

THIS PARTNER RESELLER AGREEMENT (THE “**AGREEMENT**”) IS BETWEEN THE OPENTEXT (“**OT**”) ENTITY SPECIFIED IN EXHIBIT A TO THIS AGREEMENT AND THE LEGAL ENTITY THAT ENTERS INTO THIS AGREEMENT (“**PARTNER**”). PLEASE READ ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF PARTNER DOES NOT ACCEPT THESE TERMS, PARTNER MUST CLICK “DISAGREE/DECLINE”. IF PARTNER (THROUGH AN EMPLOYEE OR AGENT) CLICKS TO INDICATE ACCEPTANCE, THIS AGREEMENT IS EFFECTIVE AS OF THAT DATE (THE “**EFFECTIVE DATE**”).

EXHIBIT A TO THIS AGREEMENT SPECIFIES THE OT ENTITY WHICH IS THE PARTY TO THIS AGREEMENT.

1. DEFINITIONS.

1.1 “**Affiliate**” means any entity controlled by, controlling, or under common control with a party to this Agreement. Control exists through ownership, directly or indirectly, of a majority of the outstanding equity capital and of the voting interests of the subject entity. If an entity ceases to meet these criteria, it will cease to be an Affiliate under this Agreement.

1.2 “**Applicable Taxes**” means the sales, use, consumption, goods and services, and value-added taxes imposed by the appropriate governments arising in connection with the activities covered by this Agreement, except taxes imposed on OT’s income.

1.3 “**Change of Control**” means (i) the consummation of a reorganization, merger or consolidation, or sale or other disposition of substantially all of the assets of Partner, or (ii) the acquisition by any individual, entity or group of beneficial ownership of more than fifty percent (50%) of either (a) the then-outstanding shares of common stock of Partner, or (b) the combined voting power of the then-outstanding voting securities of Partner entitled to vote generally in the election of directors.

1.4 “**Claim**” means claims, suits, actions or proceedings brought against Partner in a court of competent jurisdiction in a Covered Country by a third party which allege an infringement of the third party’s patent, copyright, or trade secret rights existing under the laws of the Covered Countries.

1.5 “**Covered Countries**” means the United States, Canada, Austria, Belgium, France, Italy, the United Kingdom, Spain, the Netherlands, Sweden, Denmark, Finland, Norway, Switzerland, Germany, Australia, and New Zealand.

1.6 “**End User**” means any third party that obtains OT Products, OT Services or OT Support, either directly from OT or from Partner as authorized in this Agreement, for use in its internal business operations, and not for resale or redistribution.

1.7 “**EULA**” means an End User License Agreement which governs the use of OT Products.

1.8 “**Intellectual Property**” means all recognized intellectual property rights, including but not limited to trademarks, copyrights, patent rights, trade secrets, confidential or proprietary information, techniques, methods, software, technology, plans, designs, and business processes) and any innovations, inventions or developments derived directly from such intellectual property.

1.9 “**License Model**” means the description of the conditions, limitations and restrictions associated with the licenses which govern the use of the OT Products. For example, a License Model may state that OT Products are licensed based on number of named users, number of servers upon which the OT Product may be installed, number of concurrent users, or another metric described in the License Model Schedule.

1.10 “**License Model Schedule**” means the schedule entitled “License Model Schedule” posted at <https://www.opentext.com/agreements> in effect on the date of the applicable transaction pursuant to this Agreement, which Schedule(s) shall be deemed incorporated herein.

1.11 **“OT Materials”** means any OT marketing materials, trademarks, logos, proprietary documents, or other tangible or intangible OT property provided to Partner in any format.

1.12 **“OT Products”** means the products OT makes available to Partner. The definition of OT Products also includes related documentation and software product updates.

1.13 **“OT Services”** means the professional services and learning services packages and consulting services that OT makes available to Partner for resale.

1.14 **“OT Support”** means the support and maintenance programs offered by OT to End Users, either directly from OT or as resold by Partner in accordance with this Agreement. Unless stated otherwise in this Agreement, OT Support is offered under the terms of the Software Maintenance Program Handbook.

1.15 **“Partner Program”** means OT’s overall partner program, encompassing specific types of recognized partnership activities as set out in this Agreement, as well as in the relevant Program Materials detailing the specific activities for which OT has approved Partner to act as a recognized OT partner.

1.16 **“Personal Information”** means information or data about an individual who can be identified from that: (a) information or data; or (b) data and other information to which an organization has or is likely to have access.

1.17 **“Program Materials”** means the guides, handbooks and other documentation provided by OT from time to time, including as posted on OT partner websites and made available to Partner, detailing OT Products, territory restrictions, and specific business requirements relevant to the areas of the OT Partner Program of which Partner has been approved as a member. Examples of Program Materials include, but are not limited to, information on discounts applicable to Partner, training requirements, OT Services resale terms and information on OT Product licensing.

1.18 **“Software Maintenance Program Handbook”** means the applicable handbook for OT Products which describes OT’s software maintenance programs for standard unmodified OT Products, the current version of which is posted at <https://www.opentext.com/agreements>.

1.19 **“Territory”** means the country(ies) within which Partner is authorized by OT to conduct the business activities set out in this Agreement.

2. PROGRAM AND GENERAL TERMS.

2.1 **Reseller Appointment.** Subject to the terms of this Agreement, OT hereby appoints Partner as a non-exclusive reseller of the OT Products and OT Services in the Territory and Partner accepts such appointment. OT grants to Partner a non-exclusive, non-transferrable, non-assignable license to advertise, market, promote, and resell copies of the OT Products and OT Services to End Users in the Territory. In addition, Partner is recognized as a member in the Partner Program is subject to the terms of this Agreement and the requirements contained in the Program Materials. The Program Materials provided or made available to Partner, including by OT notifying Partner of the availability of applicable Program Materials at a website, are considered a part of this Agreement. If Partner does not agree to abide by the terms in any applicable Program Materials, Partner may terminate its membership in the Partner Program.

2.2 **Changes to Partner Program.** OT reserves the right to change the terms and requirements of the Partner Program or Program Materials at any time at its sole discretion. All changes will be effective immediately by OT notifying Partner in writing (including via email to the contact email provided OT, which email may be changed by Partner on written notice to OT) of the change or by updating its websites that host the Program Materials and making reasonable efforts to notify Partner of the updated terms provided that OT Product and/or OT Services deletions will not be effective until ninety (90) days after OT first notifies Partner by utilizing one of the notification methods summarized above.

2.3 **Territory**. Partner is only authorized to conduct activities as an OT Partner in the territory designated in the Program Materials or otherwise agreed with Partner. OT may modify the Territory by providing at least thirty (30) days' prior written notice to Partner.

2.4 **Affiliate Use**. This Agreement is entered into by OT and may be utilized by OT's Affiliates in connection with the activities covered by this Agreement. OT may approve use by Partner's Affiliates by providing written authorization identifying the applicable Partner Affiliate, provided that in any such case: (a) Partner remains responsible for the Affiliate's compliance with the terms of this Agreement (including without limitation any payment obligations to OT); and (b) Partner is liable for any breach of this Agreement by an Affiliate.

2.5 **Product and Service Change**. OT may change or discontinue the manufacture, license, sale, or availability of any OT Product or OT Service at any time at OT's discretion, with or without prior notice, and without incurring any liability whatsoever.

2.6 **Copying Prohibited**. Partner is prohibited from copying OT Products, in whole or in part, and shall only advertise, market, promote, and resell copies of Approved OT Products ordered by Partner and obtained from OT under this Agreement.

2.7 **Cooperation with OT Requests for Information**. Partner shall cooperate with reasonable OT requests for information relating to the resale of OT Products, OT Services and/or OT Support, including but not limited to reports about OT Products and Services resold (for example, quantities, identity of End Users, sales by OT Product) or sales forecasts.

2.8 **Value Added**. Partner acknowledges and agrees that in its capacity as a reseller, Partner will provide an added value to the End User beyond which would be obtained if the End User were to purchase the OT Products or OT Support directly from OT.

2.9 **No Channel Sales**. Partner may only resell OT Products, OT Services and OT Support directly to End Users, and not to third parties for further resale or redistribution.

2.10 **Sales Process**.

2.10.1 **Price Quotations**. Partner shall follow OT's price quotation and ordering processes described in the then applicable Program Materials. OT terms and conditions for OT Services that OT makes available in the Program Materials must be included in the Partner quotation for such services to an End User. Price quotations are OT's price to Partner only. OT does not dictate the price charged by Partner to End Users. Partner is free to set its own pricing to End Users.

2.10.2 **Order Information**. As part of each order submitted by Partner pursuant to this Agreement, Partner must provide the following information to OT prior to Partner invoicing the applicable End User: (a) a description of the OT Products, OT Services or OT Support being ordered from OT; (b) the location of the End User (using postal codes); (c) a copy of the purchase order received by Partner from the End User or other evidence of a confirmed deal; and (d) a purchase order from Partner for payment due to OT. Purchase orders shall comply with OT's then-current purchase order requirements. Additional order information may be required in accordance with applicable Program Materials. OT in its sole discretion may accept or reject any order.

2.10.3 **Risk of Loss and Shipping Terms**. The OT Products are deemed delivered on the earlier of (a) when made available by OT for electronic download, or (b) when OT delivers the OT Products on physical media. Title to the physical media and all risk of loss for the physical media will pass to Partner or End User, as applicable, when delivered by OT to the shipping dock of the OT shipping facility.

2.10.4 **Quarterly Reports**. Partner shall submit accurate, up to date, Quarterly Reports to OT during the Reseller Schedule term, in the form specified by OT from time to time in the Program Materials, showing the quantity of OT Product(s) and OT Services resold: (a) by Partner; (b) by location (using postal codes); and (c) by End User.

2.10.5 Payment. All OT invoices shall be paid by Partner consistent with this Agreement terms regarding payment.

2.10.6 End User Refunds. If OT determines that OT owes an End User a refund, Partner agrees to accept payment by OT and refund the same amount to the End User.

2.11 **Partner's Obligations relating to Resales.**

2.11.1 In General. Partner will be responsible for communicating with End Users and billing End Users in accordance with the applicable End User agreement.

2.11.2 OT EULA. Each OT Product has an embedded "clickwrap" EULA. Partner shall ensure that an authorized representative of End User (and not any Partner personnel) accepts any click-through EULAs during product installation where Partner is providing installation services to End User. The End User shall not become a third party beneficiary under this Agreement.

2.11.3 License Models. Partner shall be responsible for ensuring that for each transaction involving OT Products, it shall inform the End User in writing of the applicable License Model for the OT Products. OT will provide Partner reasonable assistance in confirming the applicable License Models for OT Products, either as part of the applicable deal registration or quotation process, through the Program Materials relating to the OT Products which Partner is authorized to resell, or by OT providing guidance at Partner's request. Partner shall be liable to OT for End User use of the OT Products in excess of the OT-approved License Models to the extent such excess use was due to Partner's failure to properly identify the License Models applicable to the OT Products.

2.12 **End User Support and Maintenance.**

2.12.1 Terms of OT Support. The nature and extent of the OT Support provided to End Users will depend upon the terms of the particular OT Support programs purchased by the End User. OT Support shall be governed by the OT Software Maintenance Program Handbook unless supplemented by another written maintenance or support agreement agreed to by OT.

2.12.2 First Year Support. Partner shall ensure that all End Users purchase first year OT Support at the time of End User's purchase of licenses for OT Products.

2.12.3 Renewals. OT may work with Partner for future OT Support renewals for End Users, in which case OT will send an appropriate quote to Partner detailing OT Support pricing. Partner shall coordinate with the applicable End User and collect payment for the OT Support, then Partner shall pay OT consistent with the quote.

2.12.4 No Restriction on OT Provision of Support. OT retains the right to contact End Users directly regarding OT Support, both during the term of this Agreement and after termination; OT does not grant Partner exclusive rights as a supplier or reseller of OT Support to any End User.

2.12.5 No Right to Obligate OT; Provision of Support to End Users. Unless otherwise agreed in writing between OT and Partner, no right or license is granted to Partner to legally obligate OT to provide any support or maintenance to any End User. Partner shall not provide any support on behalf of OT to any party or purport to provide support on behalf of OT without obtaining OT's prior written consent in each case.

2.13 **OT Services**. The provision of OT Services to an End User will be governed by the terms of the then-current version of the relevant terms and conditions referenced in the Program Materials. Partner shall obtain End User acknowledgement and agreement to the applicable terms and conditions referenced therein. Partner covenants and agrees that it will not obligate OT to provide any OT Services except as set forth herein and in the Program Materials.

3. TERM AND TERMINATION.

3.1 **Term of Agreement.** This Agreement will begin on the Effective Date and, subject to Sections 3.2 and 3.3, will continue for an initial term of one (1) year, and then automatically renew on an annual basis.

3.2 **OT Approval.** OT shall have the option to terminate this Agreement if OT does not approve the Partner's qualifications to be a Partner, by sending an email to Partner within ten (10) days after the later of (i) the Effective Date, or (ii) the date OT receives all of the Partner's qualifying information including, but limited to, financial information and anti-corruption questionnaire responses.

3.3 **Termination for Convenience.** Either party may terminate this Agreement for convenience at any time by providing written notice to the other party at least thirty (30) days prior to the date of termination.

3.4 **Termination for Cause.** OT may terminate this Agreement immediately upon notice to Partner in the event of any of the following: (i) Change of Control; (ii) a petition in bankruptcy being filed by or against Partner or for the appointment of a receiver or trustee of any property of Partner; (iii) Partner making an assignment for the benefit of creditors; (iv) Partner is dissolved, liquidated, terminated, or otherwise ceases its ongoing business operations; (v) OT's good faith belief that Partner is engaging in or has engaged in fraudulent, unethical or unfair business practices; or (vi) any breach by Partner of any of the terms and conditions of this Agreement.

3.5 Effect of Termination.

3.5.1 Immediately upon termination, Partner shall stop representing itself as an OT partner and cease use of all OT Products and OT Materials except as explicitly authorized by OT in writing. Any End User agreements granted between Partner and End Users in accordance with this Agreement prior to the termination date and paid for by the End User shall remain in full force and effect for the remainder of the then current term of the End User agreement, but in no event will any such End User agreement renew or continue past the term in effect as of the termination or expiration of this Agreement. Partner will remain subject to its obligations under this Agreement with respect to any such End Users until each End User agreement terminates.

3.5.2 Upon OT request, Partner shall promptly return or destroy any OT Products or OT Materials in Partner's possession. OT shall retain the right to invoice Partner for any amounts incurred prior to termination, and termination shall not relieve Partner of its payment obligations as set out in this Agreement. Termination will not entitle Partner to a refund of any portion of prepaid annual Partner Program fees.

4. PAYMENT.

4.1 **Payments.** Partner shall pay all amounts due to OT under this Agreement within thirty (30) days of the invoice date, without deduction, set-off or counterclaim. Any overdue amounts will bear interest at the rate of 1.5% per month (18% per annum) or the maximum rate allowed by law, if less, until fully paid.

4.2 **Taxes.** Unless explicitly stated otherwise, the payment amounts related to this Agreement do not include any Applicable Taxes. Payment of Applicable Taxes shall be Partner's sole responsibility, and Partner is responsible for paying the full fees due for products or services under this Agreement regardless of any Applicable Taxes Partner is required to withhold or deduct. If OT is obligated to pay Applicable Taxes on behalf of Partner, Partner will reimburse OT in full promptly following receipt of OT's invoice. Partner is responsible for paying the gross fees due to OT regardless of any Taxes Partner or any other person is required to withhold or deduct.

4.3 **Credit.** OT, in its sole discretion, may issue or rescind lines of credit to Partner and may require prepayment of any amounts due before providing OT Products or services under this Agreement.

5. INTELLECTUAL PROPERTY, CONFIDENTIALITY.

5.1 **Intellectual Property Ownership.** Each party will retain all ownership rights to its Intellectual Property and any enhancements to such Intellectual Property. For clarity, OT's Intellectual Property includes all OT Products, OT Materials, and Program Materials.

5.2 **Use of OT Marks.** OT grants Partner a license to use OT's logos or marks provided to Partner in connection with the Partner Program, provided that such use must be in accordance with OT's then effective branding guidelines which can be accessed at: <https://www.opentext.com/who-we-are/copyright-information/trademark-logo-usage-policy>.

5.3 **Confidentiality.** Information exchanged under this Agreement will be treated as confidential if identified as such at disclosure or if the circumstances of disclosure would reasonably indicate such treatment. Confidential information may only be used for the purpose of fulfilling obligations or exercising rights under this Agreement and may only be shared with employees, agents, or contractors with a need to know such information. Confidential information will be protected using a reasonable degree of care to prevent unauthorized use or disclosure during the period the information remains confidential or a trade secret. These obligations do not cover information that: (a) was known or becomes known to the receiving party without obligation of confidentiality; (b) is independently developed by the receiving party or (c) is required to be disclosed by law or a governmental agency. Partner acknowledges that OT Products, OT Materials, and Program Materials constitute OT confidential or proprietary information, and may be used only as expressly permitted by the terms of this Agreement. Any authorized disclosure of OT Products or documentation must include proper copyright or proprietary notices.

5.4 **Privacy.** The nature of the Partner Program and OT Support and OT exercising rights and enforcing obligations under this Agreement, may require OT to use Personal Information and disclose Personal Information received from Partner and/or End Users to OT's Affiliates in other countries with whom OT has entered into a processing agreement incorporating the standard model contractual clauses for data transfers approved by the European Commission or which are in countries which are recognized by the European Commission as providing an adequate level of protection in relation to the data that is transferred (including OT Affiliates in overseas locations where OT is able to maintain strict control of the handling of that Personal Information), and Partner hereby consents to such use and disclosure and warrants that: (a) it has all necessary rights, licenses, authorizations and consents required for the use and disclosure of the Personal information by OT in accordance with this Agreement; (b) all use of the Personal Information for the purposes contemplated by this Agreement is compliant with applicable laws and in accordance with the terms of this Agreement; and (c) OT and any of its personnel will not be in breach of applicable laws as a result of using or disclosing the Personal Information in accordance with the terms of this Agreement. Notwithstanding the above, the use, transfer or disclosure of Personal Information shall not affect OT's obligations at law, in relation to such Personal Information.

6. PARTNER OBLIGATIONS.

6.1 **Partner Conduct and Obligations.** Partner shall conduct all activities in a manner that reflects favorably on OT, the OT Products, and the Partner Program. Partner acknowledges that the Program Materials are a part of this Agreement, and agrees to abide by any terms in the Program Materials, including but not limited to any applicable certification requirements, instructions relating to processing sales opportunities and obtaining quotations, and guidelines relating to the use of OT Materials.

6.2 **Compliance with Laws.** Partner shall comply with all applicable federal, state, provincial, and local laws and regulations in connection with its performance relating to this Agreement. Partner shall not engage in any deceptive or unethical practices that may be detrimental to OT. Partner shall comply with the Foreign Corrupt Practices Act of the U.S., the Bribery Act of the U.K., and any applicable local laws or regulations (collectively, the "Anti-Corruption Laws") including their prohibitions regarding the direct or indirect payment or giving of anything of value to an official of a

foreign government, political party or governmental or non-governmental agency for the purpose of influencing an act or decision in their official capacity or inducing the official to use their or their organization's influence to obtain or retain business involving OT Product(s) and OT services. Partner shall not violate or knowingly let anyone violate the Anti-Corruption Laws with respect to the sale, licensing and use of the OT Product(s) or related services. Partner warrants that none of Partner's principals, staff, officers or key employees are government officials, candidates of political parties, or other persons who might assert illegal influence on OT's behalf. OT shall have the right to: (i) audit Partner's books and records at any time in accordance with Section 10.1 of this Agreement to verify Partner's compliance with this Section; and (ii) immediately terminate this Agreement for cause if OT has reason to believe that Partner has violated its obligations under this Section. Partner shall indemnify and hold harmless OT against and from any claim, loss, damage or expense (including attorneys' fees and disbursements) (a) arising from any breach by Partner of any representation, warranty, covenant or other obligation of Partner under this Section 6.2, (b) resulting from any unlawful act committed by Partner or any agent of Partner thereof, or (c) which OT may sustain by reason of any act, omission or misrepresentation of Partner or any agent thereof relating to this Section 6.2. Partner agrees to maintain an effective program to comply with the Anti-Corruption Laws during the Term. Partner agrees to certify or recertify compliance within thirty (30) days of the date OT requests such action.

6.3 Use of OT Products and OT Materials. Partner shall not modify, transmit, post, upload, publish, translate, adapt, or create derivative works based on OT Products or OT Materials except as expressly permitted by OT in writing (including as described in applicable Program Materials or marketing/branding guidelines). Partner shall not remove any proprietary rights or other notices from OT Products or OT Materials.

6.4 Technical Requirements. Partner may only load or use OT Products on OT supported configurations installed in accordance with OT documentation and technical specifications as issued by OT.

6.5 No Unauthorized Warranties or Representations. Partner shall not make or provide any unauthorized representations, warranties, conditions or guarantees regarding OT Products on behalf of, or purporting to bind OT. Partner shall not make any representation to any party that OT has endorsed, warranted or guaranteed any Partner products or services without obtaining OT's prior written consent. OT shall have no responsibility to Partner, or to any other party or parties, for any breach by Partner of this Section, and Partner shall defend, indemnify, and hold OT harmless from and against all claims arising as a result of each such breach.

6.6 Planning and Reporting. Partner shall cooperate with OT's reasonable requests to provide information or reports in connection with Partner's business activities as an OT partner. Specific requirements (for example, a requirement to provide monthly or quarterly sales reports) may be set out in further detail in the applicable Program Materials.

6.7 Deal Registration. During the term of this Agreement, Partner may have the opportunity to suggest, recommend, or otherwise facilitate the sale of OT Products and OT Services to potential End Users, whether in connection with Partner services or separately. Partner agrees to register the prospective opportunity with OT utilizing the deal registration process provided by OT. If the Partner Materials set out a specific process or confirm that deal registration is not required for the deal at issue, the guidelines in such Partner Materials will take precedence.

6.8 Listing OT Products on Contract Vehicles. Partner shall not include any OT Products or OT Services on any government (Federal, State, Provincial, local, etc.) contract vehicle without prior written approval from OT.

7. WARRANTY AND LIABILITY.

7.1 NO PARTNER WARRANTY. OT PROVIDES NO WARRANTY TO PARTNER WITH RESPECT TO ANY OF THE OT PRODUCTS, OT SERVICES, OT SUPPORT, OR OT MATERIALS

PROVIDED IN CONNECTION WITH THIS AGREEMENT. OT MAY PROVIDE END USERS WITH WARRANTIES FOR OT PRODUCTS, OT SERVICES OR OT SUPPORT THROUGH THE TERMS OF AN APPLICABLE EULA OR OTHER AGREEMENT BETWEEN OT AND END USER; ANY SUCH WARRANTIES ARE FOR THE BENEFIT OF THE END USER, NOT PARTNER.

7.2 WARRANTY DISCLAIMER. ANY OT PRODUCTS OR OT MATERIALS PROVIDED TO PARTNER IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED ON AN “AS IS” BASIS. OT MAKES NO REPRESENTATIONS AND DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, WRITTEN OR ORAL, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ADEQUACY TO PRODUCE A PARTICULAR RESULT.

7.3 INABILITY TO EXCLUDE WARRANTIES. IF A JURISDICTION APPLICABLE TO THIS AGREEMENT RESTRICTS THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, OR THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES: (A) EACH WARRANTY WHICH CANNOT BE EXCLUDED IS LIMITED IN TIME TO SIXTY (60) DAYS FROM THE DATE OF FIRST DELIVERY OF THE OT PRODUCTS, OT SOFTWARE; AND (B) OT’S TOTAL LIABILITY TO PARTNER FOR BREACH OF ALL SUCH WARRANTIES ARE LIMITED AS PROVIDED IN SECTIONS 7.4 (EXCLUSION OF DAMAGES), 7.5 (LIMITATION OF LIABILITY), AND 7.6 (LIABILITY AND DAMAGES DISCLAIMER) BELOW.

7.4 EXCLUSION OF DAMAGES. NOTWITHSTANDING ANY BREACH BY OT (INCLUDING FUNDAMENTAL BREACH) OR TERMINATION OF THIS AGREEMENT BUT SUBJECT ALWAYS TO SECTION 7.7, OT IS NOT LIABLE TO PARTNER OR TO ANY OTHER PARTY FOR: (A) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, AGGRAVATED, EXEMPLARY, OR PUNITIVE DAMAGES; OR (B) ANY LOST SALES, LOST REVENUE, LOST PROFITS, LOST OR CORRUPTED DATA, OR REPROCUREMENT AMOUNT.

7.5 LIMITATION OF LIABILITY. SUBJECT TO SECTION 7.7, OT’S AGGREGATE LIABILITY TO PARTNER IN ANY YEAR WILL NOT EXCEED THE TOTAL AMOUNT OF LICENSE FEES PAID BY PARTNER TO OT IN CONNECTION WITH THIS AGREEMENT IN SUCH YEAR. THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THIS SECTION. A “YEAR” MEANS A TWELVE (12) MONTH PERIOD COMMENCING ON THIS AGREEMENT EFFECTIVE DATE OR AN ANNIVERSARY OF THE EFFECTIVE DATE.

7.6 LIABILITY AND DAMAGES DISCLAIMER. THE EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY SECTIONS APPLY: (A) TO LIABILITY FOR NEGLIGENCE; (B) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, EQUITY, AT LAW, STRICT PRODUCT LIABILITY, OR OTHERWISE; (C) EVEN IF OT IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND (D) EVEN IF PARTNER’S REMEDIES FAIL IN THEIR ESSENTIAL PURPOSE.

7.7 NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT EITHER PARTY’S LIABILITY FOR: (A) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE; (B) FRAUD OR DECEIT; OR (C) ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED BY APPLICABLE LAW.

8. OT INFRINGEMENT INDEMNITY.

8.1 Infringement Claims. OT will defend Partner from any Claim, to the extent the Claim arises solely as a result of Partner’s use or distribution of OT Products or OT Services in accordance with this Agreement, and provided the alleged infringement was not caused by: (a) Partner or End User’s failure to incorporate a software update or upgrade that would have avoided the alleged infringement; (b) the modification of the OT Products by any party other than OT; or (c) the combination or use of the OT Products or OT Services with software, hardware, firmware, data, or technology not licensed to Partner or End User by OT or approved by OT in writing.

8.2 **Exclusions**. OT's infringement indemnity obligations are conditioned upon: (a) Partner notifying OT in writing within 10 days of Partner becoming aware of a Claim; (b) Partner not making an admission against OT's interests; (c) Partner not agreeing to any settlement of any Claim without the prior written consent of OT; (d) Partner, at the request of OT, providing all reasonable assistance to OT in connection with the defense, litigation, and settlement by OT of the Claim; and (e) OT having sole control over the selection and retainer of legal counsel, and over the litigation or the settlement of each Claim. OT will indemnify Partner from any judgment finally awarded, for which all avenues of appeal have been exhausted, or any final settlement in connection with any Claims, provided all the conditions of this Section are satisfied.

8.3 **Partner's Continued Use**. If an OT Product or OT Service becomes the subject of a Claim, OT will, in its absolute discretion, either (a) obtain a license for Partner or End User to continue using or distributing the OT Product or OT Service, (b) replace or modify the OT Product or OT Service without unreasonable degradation in functionality, or (c) terminate the applicable license grant and return and cease use of the software. OT's entire liability and Partner's sole and exclusive remedy with respect to any Claims are limited to the remedies set out in this Section 8.

9. **PRE-SALES SUPPORT**. OT may provide Partner pre-sales support, in connection with sales opportunities to End Users. The extent of pre-sales support provided by OT is solely within OT's discretion.

10. **AUDIT**.

10.1 **In General**. Partner shall maintain proper books and records pertaining to each transaction conducted pursuant to this Agreement sufficient for OT to verify Partner's compliance with its obligations under this Agreement and the Partner Program. Partner shall also institute procedures to comply with Section 6.2. Upon reasonable advance notice to Partner, OT may audit Partner's applicable books and records and compliance procedures to verify compliance; Partner agrees to provide reasonable cooperation with OT's audit team. No audit shall unreasonably interfere with Partner's business operations, and any audit conducted at Partner facilities shall be conducted during Partner's regular business hours.

10.2 **Noncompliance**. If any audit reveals that Partner has not complied with any obligations to OT, Partner shall promptly remedy each such noncompliance (including payment of any applicable unpaid license fees at OT's then current list price (net of Partner discount, if applicable), together with maintenance and support fees, to bring Partner into compliance) and Partner will be liable for OT's reasonable costs incurred to perform such audit.

11. **MISCELLANEOUS**.

11.1 **Order of Precedence**. Conflicting terms contained in the Program Materials will take precedence over the terms of this Agreement and its Appendices or Schedules.

11.2 **Governing Law; Venue**.

11.2.1 This Agreement is governed by the laws of the applicable jurisdiction 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. The Uniform Computer Information Transactions Act, or any version, adopted by any state, does not apply to this Agreement.

11.2.2 Except for a request by OT for injunctive or other equitable relief, any dispute arising out of this Agreement will be subject to the exclusive jurisdiction of the courts located in the applicable jurisdiction specified in Exhibit A.

11.3 **Injunctive Relief**. Notwithstanding anything to the contrary in this Agreement, each party shall be free at all times to seek injunctive relief as such party may consider advisable to protect its intellectual property, including without limitation, its software, documentation, names or marks.

11.4 **Non-exclusivity**. Unless explicitly stated in writing by OT, no portion of this Agreement is exclusive in any respect. Each party may, subject to its compliance with the confidentiality and intellectual property provisions of this Agreement, enter into similar agreements or relationships with any other party.

11.5 **Independent Contractors**. The parties shall remain independent contractors at all times. This Agreement shall not create any employment, agency, franchise, joint venture or other similar legal relationship between OT and Partner. Neither party will have any authority to act on behalf of the other party, bind the other party, act as agent of the other party, or create any obligation or liability on the part of the other party, and neither party will represent to any third party that it has such authority.

11.6 **No Third Party Rights**. This Agreement does not confer a benefit on, and is not enforceable by, any person or entity who is not a party to this Agreement.

11.7 **Waiver, Amendment, Assignment**. Any waiver or amendment of this Agreement must be in writing and signed by both parties. Partner may not assign, transfer, or sublicense any portion of its interests, rights, or obligations under this Agreement by written agreement, merger, consolidation, change of control, operation of law, or otherwise, without the prior written consent of OT. An assignment in contravention of this Section will be null and void. Except to the extent identified in this Section, this Agreement will be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties.

11.8 **Severability**. If any provision of this Agreement is deemed contrary to applicable law or unenforceable by a court of competent jurisdiction, the provision will be severed from this Agreement and all remaining provisions will continue in full force.

11.9 **Survival**. The provisions set forth in the following Sections of this Agreement, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of the Agreement, will survive any expiration or termination of the Agreement: 2; 3; 4; 5; 6; 7; 8, 9, 10 and 13.

11.10 **Force Majeure**. Except for payment and confidentiality obligations, or protection of intellectual property, neither party is responsible for any delay or failure in performance of this Agreement to the extent due to causes beyond its reasonable control.

11.11 **Press Releases**. Neither party may issue any press release publicly disclosing the name of the other party to this Agreement, nor the nature of this Agreement, without the prior written consent of the other party.

11.12 **Attribution Notices**. Partner will not remove, modify, obscure, resize, or relocate any ownership, attribution, or branding notices from the OT Products, OT Materials, or Program Materials.

11.13 **Export Laws**. No portion of the OT Products shall be exported or re-exported into (or to a national or resident of): (a) any country subject to United Nations ("UN"), Canada, the European Union ("EU") or the United States ("US") embargo; or (b) to anyone on the US Treasury Department's list of Specially Designated Nationals, the US Commerce Department's Entity List, or the US Commerce Department's Denied Parties list, EU Sanctioned Party list, or any other relevant national or international lists that would prohibit the export, re-export, import or use of OT Products. Partner represents and warrants to OT that: (i) Partner is not located in, under the control of, or a national or resident of any country described in this Section, nor a party named on any list described in this Section; and (ii) Partner shall not export, transfer, disclose or make available the OT Products to a national or resident of any country described in this Section, nor a party named on any list described in this Section. Additional export restrictions may apply to certain portions of the OT Products. Partner shall comply with all US, Canadian, EU, UN and other relevant export laws, regulations, and directives applicable to OT Products within Partner's possession or control. Partner accepts sole responsibility for its exports, re-exports, imports and use of OT Products, and undertakes to obtain,

retain and abide by all information and updates on all relevant laws, regulations and requirements governing the export, re-export, import or use of OT Products. Partner shall also comply with all laws and regulations in Partner's jurisdiction and in any other jurisdiction related to the import, export, transfer, shipping, and use of OT Products within Partner's possession or control.

11.14 **Legal Review and Interpretation.** Both parties have had an opportunity for legal review of this Agreement. The parties agree that this Agreement results from negotiation between the parties. This Agreement will not be construed in favor of or against either party by reason of authorship. The headings used in this Agreement are for convenience only. The parties confirm that this Agreement and all related documentation is and will be in the English language. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents y compris tout avis qui s'y rattaché, soient rédigés en langue anglaise.

11.15 **Notices.** Any notice under this Agreement that must be given by a party in writing is deemed effective when sent, in the case of OT, to a Partner contact email address which has been provided by Partner; and in the case of either Party, when sent via certified or registered mail, postage prepaid, or via express mail or nationally recognized courier service to (a) Partner, at the address specified in this Agreement, or (b) OT, at 275 Frank Tompa Drive, Waterloo, Ontario Canada, N2L 0A1, Attn: General Counsel.

11.16 **Entire Agreement.** This Agreement and any applicable Program Materials, the reseller enrollment information provided by at the time of on-line registration (which is subject to OT approval), together with any nondisclosure agreement entered into by and between the parties sets forth the entire agreement between the parties with respect to the Partner Program, and supersedes all other related oral and written agreements and communications between the parties. Neither party has relied upon such other agreements or communications. Any purchase order terms which purport to amend or modify terms of this Agreement, or which conflict with this Agreement, are void. Notwithstanding anything in this Agreement to the contrary, if, prior to the Effective Date of this Agreement, Partner had been a partner or reseller of OT or of any predecessor or affiliate of OT, then any provisions of any such agreement that either expressly or by implication survive the termination or expiration of such agreement, including all indemnity rights arising out of or relating to such prior agreement, shall remain in full force and effect.

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Exhibit A

OPENTEXT (“OT”) CONTRACTING ENTITY TO THIS AGREEMENT. The OT entity which is the party to this Agreement is determined pursuant to the following table:

<i>Territory where Partner will be reselling per OT authorization</i>	<i>OT Contracting Entity</i>	<i>Governing Law</i>	<i>Exclusive Jurisdiction</i>
Countries specified by OT in North America, Central America, and South America	Open Text Inc.	Laws of the U.S. and the State of Delaware	Courts in the U.S. and the State of Delaware
Countries specified by OT in Europe	Open Text UK Limited	Laws of England and Wales	Courts in England
Countries specified by OT in Asia Pacific	Open Text (Asia) Pte Ltd.	Singapore law	Courts in Singapore

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