

The GTC apply to Services provided by OT under the Agreement. The Agreement will be binding upon Customer and OT upon the “Effective Date”, which shall be the earlier of: (i) the date of the last signature on the applicable Transaction Document (“TD”); or (ii) the date of online acceptance of the applicable TD by Customer. By using the Services, Customer agrees to the Agreement. If Customer does not agree to the Agreement, Customer should not use the Services. If an individual uses or accesses the Services on behalf of a company or other legal entity, the individual represents that they have the authority to bind that company or other legal entity to the Agreement. As used herein, “OT” means the OpenText entity providing the Services listed in the applicable TD.

1. Definitions.

1.1 “**Additional Services**” means services other than the Cloud Services that OT provides to Customer under the Agreement. Such Additional Services may include, but are not limited to, the following related to the Cloud Services: (i) implementation services; (ii) training services; and/or (iii) professional services related to the implementation of the Cloud Services.

1.2 “**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.

1.3 “**Agreement**” means the TD, along with the GTC, and any other documents incorporated by reference pursuant to the TD.

1.4 “**Applicable Taxes**” means any sales, use, consumption, goods and services, or value-added taxes applicable to the Services, except taxes imposed on OT’s income including, but not limited to, withholding taxes.

1.5 “**AUP**” means OT’s Cloud Services Acceptable Use Policy, available at <https://www.opentext.com/assets/documents/en-US/pdf/opentext-acceptable-use-policy-en.pdf> or upon request from OT.

1.6 “**Authorized User**” means any employee or contractor of Customer or other individual or entity who is authorized by Customer to access and use the Services. Authorized Users will be identified by Customer to OT.

1.7 “**Change Request**” or “**CR**” means a written document agreed to by OT describing a modification to the Services.

1.8 “**Client Side Software**” means a specific piece of software that, if provided as part of the Services, Customer may download for use on a nontransferable, nonexclusive, subscription basis in conjunction with and for the duration of the subscription for use of the Services.

1.9 “**Cloud Services**” means the services provided by OT under the Agreement and delivered using cloud computing technology.

1.10 “**Confidential Information**” means any information disclosed by one party (“**Disclosing Party**”) to the other party (“**Receiving Party**”) which: (i) is marked as proprietary and/or confidential by Disclosing Party; or (ii) Receiving Party should reasonably understand to be confidential. Confidential Information does not include 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 disclosure by the Disclosing Party; (iii) is lawfully disclosed to Receiving Party by a third party without restriction on disclosure; or (iv) is independently developed by Receiving Party or its employees or agents without use of Disclosing Party’s Confidential Information.

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

1.12 “**Contract Year**” means each 12 month period during the term of the Agreement, the first commencing on the Effective Date, and each subsequent 12 month period which begins on each anniversary of the Effective Date.

1.13 “**Covered Country**” means each contracting state to The Patent Cooperation Treaty (currently published at https://www.wipo.int/pct/en/pct_contracting_states.html).

1.14 “**Customer**” means the customer entering into a TD with OT.

1.15 “**Documentation**” means the written user documentation provided or made available by OT to Customer under the TD relating to the Services.

1.16 “**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 that allege an infringement by the Services of a third-party’s patent, copyright, or trade secret.

1.17 “**Person**” means, as the context requires, any natural person or legal entity, including bodies corporate, unincorporated associations and partnerships.

1.18 “**Services**” means the Cloud Services, Documentation, and Additional Services that OT provides to Customer pursuant to the Agreement.

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

1.20 “**TD**” or “**Transaction Document**” means a document for the provision of the Services which: (i) is agreed upon by the parties; (ii) may be titled “Agreement”, “Order”, “Order Form”, “Services Order Form”, “Statement of Work”, or comparable title, whether in physical or electronic form; (iii) may include other documents which are incorporated by reference by the applicable TD; and (iv) incorporates the GTC, including incorporation by reference to a URL on the Internet.

2. Initial Term; Renewal Term; Agreement Term. The initial term (“**Initial Term**”) of the Agreement will begin on the Effective Date and continue until the end of the period referenced in the TD. Unless otherwise set forth in the TD, the Agreement shall automatically renew for successive 12 month renewal terms (each a “**Renewal Term**”) on expiration of the Initial Term or subsequent Renewal Term, unless the Agreement is terminated to the end of the Initial Term or a Renewal Term. Either party may terminate the Agreement, effective at the end of the Initial Term or then-current Renewal Term, by providing the other party at least 60 days’ prior written notice. The Initial Term and any Renewal Term(s) may be collectively referred to as the “**Agreement Term**”. Except in the event of an uncured material breach or as expressly provided in the Agreement, neither party will be permitted to terminate the Agreement prior to the end of the Initial Term or applicable Renewal Term.

3. Services.

3.1 OT will provide the Services to Customer pursuant to the Agreement.

3.2 In the event of any conflict or inconsistency among the documents that constitute the Agreement, the documents will be interpreted in the following descending order of precedence: (i) the TD; (ii) other documents incorporated by reference by the applicable TD; and (iii) the GTC.

3.3 As 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 the functionality of the Services, OT will: (i) identify the reason for the change and the expected impact prior to implementing such change; and (ii) discuss with Customer ways to mitigate the impact of any such change.

3.4 OT may employ its Affiliates and third parties worldwide in the performance of the Services, and OT shall remain primarily responsible to Customer in respect thereof.

3.5 Some of the Services may be designed to upload, download, and synchronize files between Customer's computer or other devices and OT servers.

4. Customer responsibilities.

4.1 Customer is responsible for: (i) obtaining, installing, and maintaining the equipment, communication lines, and related support services necessary to access the Services; and (ii) ensuring that its Internet and 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, as well as any defect or issue with the Services to the extent resulting from third-party contractor's work.

4.2 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 laws and regulations in connection with the use of the Services, including, but not limited to, those related to: (a) laws and regulations pertaining to telemarketing, facsimile advertising, commercial e-mail, spam, use of artificial intelligence systems; (b) export compliance; (c) data privacy; and (d) international communications and the transmission of data. OT may suspend the Services without OT incurring liability for such suspension in order to support compliance with applicable law or to prevent damage to OT or to OT's 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 and its Authorized Users shall only use the Services for Customer's internal business operations. 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 vendors' software that may be included in the Services.

5.3 Customer 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 on a subscription basis as part of and for the duration of receiving the Services.

5.4 If Client Side Software is provided as part of the Services, Customer may use the Client Side Software, and make copies thereof, for the sole purpose of facilitating Customer's use of the Services in accordance with the Agreement. Each copy of the Client Side Software made by Customer must contain the same copyright and other notices specified by OT.

6. Intellectual property.

6.1 As between OT and Customer, OT 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 subscription to use the foregoing 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, the Content belong 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.

7. Content.

7.1 OT will safeguard the Content in accordance with the administrative, technical, and physical security controls and procedures defined in the Agreement.

7.2 Customer acknowledges that the performance of the Services may include transmission of Content to third parties in the course of the performance of the Services (e.g., transmission of Content to third party trading partners as part of Cloud Services consisting of electronic data interchange services), and that OT is not responsible for any disclosure of Content by any such third parties.

7.3 Customer remains solely responsible for the Content and use of the Services in compliance with the Agreement and with all legal and regulatory obligations applicable to the Customer. Customer shall be responsible: (i) for the correctness and completeness of the Content; (ii) for the Content being free from viruses, worms, trojan horses, and any other malicious code; (iii) for storing and maintaining back-up copies of the Content, unless such is included in the Services; and (iv) ensuring that OT has the right to use the Content for the purpose of performing the Services. Notwithstanding the foregoing, if any portion of the Content contains material that is harmful to OT's systems (e.g., a virus), OT reserves the right to protect OT's systems by suspending or limiting Customer's access and/or use of the Services until the matter is rectified.

7.4 If any Content may be subject to governmental regulation or may require security measures beyond those specified by OT for the Services, Customer will not provide, allow access to, or input such Content into the Services for processing or allow OT access to such Content to provide the Services, unless (i) expressly permitted in the applicable TD, or (ii) OT has expressly agreed in writing to implement additional security measures with respect to such Content.

7.5 With respect to the Content, any applicable retention period and/or any return service provided with the Services, as well as any fees payable by Customer therefor, will be specified in the applicable TD. OT shall have no obligation to retain or delete Content nor to return Content to Customer except as provided in the Agreement. Any Content not deleted or returned by OT shall remain subject to the terms of the Agreement until such are deleted or returned pursuant to the terms of the Agreement.

8. Additional Services.

8.1 Additional Services may be requested by Customer in the TD, or via an amendment or Change Request to the TD.

8.2 Customer's failure to adhere to schedules or complete tasks within Customer's control, or failure to provide timely access to programs, files, data, or other materials, or failure to provide complete and accurate information in a timely manner, may impact OT's performance of the Services. OT shall not be liable for any delays or defects in performing the Services to the extent caused by such Customer failure.

8.3 With respect to the materials produced for Customer as a result of Additional Services, OT provides to Customer a non-exclusive, non-transferable subscription to access and use such materials solely in connection with Customer's use of the Services. All rights, title, and interest in such materials remains with OT.

8.4 If a TD specifies an acceptance test, OT will notify Customer when a deliverable is ready for acceptance. Customer and OT will then perform an agreed acceptance test ("**Acceptance Test**") within an agreed time period with respect to each deliverable ("**Acceptance Period**") to verify that the deliverable functions materially in accordance with the written specifications as stated in the TD. Acceptance occurs when the deliverable meets all material requirements of the Acceptance Test. Customer will notify OT promptly in writing of Customer's acceptance. If Customer does not conduct the Acceptance Test and notify OT within the Acceptance Period or, if no Acceptance Period is specified, then within five (5) business days after delivery of the deliverable, the deliverable will be deemed accepted.

8.5 If Customer notifies OT in writing within the Acceptance Period that the deliverable does not function in all material respects with the written specifications stated in the TD, and further describes the deficiencies in sufficient detail for OT to identify or reproduce them, OT will work diligently to correct and redeliver the affected deliverable.

9. Data protection.

9.1 Privacy Policy. 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 <https://www.opentext.com/who-we-are/copyright-information/site-privacy>.

9.2 Technical and organization measures. If and 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 to protect such 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 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.

9.3 Personal data. If and 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 the Agreement or as otherwise required by law. Customer is responsible for providing notice to and obtaining all required consents from individuals including, without limitation, regarding the collection, processing, transfer and storage of their personal data through the Services as required by law.

9.4 Security Reports. On Customer written request and where available, OT shall provide Customer with summaries of third-party audit reports and/or certifications applicable to the Services (e.g., SOC1, Type II; SOC2, Type II audit reports and/or ISO 27001 certificate, each a "**Security Report**"). Customer may verify scope or controls not covered by a Security Report (if any), by requesting to review OT's standard security controls as documented in a Shared Assessments Security Information Gathering form or similar summary document.

10. Termination of the Agreement.

10.1 For cause. 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), 6 (Intellectual property), 7 (Content); 9 (Data protection), 11 (Fees, payment and taxes), or 15 (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 the Agreement, neither party will be permitted to terminate the Agreement prior to the end of the Agreement Term.

10.2 Actions upon termination. Upon any termination of the Agreement: (i) OT shall cease to perform the Services; (ii) Customer shall immediately pay all accrued fees and charges; (iii) Customer will immediately either return to OT or destroy all copies of (a) Documentation, and (b) Client Side Software; (iv) each party shall destroy or promptly return all copies, partial copies, and any documentation or materials evidencing the other party's Confidential Information; and (v) return of Content shall be governed by Section 7 (Content) above.

10.3 Survival. The following provisions shall survive termination or expiration of the Agreement: Sections 4 (Customer responsibilities), 5 (Restrictions on use), 6 (Intellectual property), 7 (Content), 9 (Data protection), 11 (Fees, payment and taxes), 12 (Warranties), 13 (Infringement indemnity), 14 (Limitation of liability), 15 (Confidentiality), and any provisions that by their nature should survive termination.

11. Fees, payment and taxes.

11.1 Customer shall pay OT the fees and charges specified in the TD including any applicable overage charges. Customer will pay charges for its use of the Services as recorded by OT's systems and fees for any Additional Services and other charges described in any TD, plus any Applicable Taxes. OT will submit invoices against the TD for ongoing provision of the Services. Unless otherwise specified in the applicable TD, the fees and charges are subject to an increase of up to ten percent (10%) (the "**Annual Price Adjustment**" or "**APA**") which will be applied annually during the Initial Term, and during each subsequent Renewal Term at the beginning of each Contract Year.

11.2 Payments are due 30 days from the date of invoice. Invoices shall be issued as set forth in the TD. 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 the governing law defined in Exhibit A. If Customer has a bona fide dispute with any charge, it will make timely payment of all other charges not in dispute pending resolution of the disputed charge, which the parties agree to undertake promptly. If invoiced amounts not subject to a bona fide dispute remain unpaid following at least 10 days written notice by OT, OT may (reserving all other legal remedies and rights) (i) suspend the Services until the invoiced amounts are paid, and (ii) if the invoiced amounts remain unpaid for 30 days after such notice, terminate the Agreement without further prior notice. Customer shall bear all of OT's costs of collection of overdue fees, including reasonable attorneys' fees.

11.3 If OT is unable to collect via Customer's payment method (e.g., due to the expiration of a credit card), Customer remains obliged to pay OT the amounts to which Customer has committed under the Agreement. All fees are non-refundable. In the event the TD provides for Customer

payment by a credit card, Customer is solely responsible for any fees imposed by its credit card company, including exchange rate or foreign transaction fees.

11.4 All prices, fees and charges are exclusive of Applicable Taxes which shall be assumed and paid by Customer on provision of a tax invoice. Customer is responsible for providing OT with all Tax Registration Numbers, including copies of applicable Registration Certificates. Customer is responsible for self-assessing any Applicable Taxes in accordance with applicable laws. Customer is responsible for applying withholding tax, withholding VAT, VAT withholding and/or similar taxes on payment to OT. Customer must apply the lowest possible withholding rate, *i.e.*, taking into account available tax treaties, on receipt of a valid residency certificate from OT, as may be required to support a lower tax rate. Customer shall provide OT with copies of certificates proving that tax amounts withheld were paid to the applicable tax authorities in accordance with the applicable laws, in a timely manner. OT reserves the right to increase agreed prices to compensate for amounts that Customer will withhold for such reasons.

12. Warranties.

12.1 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 Agreement. With respect to Additional Services, if Customer notifies OT in writing of a breach of this warranty within 30 days of performance, OT will reperform the affected portion of the Additional Services at no additional charge to Customer.

12.2 THE FOREGOING IS A LIMITED WARRANTY, AND EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, THE SERVICES 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 OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, 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 DAMAGE TO ITS CONTENT OR OPERATIONS THAT COULD BE CAUSED BY SERVICES DEFECTS, INTERRUPTIONS, OR MALFUNCTIONS.

12.3 OT's sole obligation and Customer's sole remedy under the foregoing limited warranty are strictly and exclusively limited to either the correction of any errors in the affected Services which are made known to OT by written notice from Customer describing such errors in detail or, at the election of OT, a pro rata refund of the fees paid by Customer for the particular portion of the Services which is in error.

13. Infringement indemnity.

13.1 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.

13.2 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's not making an admission against OT's interests; (iii) Customer's not agreeing to any settlement of the 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 maintaining sole control over legal counsel, litigation, and settlement of the Infringement Claim. OT will indemnify Customer from any judgment finally awarded, or payments made in settlement of, the Infringement Claim where all the conditions of this Section are satisfied.

13.3 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 an authorization 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 13.

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

14. Limitation of liability.

14.1 Exclusion. Subject to Sections 14.3 and 14.4, neither party nor its Affiliates will be liable for: (i) indirect, incidental, special, consequential, aggravated, exemplary, or punitive damages; or (ii) damages, compensation or reimbursement for lost sales, lost revenue, lost profits, loss of anticipated savings, downtime costs, lost or corrupted data, cost of substitute services or products or facilities, re-procurement amounts, or due to Force Majeure under Section 19.13 below.

14.2 Limitation. Subject to Sections 14.1, 14.3 and 14.4, the maximum collective liability of OT and its Affiliates:

14.2.1 for all claims in the aggregate arising from or relating to the Agreement or the Services during or in relation to an individual Contract Year, is limited to the total fees and charges paid by Customer for the Services for the applicable Contract Year; and

14.2.2 for all claims in the aggregate arising from or relating to the Agreement or the Services during or in relation to an Agreement Term that is longer than two (2) Contract Years, is limited to an amount equal to the sum of the total fees and charges paid by Customer for the Services in the first two (2) Contract Years, with such amount being inclusive of and not in addition to the total liability determined under Section 14.2.1.

14.3 Exceptions. Nothing in the Agreement shall exclude or limit liability for: (i) death or personal injury caused by negligence; (ii) fraud; or (iii) any other liability that cannot be excluded by applicable law.

14.4 Disclaimer. The limitations and exclusions in the Agreement 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, or whether any such claim relates to acts or omissions of the party claimed against or any other Person or entity (including, without limitation, such party's subcontractors), and even if: (i) a party is advised of the possibility of such damages or claims; (ii) such damages or claims were foreseeable; or (iii) a party's remedies fail in their essential purpose. The remedies specified in the Agreement are exclusive.

15. Confidentiality. Each Disclosing Party may disclose to the Receiving Party Confidential Information pursuant to the Agreement. Each Receiving Party agrees, for the Agreement Term and for three (3) years thereafter, 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 disclosure by the Disclosing Party; (iii) is lawfully disclosed to Receiving Party by a third party without restriction on disclosure; (iv) is Content, which is governed by Section 7 (Content) above; (v) is independently developed by Receiving Party or its employees or agents without use of Disclosing Party's Confidential Information; or (vi) 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.

16. Use of third-party cloud infrastructure. OT may use third-party cloud infrastructure providers (each a "3rd-Party-CIP") to provide portions of the Services. Certain obligations related to security will be fulfilled by the 3rd-Party-CIP, as applicable (for example, as permitted by the 3rd-Party-CIP, OT may provide copies of the 3rd-Party-CIP's summary security reports or certifications to Customer regarding the portions of the Service they provide). Access to such reports or other audit activities requested by Customer, or any data protection authorities having jurisdiction over Customer will, to the extent such report access and/or audit activities are permitted by the 3rd-Party-CIP, be limited in scope to that allowed by the 3rd-Party-CIP and may be subject to additional charges which will be the responsibility of Customer. If Customer intends to utilize a third-party auditor where such audit activities are permitted by the 3rd-Party-CIP, OT or the 3rd-Party-CIP may object in writing to such auditor where such auditor is: (i) not reasonably qualified; or (ii) not independent; or (iii) a competitor of OT or the 3rd-Party-CIP. Where Customer requires functionality which requires any additional processing service offered by a 3rd-Party-CIP (e.g., online language translation services), such additional processing services may be subject to the additional terms and restrictions of the 3rd-Party-CIP which shall be deemed to be incorporated herein. A 3rd-Party-CIP shall be considered a sub-processor, where applicable. The 3rd-Party-CIP may utilize subcontractors provided that such 3rd-Party-CIP remains liable for any subcontracted obligations to the same extent it has committed to OT. If OT utilizes a 3rd-Party-CIP, access to stored Content may be limited to the time period made available by such 3rd-Party-CIP. Requests for deletion of Content following termination may be subject to delay of up to 180 days by the 3rd-Party-CIP, during which time period, all restrictions on use and confidentiality shall continue to apply.

17. Artificial Intelligence Technologies. The services and/or products provided by OT may include and/or enable the use of predictive algorithms, generative artificial intelligence, and/or other components commonly referred to as artificial intelligence technologies ("**AI Components**"), all of which may be provided by third parties (see Section 17.5 below). Customer agrees to the following:

17.1 The AI Components may use or analyze Customer data based on parameters that have been determined, identified, and/or defined by Customer. Customer's choice of parameters and the types of Customer data which are input ("**Inputs**") into the relevant services and/or products may include assumptions, biases and limitations which will affect the effectiveness, quality, relevance and accuracy of the Outputs.

17.2 The quality of the outputs resulting from AI Components ("**Outputs**") depends on the quality of the Inputs. The quality of the Inputs is the sole responsibility of Customer.

17.3 Use of AI Components does not replace decision-making and judgement by natural individuals. The AI Components are intended to provide additional knowledge to support such decision making and judgement. Customer remains solely responsible for any decisions taken and judgements as a result of the Outputs. Customer agrees that OT shall have no liability resulting from (i) the creation and/or use of the Outputs, and/or (ii) any decisions resulting from the use of the Outputs. Unacceptable risk use (as defined in EU AI Act or per industry standards) is prohibited.

17.4 For all AI Components that use large language models (including other technology affiliated with generative artificial intelligence), the nature of the technology may limit (i) the protection of privacy, (ii) rights to use, and/or (iii) the accuracy of the Outputs. Therefore, OT does not guarantee (a) the protection of privacy, (b) rights to use, and/or (c) the accuracy of the Outputs, with regard to such AI Components and/or use of such models and related technologies.

17.5 Access to and use of any third-party services and/or products including and/or enabling AI Components may be subject to Customer agreeing to additional terms as notified to Customer or its Authorized User(s) at the time of order, installation, enablement, access or use of the relevant third-party service/product.

17.6 Applicable laws may provide for additional requirements concerning the use of AI Components in certain contexts, services or projects. Customer is solely responsible for identifying and complying with the requirements applicable to the implementation and use of the relevant services and products (including AI Components) in Customer's processes.

18. Default.

18.1 **Default by Customer.** Customer shall be in default upon the occurrence of any one of the following: (i) failure to pay fees or other charges when due; (ii) failure to perform any material term or condition of the Agreement and such failure is not cured within 30 days of written notice from OT; (iii) if Customer ceases the conduct of active business; (iv) if any proceedings under the applicable law bankruptcy code or other insolvency laws shall be instituted by or against Customer, or if a receiver shall be appointed for Customer or any of its assets; or (v) if Customer shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they come due. Upon any default by Customer, OT may: (a) terminate the Agreement and/or cease or suspend the performance of Services; and (b) declare all accrued fees and other charges immediately due and payable. Any such termination shall be without prejudice to any other rights or remedies which OT may have against Customer with respect to such default, and shall not entitle Customer to a refund, in whole or in part, any fees or charges. No remedy referred to in this Section is intended to be exclusive, but shall be cumulative and in addition to any other remedy referred to herein or available to OT at law or in equity.

18.2 **Default by OT.** OT shall be in default upon the occurrence of any one of the following: (i) failure to perform any material term or condition of the Agreement and such failure is not cured within 30 days of written notice from Customer; (ii) if OT ceases the conduct of active business; (iii) if any proceedings under the applicable law bankruptcy code or other insolvency laws shall be instituted by or against OT, or if a receiver shall be appointed for OT or any of its assets; or (iv) if OT shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they come due. Upon any default by OT, Customer may terminate the Agreement. Any such termination shall be without prejudice to any other rights or remedies which Customer may have against OT with respect to such default. Upon such termination, OT shall refund to Customer a prorated amount of any fees prepaid by Customer for a period following the effective date of such termination. No remedy referred to in this Section is intended to be exclusive, but shall be cumulative and in addition to any other remedy referred to herein or available to Customer at law or in equity.

19. Miscellaneous.

19.1 **Entire agreement; amendment; waiver.** 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. It is expressly agreed that if Customer issues a purchase order or other document in connection with the Agreement, such document will be deemed to be for Customer's internal administrative

convenience only, any provisions contained therein shall not amend or be used in interpreting the Agreement, and not providing a purchase order does not relieve Customer from the responsibility to make timely payments as set forth in the Agreement. 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 other than by a written waiver signed by a duly authorized representative. No waiver constitutes a waiver of any prior or subsequent breach. Section headings are for convenience only and will not be construed as a part of this Agreement.

19.2 OT Contracting Entity; governing law; venue; time limit.

19.2.1 OT Contracting Entity. The OT entity designated in the applicable TD as the OT entity providing the Services shall be the “**OT Contracting Entity**” under the Agreement.

19.2.2 Governing law; venue. The Agreement is governed by the laws of the applicable jurisdiction of the OT Contracting Entity as specified in Exhibit A excluding: (a) such jurisdiction’s conflicts or choice of law rules; and (b) the United Nations Convention on Contracts for the International Sale of Goods. In addition, the parties agree that the Uniform Computer Information Transaction Act or any version thereof, adopted by any jurisdiction, in any form (“**UCITA**”), shall not apply to the Agreement. To the extent that UCITA is applicable, the parties hereby opt out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein.

19.2.3 Each party waives any right it may have to object to such venue, including objections based on personal jurisdiction or forum non conveniens (inconvenient forum).

19.2.4 In the event of a dispute, the prevailing party shall have the right to collect from the other party its reasonable costs and attorneys’ fees incurred in enforcing the Agreement.

19.2.5 No claim or action, regardless of form, arising from or relating to the Agreement or any Services provided or to be provided thereunder, 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.

19.3 Governing Law specific terms. Exhibit B specifies terms that modify and/or add to the GTC with respect to certain of the Governing Law and Exclusive Jurisdiction listed in Exhibit A.

19.4 High risk activities. The Services are not intended to be used for: (i) activities where the failure of the Services could lead to death, serious personal injury, or severe environmental or property damage; or (ii) materials or activities that are subject to the International Traffic in Arms Regulations (“**ITAR**”) maintained by the United States Department of State. Any use of the Services for such activities by Customer will be at Customer’s own risk, and Customer will be solely liable for the results of any failure of the Services when used for such activities.

19.5 Notice to law enforcement. Notwithstanding any other term of this Agreement, Customer agrees that OT shall have a right to notify law enforcement if, during the performance of the Services, OT: (a) observes information that, in the opinion of OT, may constitute child pornography; (b) believes in its reasonable opinion that continued performance of the Services will commit or aid and abet any crime; or (c) discovers evidence of the planning of a future crime. In such an event, OT may notify Customer of such evidence, and Customer agrees that OT has a right to discontinue performance of the Services and/or terminate this Order, without liability or penalty.

19.6 No solicit, no hire. During the Agreement Term and for a period of one (1) year after its termination, Customer agrees not to solicit the employment of, nor hire or retain as a contractor or consultant, any individuals who are or were OT employees performing the Additional Services under this Agreement. The foregoing restriction shall not apply in the event Customer employs a current or former OT employee who responds to an employment position opening made public by Customer via publishing such opening in a major newspaper, industry publication, or nationally recognized Internet job posting site.

19.7 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.

19.8 Services Statistics. OT shall be entitled to use, develop or share its experience and knowledge (including processes, ideas, statistical and other information) acquired by it in connection with the services and/or products (“**Services Statistics**”), provided that any such use of the Services Statistics by OT is in a manner or form whereby: (i) the Customer is not identified as a source of any such Services Statistics; and (ii) any data arising from the Services Statistics is anonymized.

19.9 Third party rights. No term of the Agreement is intended to confer a benefit on, or to be enforceable by, any person or entity which is not a party to the Agreement; provided that either party’s Affiliate which is defined as an Authorized User under a TD shall be deemed a party to the Agreement for the purposes of that TD.

19.10 Assignment. 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 permitted assigns of the parties.

19.11 Publicity. Customer shall not use in any advertising, publicity, promotion, marketing, or other similar activity, any name, trade name, trademark, or other designation including any abbreviation, contraction, or simulation of OT, without OT’s prior written consent.

19.12 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 and import control laws of Canada, the United States, the European Union, or other countries. Customer agrees to comply strictly with all applicable export and import 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 provided to nor used by anyone: (a) located in any applicable embargoed or sanctioned 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; (c) the U.S. Department of Commerce’s Denied Persons or Entity List; or (d) subject to trade control sanctions or blocking measures. 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.

19.13 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. 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, epidemics or other public health emergencies, or any cause beyond the reasonable control of OT (collectively "**Force Majeure**").

19.14 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.

19.15 Notices. Any notice under the Agreement that must be given by a party in writing is to be sent either (i) via certified or registered mail, postage prepaid, or (ii) via express mail or nationally recognized courier service to the other party's address specified in the Agreement or on the most recent TD, and shall be effective when received.

19.16 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.

19.17 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.

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Exhibit A
to the OpenText Cloud GTC
Governing Law; Exclusive Jurisdiction

As determined by the OT Contracting Entities listed below, the Governing Law and Exclusive Jurisdiction governing the applicable Agreement is set forth below.

1. All OT Contracting Entities incorporated in the United States of America.

- Governing law: Laws of the U.S. and the State of Delaware
- Exclusive jurisdiction: Courts in the U.S. and the State of Delaware concerning any action arising from or relating to the Agreement or the Services.

2. All OT Contracting Entities incorporated in Canada.

- Governing law: Laws of Canada and the Province of Ontario
- Exclusive jurisdiction: Courts in the Province of Canada concerning any action arising from or relating to the Agreement or the Services.

3. All OT Contracting Entities incorporated in Mexico.

- Governing law: Laws of Mexico
- Exclusive jurisdiction: Courts in the City of Mexico, Mexico concerning any action arising from or relating to the Agreement or the Services.

4. All OT Contracting Entities incorporated in Brazil.

- Governing law: Laws of Brazil
- Exclusive jurisdiction: Courts in the central forum of the City of São Paulo, São Paulo, Brazil concerning any action arising from or relating to the Agreement or the Services.

5. All OT Contracting Entities incorporated in Europe, the Middle East, and Africa (except where otherwise listed in this Exhibit A).

- Governing law: Laws of England and Wales
- Exclusive jurisdiction: Courts in England concerning any action arising from or relating to the Agreement or the Services.

6. All OT Contracting Entities incorporated in France.

- Governing law: Laws of France
- EXCLUSIVE JURISDICTION: TRIBUNAL DE COMMERCE DE NANTERRE, FRANCE CONCERNING ANY ACTION BASED ON THE AGREEMENT OR THE SERVICES.

7. All OT Contracting Entities incorporated in Germany.

- Governing law: Laws of Germany
- Exclusive jurisdiction: Courts in Munich, Germany concerning any action arising from or relating to the Agreement or the Services.

8. All OT Contracting Entities incorporated in Australia and New Zealand

- Governing law: Laws of New South Wales
- Exclusive jurisdiction: Courts in New South Wales concerning any action arising from or relating to the Agreement or the Services.

9. All OT Contracting Entities located in South-East Asia, East Asia and South Asia (except where otherwise listed in this Exhibit A.)

- Governing law: Singapore law
- Exclusive jurisdiction: Courts in Singapore concerning any action arising from or relating to the Agreement or the Services.

10. All OT Contracting Entities incorporated in Japan

- Governing law: Japanese law
- Exclusive jurisdiction: Tokyo District Court concerning any action arising from or relating to the Agreement or the Services.

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Exhibit B
to the OpenText Cloud GTC
Governing Law Specific Terms

This Exhibit B specifies terms that modify and/or add to the GTC for certain of the Governing Law and Exclusive Jurisdiction listed in Exhibit A.

Country: **France**

For Agreements that are governed by the Laws of France, the OT's Cloud Services Acceptable Use Policy ("AUP") which is defined in Section 1. (Definitions), shall be the French language version of the AUP, which is available at the following link, https://mimage.opentext.com/alt_content/binary/agreements/opentext-acceptable-use-policy-cloud-services-fr.pdf, or upon request from OT.

Country: **Germany**

1. Modification of Section 8 (Additional Services), Subsection 8.4

The following clauses are added at the end of Subsection 8.4:

"Acceptance shall only be applicable for Additional Services and deliverables which qualify as "work results" in the sense of Section 631 of the German Civil Code that are to be provided under a TD for Professional Services.

The warranty provisions of the Agreement apply accordingly in case of Additional Services and deliverables which qualify as "work results" in the sense of Section 631 of the German Civil Code that are to be provided under a TD for Professional Services."

2. Modification of Section 12 (Warranties)

Section 12 (Warranties) shall be entirely replaced by the following provisions:

"12. Warranties.

12.1 The parties agree that the Services owed under the Agreement are a new and varied type of service and that in the event of any defaults to the Services, the application of the special warranty provisions of the German Civil Code (BGB) to the interests of the parties would not be fair. It is therefore agreed that in connection with any default of the Services the following provisions shall apply exclusively.

12.2 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 Agreement. With respect to Additional Services, if Customer notifies OT in writing of a breach of this warranty within 30 days of performance, OT will reperform the affected portion of the Additional Services at no additional charge to Customer.

12.3 OT does not warrant that the Services will be error-free or uninterrupted or that all failures of the Services will be remedied or that the Services meet Customer's requirements or expectations, or particular purpose. OT is not responsible for any issues related to the performance, operation or security of the Services arising from: (a) Content or the content of third parties or from services provided by third parties on behalf of Customer; or (b) Customer's failure to provide appropriate operating environment according to Section 4.1 necessary for the Services in accordance with the Documentation. If in case of a default of the Services for which OT is responsible, Customer shall notify OT immediately, but at the latest within two (2) weeks after becoming aware of the default by a written complaint describing the error in the Services. If no such complaint is lodged all Customer's warranty claims and rights arising from the respective default are excluded, insofar as they are recognizable for the Customer.

12.4 In response to a complaint pursuant to Section 12.3, OT shall have the opportunity to remedy the default free of charge within an appropriate period. If the default of Services cannot be rectified within an appropriate period or finally fails after OT has been given at least two (2) opportunities to effect rectification, Customer may at its option: (a) demand a reduction of the Fees; or (b) withdraw from and/or terminate solely the affected parts of respective Agreement. In case of withdrawal or termination Customer may assert a claim for compensation of damages or futile expenditures suffered within the limitations of Section 14 of the Agreement. Withdrawal shall be excluded in case of insignificant defaults in the Services. All warranty claims and rights of Customer arising from a default of the Services shall become statute-barred 12 months after the date on which the default was first notified or should have been notified pursuant to Section 12.4.

12.5 TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY, USUALLY ASSUMED CHARACTERISTICS AND FITNESS FOR A PARTICULAR PURPOSE."

3. Modification of Section 14 (Limitation of liability)

Section 14 shall be entirely replaced by the following provisions:

"14. Limitation of liability. OT's total liability for any and all claims arising out of or relating to the Agreement or the Services, regardless of the legal grounds (e.g., breach of contract or warranty, negligence, breach of duty, unlawful acts, tort or otherwise) shall be subject to the limitation set out herein:

14.1 Unlimited liability. OT shall be liable without limitation: (a) in the event of intentional acts; or (b) in the event of damage or loss arising from death or personal injury irrespective from the level of culpability; or (c) in case OT has issued a guarantee or (d) in case of fraudulent misrepresentation, or (e) liability under the German Product Liability Act (ProdHaftG).

14.2 Cardinal obligations, gross negligence.

14.2.1 OT shall be liable in case of a material breach of contractual obligations which jeopardize attainment of the contractual purpose (cardinal obligations) to the extent that OT acted gross negligently.

14.2.2 The parties agree that OT's liability for cardinal obligations under Section 14.2 shall be limited in the aggregate to 200% of the fees paid by Customer to OT during the 12 months immediately preceding the event causing the damage.

14.2.3 For all claims in the aggregate arising from or relating to the Agreement or the Services during or in relation to the entire Agreement Term, the parties agree that OT's liability for cardinal obligations shall be limited to 100% of the fees paid by the Customer for the entire Agreement Term.

14.3 Cardinal obligations, simple negligence.

14.3.1 OT shall be liable for a breach of cardinal obligations in case of only simple negligence up to the limited extent that is typically contractually foreseeable.

14.3.2 The parties agree that OT's liability for typically contractually foreseeable damages shall not exceed in the aggregate 100% of the fees paid by Customer to OT during the 12 months immediately preceding the event causing the damage.

14.3.3 For all claims in the aggregate arising from or relating to the Agreement or the Services during or in relation to the entire Agreement Term, the parties agree that OT liability for cardinal obligations shall be limited to 50% of the fees paid by the Customer for the entire Agreement Term.

14.4 Other cases. Except for the liability specified in sections 14.1, 14.2, 14.3, OT's liability shall be excluded.

14.5 Indirect and consequential damages. OT shall not be liable for consequential and indirect damages, except where required under Sections 14.1, 14.2 or 14.3.

14.6 Contributory negligence and data backup. If the Customer has contributed to the occurrence of damage or loss by any own fault, the principles of contributory negligence shall determine the extent to which OT and the Customer shall have to bear the damage or loss. The Customer is especially responsible for regular backup of its data and to protect its operating environment according to Section 4.1 against any sort of malware (virus, worms, trap door, back door, etc.) according to the current state of the art. In the event of a loss of data based on the fault of OT, OT shall be liable only for the costs of copying the data in the backup copies to be created by Customer and for reconstructing the data which would have been lost even if backup copies had been created at adequate regular intervals.

14.7 If and to the extent that the Services are considered to be leased and subject to the legal regulations of German rental law, any liability of OT for damages or defaults in performance existing at the conclusion of the Agreement or the Order is excluded, to the extent that OT acts or refrains from acting without fault (ohne Verschulden). Insofar § 536a Abs. 1 Alt. 1 BGB shall not apply.

4. **Modification of Section 19 (Miscellaneous), Subsection 19.2.5**

Subsection 19.2.5 shall be entirely replaced by the following provisions:

In the event of willful act or gross negligence of OT, in case of fraudulent misrepresentation, physical injury, guarantees (Article 443 of the German Civil Code BGB) and claims in accordance with the Product Liability Act (Produkthaftungsgesetz), the statutory limitation periods apply. All claims for damages or reimbursement of expenses which are based on defects of the Services shall become time-barred within one (1) year. § 438 para. 1 No. 1 a) BGB remains unaffected by this provision. All other claims or actions, regardless of form, arising from the Agreement or any Services provided or to be provided hereunder become time-barred after two (2) years, except that an action for non-payment or infringement of OTs intellectual property rights and trade secrets may be brought at any time. Statute of limitation shall commence at the time at which the Customer has become aware of the circumstances giving rise to the claim or, ought to have been aware (without acting with gross negligence).

5. **Modification of Section 19 (Miscellaneous), Subsection 19.16**

Subsection 19.16 shall be entirely replaced by the following provisions:

Severability. If any provision of the Agreement is or becomes invalid or unenforceable in whole or in part, the remaining provisions shall remain unaffected. The ineffective or unenforceable provision shall be replaced by such valid and enforceable provision which comes closest to what the parties would have agreed if they had known the ineffectiveness or unenforceability. This shall apply accordingly in the event of any omission in the Agreement.

6. **Modification of Section 19 (Miscellaneous), Subsection 19.17**

Subsection 19.17 shall be entirely replaced by the following provisions:

Governing language. The English language version of this Agreement shall be controlling in all respects and shall prevail in case of any inconsistencies with translated versions, if any.

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