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Open Text Data Processing Addendum

1. Scope and Applicability

This Data Processing Agreement ("**DPA**") (including its Appendices and incorporations by reference) supplements and forms part of the agreement ("**Agreement**") between the Open Text entity ("**OT**") and the other party to the Agreement ("**Customer**"). The terms in this DPA apply to the extent OT and its Sub-processors Process Customer Personal Data in the course of providing the Services, either as a Processor or Service Provider, and when such Processing is subject to the Data Protection Legislation. This DPA is in addition to, and does not relieve, remove, or replace either party's obligations under the applicable Data Protection Legislation.

Customer enters into this DPA on behalf of itself and, to the extent applicable and permissible under the Agreement, each Customer Affiliate (as defined below) that Customer grants access to the Services in accordance with the terms of the Agreement.

2. Definitions

In this DPA, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly. Capitalized terms used in this DPA that are not expressly defined herein shall have the meanings set forth in the Agreement.

2.1. "**Affiliate**" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with a company, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of management and the policies of an entity, whether through ownership of voting securities, by contract or otherwise.

2.2. "**Customer Personal Data**" means Personal Data made available by Customer and/or its authorized users in connection with their use of the Services pursuant to the Agreement.

2.3. "**Data Protection Legislation**" means any laws, regulations, and other legal requirements, to the extent applicable to the Processing (as defined below) of Customer Personal Data under this DPA and the Agreement relating to: (a) privacy, confidentiality, and data security of Personal Data; and/or (b) the use, collection, retention, storage, security, disclosure, transfer, disposal, and/or other Processing of any Personal Data (as defined below) to the extent applicable to performance of the Services. Notwithstanding the preceding, Data Protection Legislation does not include the Health Insurance Portability and Accountability Act of 1996, as amended ("**HIPAA**").

2.4. "**EEA**" means the European Economic Area as set forth in the European Economic Area Agreement of 1992, as amended.

2.5. "**Restricted Transfer**" means an international transfer of Personal Data made in connection with the Agreement where such transfer would be prohibited by applicable Data Protection Legislation except where:

i. a Transfer Mechanism may be put in place in respect of the relevant international transfer;

ii. the jurisdiction to which the Personal Data is transferred has been approved by the relevant authority in that jurisdiction as ensuring an adequate level of protection for the Processing of Personal Data under applicable Data Protection Legislation; or

iii. a derogation that permits such transfer under applicable Data Protection Legislation applies.

2.6. "**Services**" means the services to be supplied to or carried out by or on behalf of OT for Customer pursuant to the Agreement, excluding on-premises and software maintenance services.

2.7. "**Personal Data Breach**" means a confirmed breach of security resulting in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or unauthorized access to, Customer Personal Data and also includes any incident classified as a "security incident," "data breach," or similarly defined term under Data Protection Legislation to the extent such Data Protection Legislation is applicable to the Processing of Customer Personal Data.

2.8. "**Standard Contractual Clauses**" means, to the extent applicable under Data Protection Legislation, each of the: (i) EEA Standard Contractual Clauses; (ii) EEA Standard Contractual Clauses, as modified to comply with requirements under Swiss law; and (iii) UK Standard Contractual Clauses.

2.9. "**Sub-processor**" means any third party (including any OT Affiliate) appointed by or on behalf of OT as a sub-contractor to Process Personal Data on behalf of Customer or Customer Affiliate in connection with the Agreement.

2.10. "**Supervisory Authority**" means the data protection authority, public body, or government department identified and authorized by the applicable Data Protection Legislation as being responsible for regulating and enforcing compliance with Data Protection Legislation.

2.11. "**Technical and Organizational Measures**" means the technical and organizational measures set out at https://www.opentext.com/assets/documents/en-US/pdf/opentext-technical-and-organizational-measures-en.pdf (and also referred to as Appendix 3), as may be amended, updated, or replaced from time to time, which are incorporated into this DPA by reference.

2.12. "**Transfer Mechanism**" means the Standard Contractual Clauses and/or any other appropriate safeguards, technical or organizational measures, or controls implemented in connection with transfers of Personal Data to a third country in compliance with Data Protection Legislation applicable to the relevant transfer.

2.13. The terms "**Controller**,", "**Data Subject**,", "**Personal Data**,", "**Processing**,", **"Process"** and "**Processor**"; "**Sell**,", "**Sensitive Personal Data**,", "**Service Provider**,", "**Share**" have the same meaning as in the applicable Data Protection Legislation (or their closest equivalent concept or term as defined under such legislation).

3. Roles and Data Processing Obligations

3.1. **Roles and Scope of Processing**

3.1.1. The terms of this DPA apply only to the Processing of Customer Personal Data in environments controlled by OT and OT's Sub-processors. This includes Customer Personal Data sent to OT but does not include data that remains on Customer's premises or in any Customer selected third-party operating environments.

3.1.2. Appendix 1 of this DPA sets out the subject matter, nature, and purpose of Processing of Customer Personal Data by OT, the duration of the Processing, and the types of Personal Data and categories of Data Subjects.

3.1.3. This DPA shall apply to the extent OT shall Process Customer Personal Data as a Processor (or sub-processor) acting on behalf of Customer, in each case regardless of whether Customer acts as a Controller or as a Processor on behalf of another Controller.

3.1.4. As a Controller, Customer is responsible for determining whether the Services are appropriate for storage and/or processing of Customer Personal Data that is subject to any specific law or regulation and for using the Services in a manner consistent with Customer's legal and regulatory obligations.

3.1.5. Customer is responsible for providing notice to and obtaining all required valid consents from Data Subjects including, without limitation, regarding any Processing (including collection, transfer, and storage) of Personal Data through the Services as required by Data Protection Legislation; and confirms it is entitled to lawfully transfer the Customer Personal Data to OT.

3.1.6. Customer will act as, or appoint, a single point of contact for OT for the Processing of Personal Data, and confirms that its instructions, including appointment of OT as a Processor or Sub-processor, have been authorized by the relevant Controller.

3.1.7. Each party will comply with applicable obligations under the Data Protection Legislation given the nature and scope of that party's Processing of Personal Data related to the Agreement and this DPA. Unless explicitly set forth herein, OT is not responsible for compliance with any regulatory authority to which Customer is subject to or other laws or regulations applicable to Customer that are not generally applicable to information technology service providers.

3.2. OT Processing Obligations

3.2.1. Customer Instructions: OT will Process Customer Personal Data solely for the purpose of providing the Services and in accordance with documented and commercially reasonable instructions from the Customer (to the extent necessary to provide the Services and to comply with its obligations under the Agreement). Customer agrees that the Agreement (including this DPA) is its complete documented instructions to OT for the Processing of Personal Data. Additional instructions, if any, require a written agreement between the parties. Instructions by Customer related to the Processing of Personal Data must be provided in writing duly signed by an authorized representative of Customer. Where in the opinion of OT an instruction from the Customer infringes Data Protection Legislation, OT shall inform Customer thereof which Customer agrees shall not constitute legal advice by OT and shall not relieve Customer from its own responsibility for compliance with Data Protection Legislation.

3.2.2. Lawful Data Processing by OT: To the extent required by applicable law, OT may Process Customer Personal Data outside of the documented instructions of Customer, including transferring Customer Personal Data to a different jurisdiction or an international organization provided that, where permitted under such law, OT shall use reasonable endeavors to inform Customer of that legal requirement before such Processing.

3.2.3. Confidentiality of Processing: OT will: (i) limit Customer Personal Data access to OT personnel with a need to Process such information for the purpose of providing Services; and (ii) will ensure such persons have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and have received appropriate training on their responsibilities.

3.2.4. Cooperation

3.2.4.1. Data Subjects Rights

i. It is the Customer's (or the party acting as Controller) responsibility to inform the Data Subject(s) concerned of the purposes and the legal basis for which their Personal Data will be Processed in accordance with Data Protection Legislation.

ii. Taking into account the nature of the Processing, OT shall assist Customer, insofar as is possible and reasonable for the fulfilment of Customer's obligation under Data Protection Legislation, to respond to Data Subject's rights requests under applicable Data Protection Legislation (including, without limitation, requests relating to rights of access, erasure, and rectification).

iii. Where a Data Subject directly submits a rights request to OT, OT shall forward such request to the Customer email address on file with OT, without undue delay. If Customer wishes for OT to forward Data Subject requests to a specific email address, it shall notify OT of such address and provide updates where applicable. OT shall not respond directly to a Data Subject rights request.

3.2.4.2 Data Protection Impact Assessments and Prior Consultation. Where requested by Customer and to the extent required to be undertaken by Customer in compliance with Data Protection Legislation, OT shall, taking into account the nature of Processing and the information available

to OT, provide reasonable assistance to the Customer: (i) in carrying out data protection impact assessments; or (ii) in relation to any prior consultation with a Supervisory Authority (or other equivalent public authority or body with responsibility for compliance with Data Protection Legislation).

3.2.4.3 **Government and Law Enforcement Requests.** If OT receives a request from a law enforcement or other government entity ("**Government Request(s)**") to retain, disclose, or otherwise Process Customer Personal Data, where permitted to do so, OT shall attempt to redirect the Government Request to Customer. If OT determines that a requirement to challenge or appeal a Government Request regarding Customer's Personal Data exists, Customer agrees to participate in and support such challenge as reasonably requested. Where possible, the Customer itself will seek a protective order or other appropriate remedy in response to the

Government Request. OT will attempt to provide a minimum amount of information if OT is required to disclose any information by a Government Request.

3.3. Sub-processing

3.3.1. Customer provides OT a general authorization to appoint Sub-processors to Process Customer Personal Data in connection with the provision of the Services. Customer agrees that OT Sub-processors may include: (i) OT Affiliates and (ii) any other third party engaged by OT in connection with the provision of the Services.

3.3.2. OT shall inform Customer in advance of any new Sub-processor or replacement of Sub-processor to give the Customer opportunity to reasonably object to the changes. OT must receive the notice of objection in writing from the Customer within 14 days of receiving the notification from OT. The parties agree that the name of the new or replacement Sub-processor together with details of the Processing activities it will carry out and the location of such activities is the information Customer requires to exercise such right. "**Inform**" shall include by posting the update on a website (and providing Customer with a mechanism to obtain notice of that update), by email or in other written form.

3.3.3. Any objection raised by the Customer pursuant to Section 3.3.2 shall be limited to the Sub-processor demonstrable failure to offer the same or a reasonably comparable level of protection as that previously applicable to the relevant Processing of Customer Personal Data ("**Reasonable Objections**"). OT shall have up to 30 days after receiving the notice of objection ("**Rectification Period**") to: (i) address any Reasonable Objections raised by Customer; or (ii) propose an alternative Sub-processor provided that Sections 3.3.1 and 3.3.2 shall apply to the appointment of the alternative Sub-processor.

3.3.4. If Customer raises Reasonable Objections to the appointment of a new Sub-processor pursuant to Section 3.3.3, and OT is unable to resolve such objections or provide an alternative Sub-processor, the Parties shall enter into good faith negotiations to achieve a resolution. Unless otherwise agreed in writing by the parties, the good faith discussions shall last for up to 14 days after the Rectification Period. Customer may terminate the respective part of the Services where the new Sub-processor is to be used by giving written notice to OT no later than 30 days from the conclusion of the good faith discussions where no resolution is reached. Such termination shall take effect no later than 90 days following OT's receipt of Customer's notice of termination. If Customer does not terminate within this 30-day period, Customer is deemed to have accepted the new Sub-processor. Any termination under this Section 3.3.4 shall be deemed to be without

fault by either Party and shall be subject to the terms of the Agreement (including any documents agreed pursuant to it).

3.3.5. OT confirms that it has entered or will enter into a written agreement with its third-party company Sub-processors incorporating terms, which are substantially similar to those set out in this DPA.

3.3.6. As between the Customer and OT, OT shall remain fully liable for all acts or omissions of any Sub-processor appointed by it pursuant to this Section 3.3 unless the Sub-processor acted in accordance with instructions directly or indirectly received from Customer.

3.4. Security Measures

3.4.1. Taking into account the state of the art, the costs of implementation, and the nature, scope, context, and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Customer and OT shall both be responsible to implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk.

3.4.2. OT shall implement the Technical and Organizational Measures in respect of the Services, and Customer acknowledges that the Technical and Organizational Measures implemented by OT meet the standard of appropriateness as required under Data Protection Legislation.

3.4.3. Customer is responsible for implementing and maintaining privacy protections of components including technical architecture or infrastructure that Customer or any Customer Affiliate provides, controls, or procures from a

third party. Customer shall apply the principle of data minimization and limit OT access to systems or Customer's Personal Data to only where essential for the performance of the Services. Where OT is performing Services on Customer's premises (or of any Customer Affiliate or sub-contractor, agent, or similar) or in connection with access to any of such party's systems and data, Customer shall be responsible for providing OT personnel with user authorizations and passwords to access those systems, overseeing their use of those passwords, and terminating these as required. Customer shall not store Customer's Personal Data in a non-production environment unless it has production environment equivalent controls in place.

3.5. Notification of Personal Data Breach

3.5.1. Unless prohibited under applicable law, OT shall notify Customer of Personal Data Breach without undue delay, and in all instances within the time frames set forth under applicable Data Protection Legislation, by contacting the Customer email address on file. Such notification will include any available documentation necessary to enable the Customer to make legally required notifications to Data Subject and/or the competent Supervisory Authority.

3.5.2. If available and taking into account the nature of the Processing, the notification sent in accordance with Section 3.5.1 shall at least:

3.5.2.1. describe the nature of the Personal Data Breach including where possible, the categories, and approximate number of Data Subjects concerned, and the categories and approximate number of Personal Data records concerned;

3.5.2.2. communicate the name and contact details of the data protection officer or other contact point where more information can be obtained;

3.5.2.3. describe the likely consequences of the Personal Data Breach; and

3.5.2.4. describe the measures taken or proposed to be taken by OT to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

3.5.3. Where, and in so far as it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.

3.5.4. The Customer (or the party acting as Controller) is responsible to notify the Personal Data Breach to the Supervisory Authority, and to the Data Subjects, when such is required by the applicable Data Protection Legislation.

3.6. Data Return or Destruction.

Where OT has stored Customer's Personal Data as part of the Services: at the end of the Service(s) upon Customer's written instruction, OT shall (i) return such Customer Personal Data to Customer in such format as OT reasonably determines, which may be provided via the enablement of export and retrieval functions when available or (ii) delete the Customer Personal Data, unless applicable law requires further storage of the Personal Data. Where Customer has not notified OT whether to return or destroy Customer Personal Data within 30 days after termination of the Services, the parties agree that OT shall delete the data in accordance with subsection (ii) above. OT may charge a fee for certain data return services.

3.7. Inspections and Audits

3.7.1. For the purpose of fulfilling any inspection obligations under applicable Data Protection Legislation and/or any Standard Contractual Clauses:

3.7.1.1. Upon written request from Customer, OT shall, where available, provide to Customer a copy of its latest Service Organization Control (**SOC**) audit report and/or other third-party audit reports ("**Audit Report**") or information to demonstrate OT's compliance with its obligations under this DPA.

3.7.1.2. In the absence of an Audit Report or where the Audit Report or information made available under Section 3.7.1.1 does not address OT's compliance applicable to the Processing undertaken in connection with the Services, OT shall, upon Customer's reasonable request either: (i) provide additional documentation or materials to evidence compliance; or (ii) permit an inspection of OT's environment to the extent relevant to the provision of the Services and required to demonstrate OT's compliance with its obligations under this DPA.

3.7.2. Any inspection to be undertaken pursuant to Section 3.7.1: (a) may be carried out no more than once annually (unless otherwise mandated by a Supervisory Authority); (b) shall not be conducted on less than thirty (30) days prior written notice; (c) may be conducted by Customer or an independent third-party auditor mandated by Customer (which is not a competitor of OT), provided such third-party auditor enters into a written agreement with OT protecting the confidentiality of all disclosed information related to the inspection; (d) shall be subject to agreement in advance between the parties of the scope of the inspection and the duration (which shall not extend beyond two consecutive business days or infringe upon the confidential information of third parties); (e) must be conducted during local business hours, not unreasonably disrupt OT business

operations, and not unduly burden the provision of services by OT to its customers; (f) must be undertaken in accordance with OT's relevant policies and procedures (as are provided to Customer in advance); and (g) shall as far as reasonably possible, be limited to remote inspections or meetings with senior representatives of OT (including by relying on latest Audit Report or current certifications, other audit reports and combining them with other information available to Customer under the Agreement) Customer shall, at its own cost, provide OT with a written report documenting the results of any inspection undertaken pursuant to this Section.

3.7.3. Customer shall bear all expenses related to any inspections undertaken pursuant to section 3.7.1 that are carried out in excess that permitted under Section 3.7.2 and shall reimburse OT for time spent by OT personnel for any such inspection at then-current professional service rates unless such inspection reveals non-compliance by OT with its obligations under this DPA in which case OT shall be responsible for its costs associated with such on-site inspection.

4. Geographical Specific Data Processing Terms and International Transfers

Where the applicable Data Protection Legislation provides for specific requirements pertaining to the Processing and transfer of Personal Data within each of the scopes set out in this Section, the appropriate provisions of this Section 4 shall also apply.

4.1. **Processing Personal Data of EEA Swiss and UK-based Data Subjects:** The terms in this Section 4.1 apply where Customer provides Personal Data collected from individuals located in the EEA, Switzerland, and the UK.

4.1.1. For the purposes of Section 4.1, the following terms shall have the meanings set out below and related terms shall be construed accordingly.

4.1.1.1. **"Data Exporter**" and "**Data Importer**" have the meaning set out in the applicable Standard Contractual Clauses.

4.1.1.2. "**EEA Controller to Processor SCCs**" means Module 2 of the Standard Contractual Clauses for the transfer of Personal Data from a Data Exporter acting as a Controller to a Data Importer acting as a Processor, which is approved by the European Commission Implementing Decision (EU) 2021/914 of 4 June 2021 and which are set out at https://www.opentext.com/assets/documents/en-US/pdf/opentext-eea-controller-to-processor-clauses-module-2-en.pdf (and also sometimes referred to as Appendix 4) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.

4.1.1.3. "**EEA Processor to Processor SCCs**" means Module 3 of the Standard Contractual Clauses for the transfer of Personal Data from a Data Exporter acting as a Processor to a Data Importer acting as a Processor, which is approved by the European Commission Implementing Decision (EU) 2021/914 of 4 June 2021 and which are set out at https://www.opentext.com/assets/documents/en-US/pdf/opentext-eea-processor-

to-processor-clauses-module-3-en.pdf (and also sometimes referred to as Appendix 5) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.

4.1.1.4. "**EEA Standard Contractual Clauses**" means the EEA Controller to Processor SCCs and EEA Processor to Processor SCCs.

4.1.1.5. "**UK Controller to Processor SCCs**" means the UK International Data Transfer Addendum (incorporating Module 2) to the European Commission's Standard Contractual Clauses for international data transfers (including the Mandatory Clauses, Part 2) issued by the Information Commissioner's Office in accordance with s119A(1) of the Data Protection Act 2018 and which came into force on 21 March 2021 and which are set out at https://www.opentext.com/assets/documents/en-US/pdf/opentext-uk-international-data-transfer-addendum-en.pdf (and also referred to sometimes as Appendix 6) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.

4.1.1.6. "**UK Processor to Processor SCCs**" means the UK International Data Transfer Addendum (incorporating Module 3) to the European Commission's Standard Contractual Clauses for international data transfers (including the Mandatory Clauses, Part 2) issued by the Information Commissioner's Office in accordance with s119A(1) of the Data Protection Act 2018 and which came into force on 21 March 2021 and which are set out at https://www.opentext.com/assets/documents/en-US/pdf/opentext-uk-international-data-transfer-addendum-en.pdf (and also referred to sometimes as Appendix 6) which are incorporated into this DPA by reference, as may be amended, updated or replaced from time to time.

4.1.1.7. "**UK Standard Contractual Clauses**" means the UK Controller to Processor SCCs and UK Processor to Processor SCCs.

4.1.2. Personal Data may be Processed in the EEA, the United Kingdom, and Switzerland (each a "Designated Country") and in countries outside of a Designated Country ("Other Countries") by OT or its Sub-processors. The transfer to Other Countries shall be in accordance with Data Protection Legislation (to the extent it applies).

4.1.2.1. The parties shall have in place a Transfer Mechanism in respect of any Restricted Transfer.

4.1.2.2. In the event of an EEA Restricted Transfer where Personal Data is transferred from Customer as Data Exporter acting as a Controller or Processor (as applicable), to OT as Data Importer acting as a Processor, and where OT as a contracting party is located in an Other Country, the parties shall, as part of this DPA, comply with the EEA Controller to Processor SCCs where the Customer acts as a Controller and the EEA Processor to Processor SCCs where the Customer acts as a Processor.

4.1.2.3. In the event of a UK Restricted Transfer, where Personal Data is transferred from Customer as Data Exporter acting as a Controller or Processor (as applicable) to OT as Data Importer acting as a Processor and where OT as a contracting party is located in an Other Country, the parties shall, as part of this DPA, comply with the UK Controller to Processor SCCs where the Customer acts as a Controller

and the UK Processor to Processor SCCs where the Customer acts as a Processor.

4.1.2.4. In the event of a Swiss Restricted Transfer, whereby Personal Data is transferred from Customer as Data Exporter, acting as a Controller or Processor (as applicable), to OpenText as Data Importer acting as a Processor and where OT as a contracting party is located in an Other Country, the parties shall, as part of this DPA, comply with the corresponding module of the EEA Standard Contractual Clauses.

4.1.2.5. Where OT as a contracting party is located in a Designated Country and acts as a Data Exporter, OT shall ensure that Restricted transfers to OT Sub-processors which are located in Other Countries shall be in accordance with applicable Data Protection Legislation which may include an adequacy decision or the conclusion of the relevant EU or Swiss or UK Standard Contractual Clauses or any appropriate safeguards.

4.1.2.6. The Standard Contractual Clauses will not apply to a Restricted Transfer to the extent that OT has adopted Binding Corporate Rules for Processors or an alternative recognized compliance standard for lawful Restricted Transfers.

4.1.3. The parties agree that the Sub-processors shared with Customer is the 'agreed list' for Sub-processors in relation to Clause 9(a) of the EEA Standard Contractual Clauses and for the UK Standard Contractual Clauses.

4.2. **Processing Personal Data of US-based Data Subjects**: The following terms apply where Customer provides Customer Personal Data collected from individuals in the United States of America (US).

4.2.1 For the purposes of Section 4.2, the following terms shall have the meanings set out below and related terms shall be construed accordingly.

4.2.1.1 "**US State Privacy Laws**" means the subset of Data Protection Legislation originating from US state, territorial, and local laws, regulations, and governmental requirements including, without limitation, the CCPA.

4.2.1.2 "**Specified Business Purpose**" means the provision of the Services as set forth under the Agreement.

4.2.1.3 "**Business Purpose**,", "**Sell**,", "**Service Provider**,", and "**Share**" have the meanings set forth in the US State Privacy Laws.

4.2.2 To the extent OT Processes Customer Personal Data containing any data regulated by the CCPA, the Parties agree OT does so acting as a Service Provider to Customer. Additionally, taking into account the context of the Processing and Services, each Party will comply with its obligations under US State Privacy Laws. Given the nature and scope of its Processing, OT: (i) acknowledges that Customer is disclosing Personal Data to OT only for the Specified Business Purpose; (ii) shall Process all Personal Data on behalf of Customer only; (iii) shall not Sell or Share Customer Personal Data; (iii) shall not retain, use, or disclose Customer Personal Data for any purpose other than for the Specified Business Purpose, including not retaining, using, or disclosing Customer Personal Data: (a) for a commercial purpose other than the Specified Business Purpose or (b) outside of the direct business relationship between OT and Customer unless expressly permitted by applicable law; (iv) shall not,

unless otherwise permitted by applicable law or for the purpose of performing the Services, combine Customer Personal Data with other personal information it: (a) receives from or on behalf of another person or third party, or (b) collects from its own interactions with the applicable individual; (v) shall notify Customer if it makes a determination that it can no longer meet its obligations under this Agreement, and cooperate with Customer to take reasonable and appropriate steps to stop and remediate unauthorized use of Customer Personal Data to the extent required by US State Privacy Laws; and (vi) shall enable Customer to comply with privacy requests made pursuant to applicable US State Privacy Laws.

4.2.3 In accordance with HIPAA requirements, Customer shall not provide to OT protected health information (as defined under HIPAA) without the execution of a mutually agreed upon Business Associate Agreement.

4.3. Processing Personal Data of Data Subjects Based in Other Jurisdictions

4.3.1 Where the Data Protection Legislation requires a Transfer Mechanism other than those referred to in clauses 4.1 and 4.2 of this DPA, the parties agree that clause 3, Appendix 1 and Appendix 2 of this DPA shall constitute such a Transfer Mechanism.

4.3.2 Where Data Protection Legislation related to the Processing of Personal Data in other jurisdictions requires additional contractual terms, including without limitation terms related to Restricted Transfers other than the Restricted Transfers detailed above, Customer shall notify OT of such requirement and the parties agree to cooperate in good faith to negotiate such terms.

4.4 Onward Transfers

The parties agree that OT is permitted to transfer Customer Personal Data to additional third parties ("**Onward Transfer**"), for the purposes and subject to the terms of this DPA, provided that such transfer complies, where applicable, with the terms and conditions set forth under clauses 3.3 (Sub-processing) and this Section 4 of this DPA.

5. General Provisions

5.1 Execution of this DPA. Where requested by Customer, OT and Customer shall execute this DPA in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. For the purposes hereof, a facsimile or scanned copy of this DPA, including all pages hereof, shall be deemed an original.

5.2 Superseding Agreement. The parties agree that with respect to the period on and after the date that this DPA comes into effect between the parties (or if earlier, the mandatory date when the relevant Standard Contractual Clauses must apply), this DPA shall replace and supersede any existing data processing addendum, attachment, exhibit, or standard contractual clauses that Customer and OT may have previously entered into in connection with the Services.

5.3 Order of Precedence To the extent there is any conflict or inconsistency between the terms of this DPA, the Standard Contractual Clauses, and/or the Agreement, in relation to the Processing of Customer Personal Data, the parties agree that the documents shall prevail in the following order: (i) the Standard Contractual Clauses; (ii) this DPA; and (iii) the Agreement.

5.4 **Termination** The parties agree that this DPA shall terminate automatically upon (i) termination of the Agreement; or (ii) expiry or termination of all service contracts, statements of work, work orders, or similar contract documents entered into by the parties pursuant to the Agreement, whichever is later. This Section 5.4 shall be without prejudice to any rights to terminate Standard Contractual Clauses (if applicable).

5.5 **Changes in Law.** The parties shall negotiate in good faith and mutually agree in writing to any amendments to this Addendum that are necessary to reflect changes in Data Protection Legislation.

5.6 **Communications.** OT's data protection office can be reached by emailing dpo@opentext.com.

6. Partner Agreements

6.1 If the Agreement relates to the resale or supply of Services with a partner under an OT partner program or a partner agreement (a "**Partner**"), with OT acting as the Partner's Processor or Service Provider under that arrangement and OT having no direct contractual relationship to the direct and indirect customers of the Partner which are entitled to use the Services such as the End User or, in the case of a Partner who is a Managed Service Provider (**MSP**), the Beneficiary (as in each case as defined in the Agreement) (hereinafter "**Using Parties**"), then the following provisions shall apply:

6.2 All references to "Customer" in this DPA shall mean the Partner; Sections 3.1.4, 3.1.5, and 3.1.6 of this DPA shall be amended to read as follows:

- 3.1.4: "As a Controller, Partner is responsible for determining whether the Services are appropriate for storage and Processing of Partner and Using Parties' Personal Data that is subject to any specific law or regulation and for using the Services in a manner consistent with Partner's legal and regulatory obligations.".
- 3.1.5: "Partner is responsible for ensuring that Partner and Using Parties have all necessary consents and notices in place that may be required under Data Protection Legislation and confirms that Partner and the Using Parties are entitled to lawfully transfer Personal Data to OT.".
- 3.1.6: "Partner will act as, or appoint, a single point of contact for OT for the Processing of Personal Data, and confirms that its instructions, including appointment of OT as a Processor or sub-Processor, have been authorized by the relevant Controller.".

6.3 Section 3.4.3 of this DPA shall be amended to read as follows:

"Partner is responsible for implementing and maintaining privacy protections and security measures for components of the technical architecture or infrastructure that Partner or any Using Party provides, controls, or procures from a third party. Partner shall (and shall procure that the Using Parties shall) apply the principle of data minimization and limit OT access to systems or Partner's Personal Data to only where essential for the performance of the Services. Where OT is performing Services on premises of the Partner or Using Parties (or of an Affiliate, sub-contractor, agent, or similar of any of these) or in connection with access to any of their systems and data, Partner shall be responsible for procuring provision to OT personnel of user authorizations and passwords to access those systems, oversight of their use of those passwords and termination of these as required. Partner shall not store any Personal

Data in a non-production environment unless it has production environment equivalent controls in place (and procure the same from Using Parties)".

APPENDIX 1

DETAILS OF PROCESSING OF CUSTOMER PERSONAL DATA

See Appendix 2 of this DPA for each of following: *Subject matter and duration of the Processing of Personal Data, the nature and purpose of the Processing of Personal Data, the types of Personal Data to be Processed, special categories of data (if appropriate) and the categories of Data Subject to whom the Customer Personal Data relates.*

APPENDIX 2

DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

Data Subjects may include Customer employees, contractors, business partners, prospects, customers, vendors, agents, advisors, and freelancers or other individuals having Personal Data stored, transmitted to, made available to, accessed, or otherwise Processed by OT.

Categories of personal data transferred

Customer determines the categories of Personal Data that are Processed by OT in connection with the Services in accordance with the terms of the Agreement (and documentation governed by it). Customer submits Personal Data for Processing after careful evaluation of compliance with applicable laws. The Personal Data may include but are not limited to the following categories of data: Identification and contact data (name, address, title, contact details phone numbers, email address, time zone, company name), IT information, Usage Data, Content Data, credentials, plus any application-specific data.

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialized training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

The choice and type of Personal Data that will be Processed using the OT Services remains solely within the discretion and choice of the Customer. In selecting the Personal Data of any categories, the Customer shall ensure that such Personal Data is suitable for Processing with and through the Services in compliance with applicable Data Protection Legislation. As part of such assessment, prior to providing OT with or giving OT access to any 'special categories of personal data' or Sensitive Personal Data subject to enhanced protection requirements under applicable Data Protection Legislation ("**Enhanced Requirements**"), Customer shall notify OT of the Enhanced Requirements and seek prior written confirmation from OT of its ability to comply with such. Customer agrees that the Technical and Organizational Measures shall (i) apply to the Processing of all Customer Personal Data, including special category of personal data or Sensitive Personal Data; and (ii) be appropriate safeguards for the Processing of special category of personal data or Sensitive Personal Data for the provision of the Services taking into consideration the nature of the data and risks involved in Processing such data, unless otherwise agreed between the parties. OT disclaims all liabilities in relation to the selection of data

for use with the Services or non-compliance with Enhanced Requirements unless prior written confirmation has been provided.

The frequency of the transfer (e.g., whether the data is transferred on a one-off or continuous basis).

Transfers shall be made on a continuous basis.

Nature of the Processing

OT offers its Services, and in doing so, OT requires to Process Personal Data. The Personal Data is subject to the basic Processing activities as set out in the Agreement and pursuant to Customer's Processing instructions as provided in accordance with the Agreement and this DPA, which may include:

(a) use of Personal Data to provide the Services;

(b) storage of Personal Data;

(c) computer Processing of Personal Data for data transmission; and

(d) other Processing activities to deliver the Services.

Purpose(s) of the data transfer and further Processing

See "Nature of Processing" above.

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period.

The duration of the Processing of Personal Data is set out in the Agreement (and documentation governed by it) and this DPA.

Subject matter, nature, and duration of the Processing for transfer to (sub-) processors

As above.

OT partner programs and partner agreements: Where Section 6 of the DPA applies: for the purposes of these Appendices 1, 2, and 3, categories of Personal Data shall also include that of Using Parties (as defined in Section 6 of the DPA). In Appendix 3, "Customer systems" refers to those of the Partner and Using Parties. Notwithstanding the foregoing, this shall not release the Partner of its obligations, either in these Appendices, the Annexes, the DPA, or otherwise, and the Partner shall remain responsible for the decisions, acts, and omissions of Using Parties, and shall procure that Using Parties comply with the provisions of these Appendices.

APPENDIX 3

TECHNICAL AND ORGANIZATIONAL MEASURES

OT has implemented and will apply the Technical and Organizational Measures that are set out at https://www.opentext.com/assets/documents/en-US/pdf/opentext-technical-and-organizational-measures-en.pdf