l'organisation des données sur le disque (ex : ISBN/Chapitre/sous-chapitre) ;
- Si une nomenclature spécifique est utilisée, une description de celle-ci est demandée.

Annexe 3 Modalités d'accès

97. Adresse de la base de données

- la base de données est accessible à l'adresse : www :[à compléter]

98. Normes et protocoles

- L'Editeur s'engage à respecter au moins l'un des trois protocoles suivants:

- protocole OAI ;
- protocole Z39-50 ;
- protocoles SRU et SRW.

- Afin d'assurer le lien entre une source d'informations et le bénéficiaire et/ou l'utilisateur, requérant les données le Titulaire respecte l'OpenURL protocole standardisé.

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Annexe 4 Statistiques

99. Les statistiques globales doivent être fournies par l'Editeur à l'ABES sur une base annuelle.

100. Les statistiques doivent être mises à disposition par l'Editeur à chaque Bénéficiaire sur une base mensuelle.

101. Les statistiques fournies par l'Editeur doivent être compatibles avec la dernière recommandation COUNTER en vigueur.

102. Les données statistiques doivent pouvoir être moissonnées par le protocole SUSHI afin de permettre l'interopérabilité des données statistiques applicable dans le cadre du projet COUNTER.

103. D'une manière générale, l'Editeur s'engage à respecter les normes et recommandations futures élaborées conjointement par les bibliothécaires et les éditeurs.

Annexe 5 : Bordereau de livraison / Delivery note

Marché 2019-10 : Cambridge University Press

IMPORTANT: Ce document doit être impérativement complété, imprimé et joint à tout envoi de disques ou de données. Il permet de vérifier la conformité de la livraison avec l'annexe "Description de la documentation" du CCTP. Tout champ non renseigné peut à lui seul justifier le renvoi des données à l'expéditeur jusqu'à ce que tous les éléments soient livrés.

IMPORTANT: This document must be filled, printed and enclosed in all data delivery. It certifies that the delivery fully matches the requirements specified in appendix "Description de la documentation" of the CCTP. The whole delivery can be returned if any information is missing.

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