



## OpenText Cloud General Terms and Conditions (“GTC”) Multitenant Services

These OpenText Cloud General Terms and Conditions (“GTC”) apply to the Services and will be binding on Customer and OT when OT makes any Services available for Customer’s use. The term “OT” means Open Text Corporation or the Open Text entity providing the Service. By using the Services, you automatically agree to these GTC. If you use or access the Services on behalf of a company or other legal entity, you represent that you have the authority to bind that company or other legal entity to these GTC. If you do not agree to these GTC, you should not use the Service.

### 1. DEFINITIONS.

1.1 “**Affiliate**” means any entity, directly or indirectly controlled by, controlling, or under common control with a party to the Agreement. If an entity ceases to meet these criteria, it shall cease to be an Affiliate under these GTC.

1.2 “**Agreement**” means the Order, these GTC and any other documents incorporated pursuant to the Order.

1.3 “**Applicable Taxes**” means the sales, use, consumption, goods and services, and value-added taxes applicable to the Services or Client Side Software, except taxes imposed on OT’s income.

1.4 “**AUP**” means OT’s Cloud Services Acceptable Use Policy available at [www.opentext.com/agreements](http://www.opentext.com/agreements) or upon request from OT.

1.5 “**Authorized User**” means any employee or contractor of Customer or other individual or entity who are authorized by Customer to access and use the Services or who use the Services under Customer’s account. Authorized Users will be identified by Customer to OT.

1.6 “**Client Side Software**” means a specific piece of software that OT may permit Customer to download for use in conjunction with the Services.

1.7 “**Cloud Services**” means the products and services provided by OT under the Agreement and delivered online using cloud computing technology, as described in the Order or Documentation. Cloud Services may also include the use of Client Side Software on a subscription basis.

1.8 “**Confidential Information**” means any information disclosed by one party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) which: (i) is marked as proprietary by the Disclosing Party; or (ii) the Receiving Party should reasonably understand to be confidential. Confidential Information does not include information that: (a) is independently developed by the Receiving Party, without reference to the Disclosing Party’s Confidential Information; (b) is already in the Receiving Party’s possession prior to receipt from the Disclosing Party; (c) is Content; or (d) is or becomes publicly available other than through violation of the Agreement.

1.9 “**Content**” means Customer’s data uploaded, generated, stored, or transmitted by Customer to OT, as a part of Customer’s use of the Services.

1.10 “**Covered Country**” means each contracting party to The Patent Cooperation Treaty (currently published at <http://www.wipo.int/pct/en/>).

1.11 “**Customer**” means the OT customer that is referenced on the Order.

1.12 “**Documentation**” means all written, electronic, online, and other documentation provided or made available by OT to Customer under the Agreement relating to the Cloud Services.

1.13 “**Evaluation Services**” means the Services offered by OT under these GTC and which are provided on a limited-use basis before Customer decides to purchase.

1.14 “**Infringement Claim**” means claims, suits, actions, or proceedings brought against Customer in a court of competent jurisdiction in a Covered Country by a third party which allege an infringement by the Services or Client Side Software of a third party’s patent, copyright, or trade secret.

1.15 “**No Fee Services**” means the Services offered by OT under these GTC for which OT does not charge Customer a fee.

1.16 “**Order**” means the order for Services accepted by both parties which references these GTC.

1.17 “**Services**” means the Cloud Services which OT provides to Customer pursuant to the Agreement.

1.18 “**Support**” means the operational and technical support services applicable to the Services, as defined in the Order.

2. **TERM.** The Agreement will be effective on the date the Agreement is accepted by the parties and continue until the end of the period referenced in the Order. Renewals of the Agreement term shall be as set forth in the Order.

### 3. SERVICES.

3.1 OT will provide the Services to Customer pursuant to these GTC, the Order, and other documents referenced in the Order.

3.2 As reasonably necessary to reflect changes in its business, technology and service offerings, OT may change its rules of operation, access procedures, software, the Services or the Documentation. OT will provide notice of changes by posting

information concerning the changes via email or by notification directly through the Services (e.g., on a Services login page or customer portal). If a change has a material adverse effect on Customer's use of the affected Services, OT will: (i) give reasonable advance written notice identifying the reason for the change and the expected impact prior to implementing such change; and (ii) consult with Customer to identify ways to mitigate the impact of any such change.

3.3 With regard to Client Side Software, if provided, Customer may use Client Side Software for the sole purpose of facilitating Customer's use of the Services.

3.4 Customer acknowledges that: (i) Client Side Software may include additional terms, as notified to Customer or its Authorized Users at the time of installation or use of the Client Side Software; and (ii) access to and use of any OT third party vendor's software as part of the Services may be subject to Customer agreeing to third party terms applicable to such software.

3.5 Some of the Services or Client Side Software may be designed to upload, download and synchronize files between Customer's computer or other devices and OT servers. By using the Services, Customer grants OT permission to access Customer's computer or other devices for the purpose of providing the Services.

3.6 When Customer's right to receive and use the Services terminates, Customer's rights to access and use (i) Client Side Software, and (ii) any OT third party vendor's software provided under the Services, shall also terminate. Upon such termination, Customer must (a) immediately destroy all copies of the Client Side Software and any OT third party vendor's software, and (b) immediately and, upon OT request, provide OT with written certification of such destruction.

#### **4. CUSTOMER RESPONSIBILITIES.**

4.1 Customer is responsible for: (i) obtaining, installing, and maintaining the equipment, communication lines and support services necessary to access the Services; and (ii) ensuring that its Internet or telecommunications connections (if applicable), hardware, devices and software are secure and compatible with the Services. If Customer elects to use a third party contractor to perform work interfacing with the Services, such work shall be subject to OT's prior written consent. Customer is solely responsible for any work performed by, and any acts or omissions of, such third party contractor.

4.2 Use of the Services may require Customer to create an administrator account for a Customer administrator. The Services may enable the Customer administrator to provision and register Customer's Authorized Users to access and use the Services. In addition, Authorized Users may need to individually register with OT to use the Services. Customer is responsible for keeping Authorized User registration information accurate, complete and up to date.

4.3 Customer shall be responsible for: (i) acts or omissions by its Authorized Users; (ii) maintaining the confidentiality of access credentials (including usernames, passwords, and keys) used by Customer or its Authorized Users; (iii) ensuring compliance with the Agreement by each Authorized User, including compliance with OT's AUP; and (iv) ensuring compliance with applicable local, state and national laws and regulations in connection with the use of the Services, including those related to export compliance, data privacy, international communications and the transmission of data. OT may suspend the Services without liability to OT in order to comply with applicable law, or to prevent damage to OT or its other customers. Upon written notice to Customer, OT may require Customer's assistance in verifying usage of the Services in compliance with the terms of the Agreement.

#### **5. RESTRICTIONS ON USE.**

5.1 Customer will only use the Services for Customer's internal business purposes. Only Customer's Authorized Users may access and use the Services.

5.2 Customer shall not: (i) resell the Services to third parties without OT's prior express written agreement; (ii) create multiple free accounts under different or fake identities or otherwise that enables Customer to exceed the usage limits associated with the Service; (iii) disclose to any third party the results of any benchmarking testing or comparative or competitive analyses of the Services done by or on behalf of Customer; or (iv) modify, reverse engineer, decompile or otherwise attempt to discover the source code of Client Side Software or any of OT's or its third party vendor's software that are included in the Services.

5.3 Customer: (i) does not have any rights to Client Side Software or to any of OT's or its third party vendors' software that are included in the Services, other than the use and access thereof as part of receiving the Services; and (ii) does not receive any title, license, rights or ownership in or to any of the foregoing.

#### **6. INTELLECTUAL PROPERTY; CONTENT.**

6.1 OT alone owns all right, title and interest, including all related intellectual property rights, in and to (i) the Services, (ii) the Documentation, (iii) Client Side Software, and (iv) any suggestions, ideas, requests, feedback, recommendations or other information provided by Customer or any other party relating to the foregoing, and OT reserves all rights to use, modify and allow others to use such materials. OT grants Customer a nonexclusive and non-transferable right to use such materials in connection with the Services. Customer may not remove OT's copyright or other proprietary notices from the Documentation or any part of the Services.

6.2 As between Customer and OT, Content belongs to Customer, and OT makes no claim to any right of ownership in the Content. Customer represents and warrants to OT that Customer is the owner of all rights to the Content, or that Customer has the right to reproduce, distribute and transfer the Content for the purposes of the Agreement.

6.3 OT will store and safeguard Content in accordance with the administrative, technical, and physical security controls and procedures as defined in the Agreement. Customer may not create or transmit Content that imposes a greater obligation on OT than as expressly set forth in the Agreement.

6.4 Customer remains solely responsible for the Content and for ensuring that the Content complies with the Agreement and with all legal and regulatory obligations applicable to the Content. Only to the extent necessary for OT to perform its obligations under the Agreement, Customer grants OT the right to use, copy, process, rename, publish or display Content, and OT may monitor, modify, screen, pre-screen or delete the Content, provided any such deletion or substantial modification of Content shall only be carried out by OT with Customer's consent or direction. Notwithstanding the foregoing, if any portion of the Content contains material that is harmful to OT's systems or the Content (for example a virus), OT reserves the right to act without Customer's consent to protect OT's systems and the Content.

6.5 With respect to Content, any applicable data retention period and/or any data return service provided with the Services, as well as any fees payable by Customer therefor, will be specified in the Agreement. OT shall have no obligation to retain or delete Content or to return Content to Customer except as provided in the Agreement. For Evaluation Services or No Fee Services, Content may be deleted by OT immediately without any retention period or notice.

6.6 Provided Customer is not in material breach of the Agreement and is current with payment obligations, and subject to the requirements of the Services, Customer may access or delete Content at any time prior to the expiration or termination of the Agreement term. When an Agreement term expires or terminates, Content that Customer has not previously deleted or removed will be retained for at least 30 days. Customer remains responsible for all storage and other applicable charges during this retention period. Unless otherwise stated in the Agreement, OT may delete all Content contained on primary (*i.e.*, non-backup) storage, after 30 days following the expiration or termination of the Agreement term. Following termination, OT may retain Content on backup media for an additional period of up to 12 months, or longer if required by law, subject to the confidentiality obligations under these GTC.

6.7 Customer will be responsible for the correctness and completeness of any programs, files, data, or other materials to be provided to OT for use in the provision of Services. Customer shall ensure that OT has the right to use such materials for the purpose of performing its obligations under the Agreement.

## **7. DATA PROTECTION.**

7.1 OT will provide the Services in accordance with privacy and data protection laws, to the extent applicable to OT. OT's Privacy Policy is located at <http://www.opentext.com/who-we-are/copyright-information/site-privacy>.

7.2 To the extent that OT processes personal data on behalf of Customer in performing the Services: (i) OT shall implement reasonable and appropriate technical and organizational measures designed to protect personal data against unauthorized or unlawful processing; (ii) OT shall not collect, sell or use such personal data except as necessary to perform the Services, or as otherwise permitted by the applicable laws; and (iii) where an individual submits a verifiable request to OT to exercise their privacy rights relating to their personal data in respect of a named Customer, OT shall forward these requests to the named Customer's email address on file with OT as soon as reasonably practicable.

7.3 OT may employ its Affiliates and third parties worldwide in the performance of the Services, provided that OT shall remain primarily responsible to Customer.

7.4 To the extent that OT requires personal data to provide the Services, Customer will provide personal data only to the extent reasonably required. Customer is responsible for implementing and maintaining privacy protections and security measures for components that Customer provides or controls, as well as complying with its obligations under this Agreement or otherwise required by law.

## **8. TERMINATION OF THE AGREEMENT.**

8.1 For cause; Evaluation and No Fee Services. A party may terminate the Agreement for material breach by the other party if the other party fails to cure such breach within 30 days after written notice. For material breaches relating to the rights granted or restrictions in Sections 4 (CUSTOMER RESPONSIBILITIES), 5 (RESTRICTIONS ON USE) or 13 (CONFIDENTIALITY), no such cure period will be granted and such termination may be immediate. Except in the event of a material breach or as specifically provided in these GTC or an Order, neither party will be permitted to terminate the Agreement prior to the end of the term set forth in the Order or any mutually agreed renewal term applicable thereto. Either party may terminate the Agreement and any Services at any time with respect to Evaluation Services or No Fee Services by giving at least thirty (30) days' written notice. OT reserves the right to terminate and delete any Customer Content related to Evaluation Services or No Fee Services if Customer has not accessed the Service for 12 or more consecutive months.

8.2 Actions upon termination. Upon any termination of the Agreement, Customer will immediately either deliver to OT or destroy all copies of (i) Documentation, (ii) Client Side Software, and (iii) any of OT's third party vendor's software that is included in the Services, which are in Customer's possession or control.

8.3 Survival. The following provisions of these GTC shall survive termination or expiration of the Agreement Sections: 5 (RESTRICTIONS ON USE); 6 (INTELLECTUAL PROPERTY; CONTENT); 9 (FEES, PAYMENT AND TAXES); 10 (WARRANTIES); 11 (INFRINGEMENT INDEMNITY); 12 (LIMITATION OF LIABILITY); 13 (CONFIDENTIALITY); and any provisions that by their nature should survive termination.

## **9. FEES, PAYMENT AND TAXES.**

9.1 Customer shall pay OT the fees and charges specified in the Order including any applicable overage charges. Fees are exclusive of any Applicable Taxes or import duties due as a result of amounts paid to OT or the performance of the Services. OT may offer: (i) different categories of paid subscriptions to the Services; (ii) subscriptions for Evaluation Services; and (iii) subscriptions for No Fee Services.

9.2 OT will submit invoices against the Order for ongoing provision of the Services.

9.3 The fees and charges are subject to a three percent (3%) increase which will be applied annually during the initial committed term (as set forth in the Order), and during each subsequent renewal term on the anniversary of the date on which such fees and charges came into effect.

9.4 Payments are due 30 days from the date of invoice. Invoices shall be issued as set forth in the Order. Fees and other charges owed by Customer not paid when due shall accrue interest at the lesser of one and one-half percent (1.5%) per month or the highest rate permitted by law. Customer shall bear all of OT's costs of collection of overdue fees, including reasonable attorneys' fees.

9.5 If an invoice remains unpaid following at least 10 days written notice by OT, OT may (reserving all other legal remedies and rights) suspend the Services or, following 30 days written notice by OT, terminate the Agreement.

9.6 If OT is unable to charge Customer's payment method (e.g., due to the expiration of a credit card), Customer is still obliged to pay OT the amounts to which Customer has committed under the Agreement. All fees are non-refundable. Customer is solely responsible for any fees imposed by its credit card company, including exchange rate or foreign transaction fees.

## **10. WARRANTIES.**

10.1 OT warrants that the Services will be rendered in a professional and workmanlike manner and will function, in all material respects, in conformance with the Order.

10.2 EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, THE SERVICES, SOFTWARE, DELIVERABLES AND DOCUMENTATION ARE PROVIDED WITHOUT EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OT DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE OR COURSE OF DEALING. OT DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR FREE OR WILL OPERATE WITHOUT INTERRUPTION. CUSTOMER ASSUMES THE RESPONSIBILITY TO TAKE ADEQUATE PRECAUTIONS AGAINST DAMAGES TO ITS CONTENT OR OPERATIONS WHICH COULD BE CAUSED BY SERVICES DEFECTS, INTERRUPTIONS, OR MALFUNCTIONS.

10.3 If Customer chooses to use any Evaluation Services or No Fee Services, Customer may do so only: (i) subject to the limitations defined for such Services; and (ii) if applicable, to evaluate functionality, performance, compatibility and reliability during the specified period. In connection with such use, Customer specifically agrees that: (a) Evaluation Services and No Fee Services are provided "AS-IS" and without support; and (b) any security, compliance, service level, and privacy commitments made by OT in connection with the Agreement are not applicable to Evaluation Services or No Fee Services.

## **11. INFRINGEMENT INDEMNITY.**

11.1 Provided Customer is not in material breach of the Agreement and is current with payment obligations, OT will defend Customer from any Infringement Claim, to the extent it arises solely from Customer's use of the Services in accordance with the provisions of the Agreement. This defense will not apply to an Infringement Claim to the extent caused by: (i) modification of the Services by any party other than OT; or (ii) the combination or use of the Services with software, hardware, firmware, data, or technology not provided by OT to Customer. As to any such Infringement Claim referenced under the preceding items (i) or (ii), OT assumes no liability for infringement and Customer will hold OT harmless against any infringement claims arising therefrom. OT will not defend, indemnify or hold harmless a Customer from any Claims or other liabilities, damages or losses arising in connection with any Evaluation Services or No Fee Services.

11.2 OT's obligations in this Section are conditioned upon: (i) Customer notifying OT in writing within 10 days of Customer becoming aware of an Infringement Claim; (ii) Customer not making an admission against OT's interests; (iii) Customer not agreeing to any settlement of an Infringement Claim without the prior written consent of OT; (iv) Customer providing reasonable assistance to OT in connection with the defense, litigation, and settlement by OT of the Infringement Claim; and (v) OT's sole control over legal counsel, litigation and settlement of each Infringement Claim. OT will indemnify Customer from any judgment finally awarded, or in settlement of, any Infringement Claim where all the conditions of this Section are satisfied.

11.3 If the Services become, or in OT's opinion may become, the subject of an Infringement Claim, OT will, at no expense to Customer: (i) obtain a right for Customer to continue using the Services; (ii) modify the Services so they become non-infringing but still provide substantially the same functionality as the infringing Services; or (iii) terminate the Services and refund the unused portion of any prepaid fees received by OT from Customer. OT's entire liability and Customer's sole and exclusive remedy with respect to any Infringement Claim shall be limited to the remedies set forth in this Section 11.

11.4 Customer shall defend, indemnify and hold harmless OT, its affiliates, directors and employees from any damages, losses, claims and expenses arising from any claim or other legal action related to: (i) Content which OT uses, processes and/or manages in connection with the Services; (ii) Customer's or any Authorized User's use of the Services; (iii) Customer's or any Authorized User's breach of these GTC; and (iv) Customer's or any Authorized User's breach of the AUP.

## **12. LIMITATION OF LIABILITY.**

12.1 **EXCLUSION OF DAMAGES.** OT AND ITS AFFILIATES ARE NOT LIABLE TO CUSTOMER OR TO ANY OTHER PARTY FOR: (A) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, AGGRAVATED, EXEMPLARY, OR PUNITIVE DAMAGES; OR (B) ANY LOST SALES, LOST REVENUE, LOST PROFITS, LOST OR CORRUPTED DATA, OR REPROCUREMENT AMOUNT; OR (C) FORCE MAJEURE UNDER SECTION 14.9 BELOW.

12.2 **LIMITATION OF LIABILITY.** THE LIABILITY OF OT AND ITS AFFILIATES WILL NOT EXCEED, IN THE AGGREGATE: (A) 50% OF THE TOTAL AMOUNT OF FEES INVOICED BY OT TO CUSTOMER UNDER THE AGREEMENT DURING THE 12 MONTH PERIOD PRECEDING THE OCCURRENCE OF THE APPLICABLE CLAIM; AND (B) A MAXIMUM AMOUNT FOR ALL CLAIMS DURING THE TERM OF THE AGREEMENT OF THE TOTAL AMOUNT OF FEES INVOICED BY OT TO CUSTOMER DURING THE 12 MONTH PERIOD PRECEDING THE MOST RECENT EVENT WHICH IS THE CAUSE OF LIABILITY UNDER THE AGREEMENT. WITH RESPECT TO EVALUATION SERVICES AND NO FEE SERVICES AND RELATED SOFTWARE, NEITHER OT NOR OT'S SUPPLIERS, RESELLERS, PARTNERS OR THEIR RESPECTIVE AFFILIATES WILL BE LIABLE FOR DIRECT DAMAGES.

12.3 **DISCLAIMER.** THE LIMITATIONS IN THIS SECTION APPLY IN REGARD TO ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE SERVICES, IN TORT, EQUITY, AT LAW, STRICT PRODUCT LIABILITY, OR OTHERWISE, INCLUDING CLAIMS OF NEGLIGENCE, BREACH OF CONTRACT OR WARRANTY, REGARDLESS OF THE FORM OF ACTION, EVEN IF: (A) OT IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION; (B) SUCH DAMAGES WERE FORESEEABLE; OR (C) CUSTOMER'S REMEDIES FAIL IN THEIR ESSENTIAL PURPOSE. IF THE APPLICATION OF THIS SECTION 12 IS LIMITED BY LAW, THE LIABILITY OF OT AND ITS AFFILIATES WILL BE LIMITED TO THE EXTENT PERMITTED BY LAW. THE REMEDIES SPECIFIED IN THE AGREEMENT ARE EXCLUSIVE.

13. **CONFIDENTIALITY.** Each Disclosing Party may disclose to the Receiving Party Confidential Information pursuant to the Agreement. Each Receiving Party agrees, for the term of the Agreement and for three (3) years after such term, to hold Disclosing Party's Confidential Information in strict confidence, not to disclose such Confidential Information to third parties (other than to Affiliates and to professional advisers who are bound by appropriate written obligations of confidentiality) unless authorized to do so by Disclosing Party, and not to use such Confidential Information for any purpose except as expressly permitted hereunder. Each Receiving Party agrees to take reasonable steps to protect Disclosing Party's Confidential Information from being disclosed, distributed or used in violation of the provisions of this Section. The foregoing prohibition on disclosure of Confidential Information shall not apply to any information that: (i) is or becomes a part of the public domain through no act or omission of Receiving Party; (ii) was in Receiving Party's lawful possession without confidentiality obligation prior to the disclosure and had not been obtained by Receiving Party either directly or indirectly from Disclosing Party; (iii) is lawfully disclosed to Receiving Party by a third party without restriction on disclosure; (iv) is independently developed by Receiving Party or its employees or agents without use of Disclosing Party's Confidential Information; or (v) is required to be disclosed by Receiving Party as a matter of law or by order of a court or by a regulatory body, provided that Receiving Party promptly notifies Disclosing Party (where lawfully permitted to do so) so that Disclosing Party may intervene to contest such disclosure requirement and/or seek a protective order or waive compliance with this Section. Each Receiving Party is responsible for any actions of its Affiliates, employees and agents in breach of this Section.

#### 14. **MISCELLANEOUS.**

14.1 **Authority.** If an individual uses or accesses the Services on behalf of a company or other legal entity, that individual represents that they have the authority to bind that company or other legal entity to these GTC. If such company or other legal entity does not agree with these GTC, the Services should not be used on its behalf.

14.2 **Entire agreement and order of precedence.** The Agreement represents the entire agreement of the parties, and supersedes any prior or current understandings, whether written or oral with respect to the subject matter of the Agreement. In the event of a conflict between the components of the Agreement, the Order will prevail over these GTC.

14.3 **Amendment, waiver.** Any amendment of the Agreement must be in writing and signed by both parties. Neither party will be deemed to have waived any of its rights under the Agreement by lapse of time or by any statement or representation other than by a written waiver by a duly authorized representative. No waiver constitutes a waiver of any prior or subsequent breach.

14.4 **Governing law; time limit.** The Agreement is governed by the laws of the State of Delaware, U.S.A. without reference to its choice or conflicts of law rules. The parties consent to the exercise of exclusive jurisdiction by the state or federal courts in the State of Delaware for any claim relating to the Agreement. No action, regardless of form, arising from the Agreement or any Services provided or to be provided hereunder may be brought by either party more than two (2) years after the cause of action has accrued, except that an action for non-payment may be brought at any time.

14.5 **Relationship of the parties.** The relationship of the Parties created by the Agreement is that of independent contractor and not that of employer/employee, principal/agent, partnership, joint venture or representative of the other. Neither party is authorized to make any representation, contract or commitment on behalf of the other party. The establishment of the terms of any commercial or legal relationship between Customer and any third party by means of the use of the Services provided hereunder is the sole responsibility of Customer. The provision of such Services by OT will not be interpreted as conferring any authority or responsibility on OT with respect to such relationships or the establishment, continuation or binding effect of such terms.

14.6 **Services Statistics.** Customer agrees that OT may gather and utilize statistical information gathered in connection with the Services and the data processed by the Services (the "Services Statistics"), however, OT will only utilize the Services Statistics: (i) in a manner that will not identify Customer as the source thereof; (ii) in a form where the data is anonymized; and (iii) in compliance with all applicable laws and regulations.

14.7 **Assignment.** There are no third-party beneficiaries to the Agreement. Customer may not assign or otherwise transfer any of its rights or obligations under the Agreement, in whole or in part, without the prior written consent of OT. Any assignment in

breach of this Section is null and void. Except to the extent identified in this Section, the Agreement will be binding upon and inure to the benefit of the respective successors and assigns of the parties.

14.8 Export laws. The Services (which for purposes of this Section include any Client Side Software, Documentation and technical data stored or transmitted via the Services) may be subject to export control laws of the United States or other countries. Customer agrees to comply strictly with all applicable export regulations, including, but not limited to (i) the Export Administration Regulations maintained by the U.S. Department of Commerce, and (ii) the trade and economic sanctions maintained by the U.S. Department of Treasury Office of Foreign Assets Control, and will not allow use of the Services in a manner that breaches or facilitates the breach of such regulations. Customer has the responsibility to obtain any licenses required to export, re-export, or import the Services, including deemed exports. The Services shall not be used by anyone: (a) located in U.S. embargoed countries or by any Foreign National of a U.S. embargoed country; or (b) included on the U.S. Treasury Department's list of Specially Designated Nationals; or (c) the U.S. Department of Commerce's Denied Persons or Entity List. By using the Services, Customer represents and warrants that neither Customer nor any person provided access to the Service by Customer is located in any such country or on any such list.

14.9 Force Majeure. OT does not control the flow of data to or from the Services. Rather, such flow depends in large part on the performance of Internet services and technology provided or controlled by third parties and the public Internet infrastructure, as well as on other events beyond OT's control. At times, the action or inaction of parties or systems not controlled by OT or other events beyond OT's control can impair, disrupt or delay OT's ability to provide the Services or Customer's ability to access the Services. Notwithstanding anything to the contrary in the Agreement, OT disclaims, and Customer shall not hold OT responsible for, any and all liability resulting from or related to such actions or events, including acts of God, acts of governmental authority, unavailability of third party communication facilities or energy sources, fires, transportation delays, or any cause beyond the reasonable control of OT (collectively "**Force Majeure**").

14.10 U.S. Government End Users – Restricted Rights Legend. The Services and Documentation provided to the U.S. Government are "Commercial Items", as that term is defined at 48 C.F.R. 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", within the meaning of 48 C.F.R. 12.212 or 48 C.F.R.227.7202, as applicable. Consistent with 48 C.F.R. 12.212 or 48 C.F.R. 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein, as provided in FAR 12.212, and DFARS 227.7202-1(a), 227.7202-3(a), 227.7202-4, as applicable.

14.11 Notices. All notices must be in writing and given by nationally recognized courier service, or electronic transmission and addressed to the law department at the address specified in the Order (as updated from time to time by either party giving notice to the other in writing) and will be effective upon receipt.

14.12 Publicity. OT may include Customer's name in a list of OT customers, whether online or in promotional materials.

14.13 Severability. If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of the Agreement shall remain in effect.

14.14 Governing language. The Agreement shall be prepared and interpreted in the English language. Any translation of the Agreement into another language is for the purpose of convenience only. Any inconsistency arising due to translation into another language or a difference of interpretation between two or more languages, will be resolved in favor of the English language version.